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WHAT: Free public briefings (approximately 3 hours) to present:

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WASHINGTON, DC

WHEN: May 23, 2000 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Presidential Documents

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The President

Proclamation 7306 of May 11, 2000

National Equal Pay Day, 2000

By the President of the United States of America

A Proclamation

Long before President Kennedy signed into law the Equal Pay Act of 1963, women had proved their ability to contribute to America's labor market. During World War II, when labor shortages offered women an unprecedented opportunity to work outside the home, women excelled at jobs traditionally reserved for men. Yet, despite their enormous contribution to maintaining American production lines, women in the workforce were paid less than their male counterparts.

For most of our Nation's history, in fact, women have served within a sharply segregated workforce, enjoying fewer educational and training opportunities than men and struggling all too often to disprove confining stereotypes about their roles and capabilities. But throughout the decades, women of courage, energy, and determination have continued to enter the workforce and open doors of opportunity for succeeding generations. Today, more women are in the labor force than ever before; the female unemployment rate is at its lowest in more than 40 years; the poverty rate for households headed by women is the lowest ever recorded; and the pay gap has narrowed substantially since 1963.

Despite these gains, the battle for equal pay for women is far from over. Although 37 years have passed since the passage of the Equal Pay Act, the average woman today must still work an additional 17 weeks a year to earn what the average man earns. That pay gap grows wider as women grow older, and it is widest for women of color. African American women earn 64 cents for every dollar earned by white men, and Hispanic women earn just 55 cents. While some of these disparities can be attributed to differences in education, experience, and occupation—which themselves often reflect troubling inequities—several studies confirm that a significant pay gap persists even after we account for these factors.

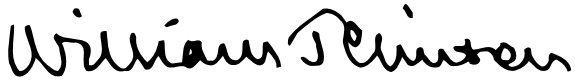
My Administration has worked hard to ensure that every American is treated with fairness and dignity in the workplace, and this year I proposed a $27 million equal pay initiative in my fiscal year 2001 budget to combat unfair pay practices against women. This initiative includes $10 million in funding for the Equal Employment Opportunity Commission (EEOC) to identify more quickly and respond more effectively to wage discrimination. The initiative would also enable the EEOC to launch a public service campaign to educate employees and employers about their rights and responsibilities under equal pay laws. In addition, the initiative includes funding for the Department of Labor to train women for jobs they have not traditionally held, such as those in the high-paying technology sector, and to help employers recruit and train qualified women for nontraditional occupations.

I have also urged the Congress to strengthen existing wage discrimination laws by promptly passing the Paycheck Fairness Act. This proposed legislation would provide increased penalties for equal pay violations; prohibit employers from punishing employees who share salary information with coworkers; and provide funding for research on wage discrimination and for increased training for EEOC employees who work on wage discrimination cases.

Throughout the decades, working women have persevered in their struggle for equal pay, buoyed by an unshakable faith in their own skills and self-worth and a firm commitment to the ideals of our democracy. On National Equal Pay Day, I urge all Americans to join the crusade to secure equal pay for women and to create a just and honorable work environment in which all our citizens are rewarded fairly for their talents, experience, and contributions.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States of America, do hereby proclaim May 11, 2000, as National Equal Pay Day. I call upon government officials, law enforcement agencies, business leaders, educators, and the American people to recognize the full value of the skills and contributions of women in the labor force. I urge all employers to review their wage practices and ensure that all their employees are paid equitably for their work.

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



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Rules and Regulations

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI97

Prevailing Rate Systems; Abolishment of the Washington, MD, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to abolish the Washington, Maryland, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and establish a new Frederick, MD, NAF FWS wage area. This change is necessary because the Washington wage area's host installation, Fort Ritchie, is closing. This leaves the Department of Defense without an installation in the survey area capable of hosting annual local wage surveys.

DATES: The interim rule became effective on December 31, 1999. The interim rule is confirmed as final on May 15, 2000.

FOR FURTHER INFORMATION CONTACT: Jennifer Hopkins by phone at (202) 606–2848, by FAX at (202) 606–0824, or by email at jdhopkin@opm.gov.

SUPPLEMENTARY INFORMATION: On December 27, 1999, the Office of Personnel Management (OPM) published an interim rule (64 FR 72249) to abolish the Washington, Maryland, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and establish a new Frederick, MD, NAF FWS wage area. Under section 5343 of title 5, United States Code, OPM is responsible for defining FWS wage areas. For this purpose, we follow the regulatory criteria in section 532.219(b) of title 5, Code of Federal Regulations.

The Washington wage area is presently composed of one survey county, Washington County, and two area of application counties, Frederick County, MD, and Berkeley County, WV. The closure of the Washington wage area's host activity, Fort Ritchie, left the Department of Defense (DOD) without an activity in the survey area capable of conducting annual local NAF wage surveys. Fort Ritchie ceased operations on October 1, 1998, and NAF FWS employees no longer work in Washington County. However, the area of application counties, Frederick and Berkeley, continue to have NAF FWS employment. Under section 5343(a)(1)(B)(i) of title 5, United States Code, NAF wage areas ''shall not extend beyond the immediate locality in which the particular prevailing rate employees are employed.'' Therefore, Washington County cannot be defined as part of an NAF wage area.

Frederick County, MD, has approximately 36 NAF FWS employees and a local Federal installation, Fort Detrick, has the capability to host annual local NAF wage surveys. Furthermore, Frederick County has more than the required minimum number of private enterprise employees in establishments within survey specifications. Approximately 10 NAF FWS employees work in Berkeley County, WV, which does not meet the criteria to be a separate NAF wage area. Therefore, the county must be an area of application. The new Frederick, MD, NAF wage area will have one survey county, Frederick County, MD, and one area of application county, Berkeley County, WV. DOD will order annual wage surveys in January of each even fiscal year. DOD ordered the first full-scale wage survey for the Frederick wage area in January 2000.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, has reviewed and concurred by consensus with this change. The interim rule had a 30-day public comment period, during which OPM did not receive any comments.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule (64 FR 72249) amending 5 CFR part 532 published on December 27, 1999, is adopted as final with no changes.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 00–12055 Filed 5–12–00; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI90

Prevailing Rate Systems; Abolishment of the Dubuque, IA, Appropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to remove the requirement to conduct a full-scale wage survey in the Dubuque, Iowa, Federal Wage System (FWS) wage area. The final rule also abolishes the Dubuque, IA, FWS wage area and redefines the counties of Clinton, Dubuque, and Jackson, IA, and Carroll, Jo Daviess, and Whiteside, Illinois, to the area of application of the Davenport-Rock Island-Moline, IA, FWS wage area. This change is necessary because the Dubuque wage area's host installation, the Savannah Army Depot, is closing and will no longer be capable of hosting annual wage surveys.

DATES: The interim rule became effective on October 31, 1999. The interim rule is confirmed as final on May 15, 2000.

FOR FURTHER INFORMATION CONTACT: Jennifer Hopkins, (202) 606–2848, FAX: (202) 606–0824, or email jdhopkin@opm.gov.

SUPPLEMENTARY INFORMATION: On November 4, 1999, the Office of Personnel Management (OPM) published an interim rule (64 FR 60087) to remove the requirement to conduct a

full-scale wage survey in the Dubuque, Iowa, appropriated fund Federal Wage System (FWS) wage area and to abolish the wage area. FWS employees in the Dubuque wage area moved to the Davenport, IA, wage schedule on the first day of the first applicable pay period beginning on or after December 19, 1999.

Under section 5343 of title 5, United States Code, OPM is responsible for defining FWS wage areas. For this purpose, we follow the regulatory criteria in section 532.211 of title 5, Code of Federal Regulations. The Dubuque wage area is presently composed of six survey counties, Clinton, Dubuque, and Jackson, IA, and Carroll, Jo Daviess, and Whiteside, IL. The Department of Defense (DOD) asked OPM to abolish the requirement to conduct a full-scale wage survey in the Dubuque wage area because of the planned closure of the wage area's host installation, the Savannah Army Depot. This closure leaves DOD without an installation in the survey area that is capable of hosting annual local wage surveys. DOD also asked OPM to abolish the Dubuque wage area and redefine its counties to the area of application of the Davenport, IA, FWS wage area.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed these recommendations and by consensus recommended approval of these changes. The interim rule had a 30-day public comment period, during which OPM did not receive any comments.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule (64 FR 60087) amending 5 CFR part 532 published on November 4, 1999, is adopted as final with no changes.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 00–12056 Filed 5–12–00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1220

[No. LS–00–01]

Results of Soybean Request for Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of referendum results.

SUMMARY: The Agricultural Marketing Service's (AMS) Request for Referendum shows that too few soybean producers want a referendum on the Soybean Promotion and Research Order (Order) for one to be conducted. The Request for Referendum was held from October 20, 1999, through November 16, 1999, at the Department of Agriculture's (USDA) county Farm Service Agency (FSA) offices. To trigger a referendum 60,082 soybean producers must complete a Request for Referendum. The number of soybean producers requesting a referendum was 17,970.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Program, AMS, USDA; STOP–0251; 14th and Independence Avenue, SW.; Washington, D.C. 20250–0251. Telephone number 202/720–1115.

SUPPLEMENTARY INFORMATION: Pursuant to the Soybean Promotion, Research, and Consumer Information Act (Act)(7 U.S.C. 6301 *et seq.*), every 5 years the Secretary of Agriculture (Secretary) will give soybean producers the opportunity to request a referendum on the Order. If the Secretary determines that at least 10 percent of U.S. producers engaged in growing soybeans (not in excess of one-fifth of which may be producers in any one State) support the conduct of a referendum, the Secretary must conduct a referendum within 1 year of that determination. If these requirements are not met, a referendum would not be conducted.

A notice of opportunity to Request a Soybean Referendum was publicized in the **Federal Register** on September 13, 1999, at 64 FR 49349. Soybean producers who produced soybeans during the representative period between January 1, 1997, and November 16, 1999, were eligible to participate in the Request for Referendum.

According to USDA's soybean producer survey, there are 600,813 soybean producers in the United States (see 64 FR 45413).

A total of 17,970 valid Requests for Referendum were completed by eligible soybean producers. This number does not meet the requisite number of 60,082. Therefore, based on the Request for Referendum results, a referendum will not be conducted. In accordance with the provisions of the Act, soybean producers would be provided another opportunity to request a referendum in 5 years.

The following is the State-by-State results of the Request for Referendum:

State	Number of valid requests for referendum
Alabama	9
Alaska	0
Arizona	2
Arkansas	90
California	0
Colorado	1
Connecticut	0
Delaware	0
Florida	13
Georgia	9
Hawaii	0
Idaho	0
Illinois	5,851
Indiana	1,926
Iowa	3,932
Kansas	438
Kentucky	177
Louisiana	44
Maine	0
Maryland	119
Massachusetts	0
Michigan	408
Minnesota	991
Mississippi	66
Missouri	1,019
Montana	0
Nebraska	500
Nevada	0
New Hampshire	0
New Jersey	11
New Mexico	0
New York	35
North Carolina	28
North Dakota	41
Ohio	1,449
Oklahoma	17
Oregon	1
Pennsylvania	61
Puerto Rico	0
Rhode Island	0
South Carolina	17
South Dakota	409
Tennessee	102
Texas	51
Utah	0
Vermont	1
Virginia	30
Washington	0
West Virginia	3
Wisconsin	119
Wyoming	0
Total	17,970.

Authority: 7 U.S.C. 6301–6311.

Dated: May 9, 2000.

Barry L. Carpenter,

Deputy Administrator, Livestock and Seed Program.

[FR Doc. 00–12155 Filed 5–12–00; 8:45 am]

BILLING CODE 3410–02–P

NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMMISSION

10 CFR Chapter XVIII

Northeast Interstate Low-Level Radioactive Waste Compact Final Rule for Declaration of Party State Eligibility

AGENCY: Northeast Interstate Low-Level Radioactive Waste Commission.

ACTION: Final rule.

SUMMARY: The Northeast Interstate Low-level Radioactive Waste Commission (the ''Commission'') is adopting these rules to establish the conditions under which a state not a party to the Northeast Interstate Low-Level Radioactive Waste Management Compact (the ''Compact'') may be declared eligible to become a party state. The Commission must declare a state eligible before it may become a party state to the Compact. The procedures and conditions established by the Commission through this rule are intended to protect the integrity of the Compact and the interests of both the existing party states and any state petitioning for a declaration of eligibility.

DATES: This rule becomes effective May 15, 2000.

FOR FURTHER INFORMATION CONTACT: Kevin McCarthy, Chairman, Northeast Interstate Low-Level Radioactive Waste Commission, 703 Hebron Avenue, Glastonbury, Connecticut 06033, (860) 633–2060.

SUPPLEMENTARY INFORMATION:

Background

The Compact was established by ''The Omnibus Low-Level Radioactive Waste Compact Consent Act of 1985,'' Public Law 99–240, Title II (the ''Act''). The Act gave Congress'' consent to agreements between and among states that were designed to facilitate the regional disposal of low-level radioactive waste (''waste''), thereby promoting the health and safety of the region. Connecticut and New Jersey are current members of the Compact. The Act also established the Commission and gave it authority, inter alia, to promulgate rules, conduct hearings, receive and act on applications to become eligible states, develop regional plans to ensure safe and effective management of waste within the region, designate a host state for siting of a regional disposal facility, enter agreements for the importation of waste into the region and export of waste from the region, impose sanctions, and establish criteria for disposal fees. The Commission consists of one voting member from Connecticut and one voting member from New Jersey.

Since the establishment of the Compact, there has been no regional disposal facility to receive waste generated within the Compact states. Nevertheless, at various times, regional generators have been able to dispose of their waste at other facilities (e.g., at facilities located in Clive, Utah, and Barnwell, South Carolina). Those facilities have not always been available for disposal of all of the waste generated within the region, however, and the Commission has sought to make available more reliable access to waste disposal facilities. Current regional generators anticipate that they will need assured access to waste disposal facilities for the next 50 years until all of the currently licensed nuclear power stations are fully decommissioned and all spent nuclear fuel has been removed from the sites. With these needs in mind, the Commission seeks to ensure the long-term availability of approximately 800,000 cubic feet of disposal space to accommodate all classes of low-level waste. The Commission also seeks to stabilize fees for waste disposal.

The Commission has determined that it is in the interests of the Compact states to declare another state eligible for membership in the Compact if (a) that state is willing to become the voluntary host state and (b) membership in the Compact would achieve important objectives for both the current member states and any petitioning state. Article VII.e. of the Compact permits the Commission to ''establish such conditions as it deems necessary and appropriate to be met by a state requesting eligibility as a party state to this compact.'' The Commission has further determined that the identification and implementation of reasonable conditions to be applied when evaluating a petition for new party state eligibility are essential to the long-term health and safety of the region.

These rules establish the conditions for party state eligibility contemplated by Article VII.e. of the Compact and the criteria for fee and surcharge systems contemplated by Article IV.i.(15) of the Compact. The rules specify the procedures that the Commission will follow for receiving petitions for party state eligibility. They then describe the essential conditions for declaring a state eligible for membership in the Compact. Those conditions include agreements (a) to be the sole host state until all currently licensed nuclear power stations in the region have been decommissioned, (b) to warrant the availability of 800,000 cubic feet of disposal capacity for Connecticut and New Jersey generators, (c) to assure stable, predictable disposal fees that are no greater than generators in Connecticut and New Jersey paid at the end of 1999, (d) to give flexibility for generators to dispose of waste elsewhere at their discretion, (e) to indemnify the existing party states for any potential environmental liability caused by their membership in the Compact and by operation of the regional disposal facility, and (f) to ensure an equitable schedule for return of a portion of any incentive payment made by the existing party states if the regional disposal facility ceases to be available for any reason.

Summary of Public Comments on the Proposed Rule

The Commission received written comments on the proposed rule (65 FR 13700, March 14, 2000) from the New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board, Northeast Nuclear Energy Company, GPU Nuclear, the State of Connecticut Office of Policy Management, Public Service Electric & Gas Company, and Connecticut Yankee Atomic Power Company. These organizations (except Connecticut Yankee), as well as the New Jersey Chamber of Commerce and the New Jersey Business and Industry Association, offered oral comments at public hearings held in Trenton, NJ on April 17, 2000, and in Bridgeport, CT on April 18, 2000. All of the commenters supported the proposed rule and urged its adoption. Copies of the public comments are available for review at the Commission's office, 703 Hebron Avenue, Glastonbury, Connecticut 06033.

Public Comments on the Rule To Establish Criteria for Declaration of Eligible State

None of the public commenters objected to the Commission's proposed procedures and criteria for declaring a state eligible to become a party to the Compact. Some of the comments raise issues that should be addressed during the evaluation of a specific petition for declaration as a party state. Other comments raise issues that are

appropriately addressed separately from this rulemaking. The Commission is grateful for all of the thoughtful comments that have been offered. The following discussion describes the Commission's evaluation of the comments received.

General Comments: Several commenters commended the rulemaking process and the criteria that the Commission established for declaring an eligible state. Various commenters stated that the rule appropriately: (1) Ensures that any new eligible state will be the voluntary host state until all current nuclear power plants within the region are fully decommissioned, (2) guarantees 800,000 cubic feet of disposal capacity for New Jersey and Connecticut generators, (3) permits imports and exports of waste into and out of the region, (4) caps disposal fees at predictable, reasonable levels, (5) requires the return of incentive payments if the regional disposal facility becomes unavailable for any reason, and (6) indemnifies Connecticut and New Jersey for any damages liability. The Commission appreciates the commenters' affirmation of these essential components of the rule.

Specific Comment No. 1: Several commenters raised questions about the methodology that would be employed under § 1800.13(d) to determine the average fees that generators within the existing party states paid for disposal at the Barnwell, South Carolina, facility at the end of calendar year 1999. One commenter suggested that the Commission should establish explicit criteria under Compact Article V.f. to be used in determining these baseline fees. The commenter proposed the following criteria: (a) Fees should be fair and equitable among various classes of generators and should bear some reasonable relationship to the cost of disposal; (b) fees should be simple and easy to calculate; (c) fees should be competitive and should reflect market-based conditions; and (d) fees should generate adequate revenues to assure an economically viable disposal facility.

The Commission agrees with the commenters on the importance of determining the maximum disposal fee and generally agrees with the principles suggested as guidelines for determining those fees under the rule. The Commission does not believe it is necessary at this time, however, to establish any further explicit criteria for setting the maximum disposal fee to which a petitioning state must agree. The rule establishes the fees paid in the later part of calendar year 1999 as the basis for the prospective uniform maximum fee schedule. That rate presumptively represents a market-based rate because it is the rate that generators were willing to pay in 1999 for disposal of waste at the Barnwell facility. Any more specific criteria for determining the fees may unnecessarily limit a new party state's ability to devise an acceptable maximum waste disposal fee schedule.

The Commission will apply this rule to evaluate any petition by a state seeking to be declared eligible for Compact membership. It will be up to the petitioning state to demonstrate that the maximum disposal rate schedule will be determined fairly and equitably based on the rates that Connecticut and New Jersey generators paid in 1999. The Commission will consider the petitioning state's actual determination of disposal rates before acting on the petition to ensure that the process used was acceptable, and, before accepting the petition, the Commission may impose conditions specifying disposal rates. In light of these procedures, the Commission sees no need to modify the rule.

Specific Comment No. 2: Several commenters asked the Commission to identify which index will be used to determine the inflation factor or the process that will be used to select the appropriate index. The rule in § 1800.13(d) deliberately did not specify a specific inflation index, but stated that it must be acceptable to the Commission. With input from generators and the existing states, the Commission has considered use of a variety of indices, including the Producer Price Index, the Employment Cost Index, the Consumer Price Index, and the Gross Domestic Product deflator. The Commission believes that an appropriate index within the Producer Price indices will probably be acceptable, but the Commission will evaluate the proposed index in any petition to determine whether it is finally acceptable. No change in the rule is necessary.

Specific Comment No. 3: Two commenters suggested that the rule in § 1800.13(h) was not clear because it did not specify what would happen if the regional disposal facility ceases to be available on December 31 in the years 2001, 2003, 2005, or 2008. The commenters suggested that § 1800.13(h) be changed so that the end of each period is ''prior to January 1'' in the appropriate year. The Commission accepts this change and has incorporated it in the final rule.

Specific Comment No. 4: One commenter asked whether, under the rule in § 1800.13(e), the Commission will continue to obtain all necessary approvals for regional generators to dispose of waste outside the region, whether regional generators will be permitted to ship waste outside the region for purposes of treatment, volume reduction, repackaging, storage, processing or any other reason, and whether repackaged waste or its residue can be shipped directly to the regional disposal facility as regional waste. The Commission affirms that, as it interprets § 1800.13(e), the Commission will continue to obtain appropriate approvals for regional generators to dispose of waste outside the region, regional generators will be permitted to ship waste outside the region for purposes of treatment, volume reduction, repackaging, storage, processing or any other reason, and repackaged waste or its residue will be permitted to be shipped directly to the regional disposal facility as regional waste. No change to the rule is required.

Specific Comment No. 5: One commenter asked the Commission to specify how the 800,000 cubic feet of disposal capacity that will be allotted to generators in the existing party states would be divided between Connecticut and New Jersey. As the commenter noted, it currently appears that 800,000 cubic feet of disposal capacity will be sufficient to accommodate both states' projected waste volumes. At this time, the Commission expects that the total disposal capacity available for Connecticut and New Jersey will be divided evenly, with 400,000 cubic feet allotted to each state's generators. Nevertheless, circumstances may change over the next 50 years. Thus, the Commission (or the Commissioners representing Connecticut and New Jersey) may modify this presumptive allocation to meet the needs of the generators in the two states. Any modification to the even division of available disposal capacity between the two states should consider the needs of generators and any comments that the generators in those states may have on the appropriate allocation.

Conclusions: After considering all of the comments, the Commission concludes that this final rule, as modified, will further promote health and safety within the region. It will provide a mechanism for the Commission to consider a long-term resolution for disposal of low-level radioactive waste generated within the region. It will establish the essential conditions that must be satisfied before declaring a state eligible for membership in the Compact. The rules are consistent with and will further the purposes of the Compact and the Low-Level

Radioactive Waste Policy Act, as amended (Pub. L. 96–573; Pub. L. 99–240, Title I).

Statutory Authority

The Commission has authority to issue this rule under The Omnibus Low-level Radioactive Waste Compact Consent Act of 1985, Public Law 99–240, section 227, Art. IV(i)(7), Art. VII(e), 99 Stat. 1842, 1914, 1921–22.

List of Subjects in 10 CFR Part 1800

Administrative practice and procedure, Hazardous waste, Radioactive materials.

Kevin McCarthy,

Chairman, Northeast Interstate Low-Level Radioactive Waste Commission.

For the reasons set out in the preamble, the Commission establishes chapter XVIII, consisting of part 1800, in title 10 of the Code of Federal Regulations to read as follows:

CHAPTER XVIII—NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMMISSION

PART 1800—DECLARATION OF PARTY STATE ELIGIBILITY FOR NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT

Sec.

1800.10 Purpose and scope.
1800.11 Definitions.
1800.12 Procedures for declaring a state eligible for membership in the Compact.
1800.13 Conditions for becoming an eligible party state.
1800.14 Modification to and enforcement of the rules in this part.

Authority: Sec. 227, Art. IV(i)(7), Art. VII(e), Pub. L. 99–240, 99 Stat. 1842, 1914, 1921–1922.

§ 1800.10 Purpose and scope.

Pursuant to Articles IV.i.(1), (7), (15), and VII.e. of the Northeast Interstate Low-Level Radioactive Waste Compact (enacted by the ''Omnibus Low-Level Radioactive Waste Compact Consent Act of 1985,'' Public Law 99–240, 99 Stat. 1842, Title I) (the ''Compact''), the Northeast Interstate Low-Level Radioactive Waste Commission (the ''Commission'') establishes through this part the conditions that it deems necessary and appropriate to be met by a state requesting eligibility to become a party state to this Compact. The Commission shall apply these conditions to evaluate the petition of any state seeking to be eligible to become a party state pursuant to Article VII of the Compact.

§ 1800.11 Definitions.

The definitions contained in Article II of the Compact and Article I.B. of the Commission's By Laws shall apply throughout this part. For the purposes of this part, additional terms are defined as follows:

(a) *By Laws* refers to the Commission's By Laws as adopted and amended by the Commission pursuant to Article IV.c. and Article IV.i.(7) of the Compact, most recently amended on December 10, 1998, and dated July 1999;

(b) *Person* means an individual, corporation, business enterprise or other legal entity, either public or private, and expressly includes states;

(c) *Nuclear power station* means any facility holding a license from the U.S. Nuclear Regulatory Commission under 10 CFR Part 50.

(d) *Existing party states* means Connecticut and New Jersey collectively.

§ 1800.12 Procedures for declaring a state eligible for membership in the Compact.

(a) Any state seeking to become an eligible state under the Compact shall submit to the Chairman of the Commission six copies of a petition to become an eligible state. The petition shall discuss each of the conditions specified in § 1800.13 and shall:

(1) Affirm that the petitioning state fully satisfies each condition; or

(2) Explain why the petitioning state does not or cannot fully satisfy any particular condition.

(b) Upon receipt of a petition from any state seeking to become an eligible state under the Compact, the Commission shall publish a notice in accordance with Article I.F.1. of the By Laws and shall initiate an adjudicatory proceeding to act on the petition. Any person may submit written comments on a petition, and all such comments must be received by the Commission within 30 days of notice that a petition has been submitted.

(c) The Commission shall evaluate the petition against the conditions for declaration of an eligible state specified in § 1800.13. As part of the proceeding to evaluate a petition to become an eligible state, the Commission may, in its discretion, conduct a hearing pursuant to Article IV.i.(6) of the Compact and Article V.F.1. of the Commission's By-Laws. For good cause shown, the Commission may issue an order shortening the notice period for hearings provided in Article I.F.1. of the By Laws to a period of not less than ten days.

(d) After review of the petition and after any hearing, if held, the Commission shall issue an order accepting or rejecting the petition or accepting the petition with conditions. If the Commission accepts the petition without conditions, the petitioning state shall be declared an eligible state and shall become a new party state upon passage of the Compact by its state legislature, repeal of all statutes or statutory provisions that pose unreasonable impediments to the capability of the state to satisfy the conditions for eligibility (as determined by the Commission) and payment of (or arrangement to pay) the fee specified in Article IV.j.(1). If the Commission accepts the petition with conditions, the petitioning state may become an eligible state by satisfying all of the conditions in the Commission's order and providing an amended petition incorporating its compliance with all of the conditions in this subpart and in the Commission's order. The Commission will consider the amended petition as part of the original adjudicatory proceeding and will issue a new order accepting or rejecting the amended petition.

(e) A state that submits a petition for declaration as an eligible state that is rejected by the Commission may submit a new petition at any time. The Commission will consider the new petition without reference to the prior petition but may use evidence obtained in any prior proceeding to evaluate the new petition.

(f) The Commission's consideration of a petition for declaration of an eligible state shall be governed by the Compact, the Commission's By Laws, and this part.

§ 1800.13 Conditions for becoming an eligible party state.

The Commission shall evaluate a petition to become an eligible party state on the basis of the following conditions and criteria:

(a) To be eligible for Compact membership, a state must agree that it will be the voluntary host state upon admission to the Compact and will continue to be the voluntary host state for a least that period of time until all currently licensed nuclear power stations within the region have been fully decommissioned and their licenses (including any licenses for storage of spent nuclear fuel under 10 CFR Part 72) have been terminated.

(b) To be eligible for Compact membership, a state must agree that, so long as the petitioning state remains within the Compact, it will be the sole host state.

(c) To be eligible for Compact membership, a state must warrant the availability of a regional disposal

facility that will accommodate 800,000 cubic feet of waste from generators located within the borders of the existing party states.

(d) To be eligible for Compact membership, a state must agree to establish a uniform fee schedule for waste disposal at the regional disposal facility that shall apply to all generators within the region. That uniform fee schedule, including all surcharges (except new surcharges imposed pursuant to Article V.f.3. of the Compact), shall not exceed the average fees that generators within the existing party states paid for disposal at the Barnwell, South Carolina, facility at the end of calendar year 1999, adjusted annually based on an acceptable inflation index.

(e) To be eligible for Compact membership, a state must agree with the existing states that regional generators shall be permitted to process or dispose of waste at sites outside the Compact boundaries based solely on the judgment and discretion of each regional generator.

(f) To be eligible for Compact membership, a state must agree with the existing states that the Commission may authorize importation of waste from non-regional generators for the purpose of disposal only if the host state approves and such importation does not jeopardize the warranted availability of 800,000 cubic feet of disposal capacity for waste produced by generators within the existing party states. A new party state must agree that regional generators shall not pay higher fees than non-regional generators and that all books and records related to the establishment or collection of fees shall be available for Commission review.

(g) To be eligible for Compact membership, in addition to the express limitations on non-host state and Commission liability provided in the Compact, a state must agree to indemnify the Commission or the existing party states for any damages incurred solely because of the new state's membership in the Compact and for any damages associated with any injury to persons or property during the institutional control period as a result of the radioactive waste and waste management operations of any regional facility. The petitioning state must agree that this indemnification obligation will survive the termination of the petitioning state's membership in the Compact.

(h) To be eligible for Compact membership, a state must agree that any incentive payments made by the existing party states as an inducement for a state to join the Compact will be returned to the existing party states, with interest, on a pro rata basis if, for any reason, the regional disposal facility ceases to be available to generators in the existing party states for a period of more than six months (other than periods that have been expressly approved and authorized by the Commission) or is unavailable for disposal of 800,000 cubic feet of waste from generators within the borders of the existing states. In the event of such unavailability, the new party state must agree to return the incentive payments based on the following schedule:

(1) 75% of the incentive payment if the regional facility becomes unavailable prior to January 1, 2002;

(2) 50% of the incentive payment if the regional facility becomes unavailable on or after January 1, 2002, and prior to January 1, 2004;

(3) 30% of the incentive payment if the regional facility becomes unavailable on or after January 1, 2004, and prior to January 1, 2006;

(4) 20% of the incentive payment if the regional facility becomes unavailable on or after January 1, 2006, and prior to January 1, 2009;

(5) 10% of the incentive payment if the regional facility becomes unavailable on or after January 1, 2009, and prior to the time when all currently licensed nuclear power stations within the region have been fully decommissioned and their licenses (including any licenses for storage of spent nuclear fuel under 10 CFR Part 72) have been terminated.

(i) To be eligible for Compact membership, a state must agree with the existing states that once a new party state has been admitted to membership in the Compact pursuant to the rules in this part, declaration of any other state as an eligible party state will require the unanimous consent of all members of the Commission.

§ 1800.14 Modification to and enforcement of the rules in this part.

(a) Because of the importance of the conditions for declaration of an eligible state under the Compact, the rules in this part may only be modified, amended, or rescinded after a public hearing held pursuant to Article IV.i.(6) of the Compact and Article V.F.1. of the Commission's By Laws and by a unanimous vote of all members of the Commission.

(b) Any party state may enforce the rules in this part by bringing an action against or on behalf of the Commission in the United States District Court for the District of Columbia pursuant to Article IV.n. of the Compact.

(c) If, for any reason, any portion of the rules in this part shall be declared invalid or unenforceable, the remainder of the rules in this part shall remain in full force and effect.

[FR Doc. 00–12158 Filed 5–12–00; 8:45 am]

BILLING CODE 7595–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations; Size Standards and the North American Industry Classification System

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is amending its size regulations by establishing a new table of small business size standards for industries as the North American Industry Classification System (NAICS) defines them. These new size standards are effective beginning with Fiscal Year 2001, which starts on October 1, 2000. Small business size standards currently exist for most industries under the Standard Industrial Classification (SIC) system. SBA has determined that NAICS is a better description of industries in the U.S. economy than the SIC system for purposes of establishing size standards.

DATES: This rule is effective October 1, 2000.

FOR FURTHER INFORMATION CONTACT: Carl Jordan, Office of Size Standards, at (202) 205–6618.

SUPPLEMENTARY INFORMATION:

Introduction

Under section 3(a)(2) of the Small Business Act, SBA establishes small business definitions, or size standards, by industry category and varies size standards as necessary to reflect industry differences to determine small business eligibility for Federal programs. The current table of size standards uses SIC industry descriptions as the basis for the size standards. Because NAICS replaced the SIC system for use by Federal agencies in collecting economic data, we reviewed NAICS to determine whether we should also use the NAICS industry descriptions to establish small business size standards. Based on that review, we proposed in the October 22, 1999, **Federal Register** (64 FR 57187–57286) to adopt a new table of small business size standards for industries as they are described in NAICS, effective October 1, 2000.

The new table would replace the existing table of size standards for industries as they are described in the SIC system. We invited comments from interested parties on our proposal to adopt NAICS-based size standards. Specifically, we requested comments on at least the following: (1) Is FY 2001 an appropriate effective date? (2) Are the guidelines that we used in proposing the new size standards appropriate? (3) Will there be a significant impact on firms in an industry where some firms will lose size eligibility or formerly large firms will now become small? (4) If the answer to (3) is yes, how can we eliminate or minimize that potential impact?

NAICS was designed, as was the SIC system, solely for statistical purposes. The Office of Management and Budget (OMB) published a ''Notice of final decision'' in the **Federal Register** on April 9, 1997 (62 FR 17288–17478), announcing its decision to adopt NAICS. OMB's notice stated that ''NAICS shall not be used in any administrative, regulatory, or tax program unless the head of the agency administering that program has first determined that the use of such industry definitions is appropriate for implementation of the program's objectives.'' As the Administrator of SBA I have determined that NAICS industry descriptions are more appropriate than SIC industry descriptions to use in SBA programs and to accomplish our Agency's mission. Further, all Federal Agencies, in accordance with section 3(a)(2) of the Small Business Act, must use SBA's established size standards to categorize a business as a small business concern, unless the agencies: (1) Are authorized by statute to do otherwise; or (2) have obtained the SBA Administrator's approval for an alternative. NAICS is an improvement over the SIC system in identifying and describing industries in the U.S. economy, and size standards established for NAICS industries will better define small business. This final rule adopts the proposed size standards and specifies an effective date of October 1, 2000.

Summary of Comments

We received three comments to the proposed rule, each of which supported it. Two comments were from industry associations, and the third is from an SBA office. Besides supporting the proposed rule, the comments included some other observations and suggestions. We will summarize and address their comments here.

1. An association representing moving and storage companies supports our proposal to issue the new table of size standards based on NAICS using our proposed methodology, and also supports October 1, 2000, as the implementation date if an earlier one is not practicable. We stated in the October 22, 1999, proposed rule why we believe October 1, 2000, is the appropriate date. Our three reasons concerned consistency in government recordkeeping and statistics, development of historical data for comparison purposes, and the need for time to convert and update data bases and tracking systems (see 64 FR 57190). The association also commented on its understanding of certain specific NAICS codes and how those NAICS codes will apply to future Federal government and military contracts. The association indicates that it ''does not believe that any firms in the moving and storage industry will be affected by this change, as the same $18.5 million size standard will apply as is currently in place.'' We believe this supports our conclusions that because we applied the guidelines consistently, the size standards we proposed are appropriate and that this change will cause little loss of small business eligibility, if any, to businesses currently eligible to participate in Federal small business programs.

2. A coalition of environmental contractors supported SBA's methodology and the FY 2001 implementation date as well. They raised, however, questions about two NAICS codes for which we established a $5.0 million size standard. Specifically, the coalition questioned whether $5 million is appropriate for NAICS codes 514199, ''All Other Information Services,'' and 541620, ''Environmental Consulting Services.'' NAICS codes 514199 and 541620 are two activities related to SIC 8999, ''Services, NEC'' (specifically, Miscellaneous Information Providers and Environmental Consultants), both of which are new NAICS industries. The current size standard for SIC 8999 is $5 million.

Concerning NAICS 514199, it is one of five industries within Subsector 514, ''Information Services and Data Processing Services.'' Four of those NAICS industries are related to and the same as four SIC industries. Two of them, namely NAICS 514191 (On-Line Information Services) and NAICS 514210 (Data Processing Services) are Computer Services. All industry activities described within SIC codes 7371 through 7379 have the same $18.0 million size standard. We applied the first proposed guideline, and therefore, $18.0 million is the correct size standard for NAICS 514191 and NAICS 514210. The other two NAICS codes, namely NAICS 514110 (News Syndicates) and NAICS 514120 (Libraries and Archives) are related to and the same as SIC 7383 (News Syndicates) and SIC 8231 (Libraries) respectively. The size standards for SIC 7383 and 8231 are $5.0 million. We applied the first proposed guideline, and therefore, $5.0 million is the correct size standard for NAICS 514110 and NAICS 514120. While all of these industries are parts of Subsector 514 (Information Services and Data Processing Services), NAICS 514199 specifically excludes news syndicates, libraries, archives and on-line information access. Further, NAICS 514199 is only related to part of SIC 8999, ''Services, NEC,'' and it is limited to ''miscellaneous information providers.'' Therefore, consistent with the first guideline, and the other industries in this Subsector, $5.0 million is the correct size standard for NAICS 514199.

Concerning NAICS 541620, ''Environmental Consulting Services,'' the coalition further suggested that the size standard should be 500 employees, the same as we established for ''Environmental Remediation Services,'' a segment of SIC 8744, ''Facilities Support Management Services.'' Consistent with the fourth proposed guideline, we retained this activity and its corresponding size standard of 500 employees as a segment within NAICS 562910 ''Remediation Services.'' NAICS 562910 is an industry related to part of SIC 1799, ''Special Trade Contractors, NEC.'' Because the size standard for SIC 1799 is $7 million, we are retaining $7 million as the size standard for NAICS 562910. This is consistent with the first proposed guideline.

The distinction between ''Remediation Services'' and ''Environmental Remediation Services'' lies in the extent and complexity of work to be performed on a specific Federal government contract. ''Environmental Consulting Services'' is one activity, and, as the coalition notes, often conducted in conjunction with an environmental remediation contract. However, ''Environmental Remediation Services'' requires that (1) the purpose of the procurement be the restoration of a contaminated environment, *i.e.,* environmental remediation, *and* (2) the procurement be composed of activities in three or more separate industries, none of which constitutes 50% or more of the contract value, and each of which would, if it were a separate contract, be a different NAICS (formerly SIC) code. Footnote 14 more fully details when 500 employees is the appropriate size

standard for an Environmental Remediation Services contract.

Therefore, the size standards for NAICS 541620 and NAICS 562910 will be $5 million and $7 million respectively. The contracting officer will assign the NAICS code together with its small business size standard that best describes the principal purpose of the contract to be performed. If Environmental Consulting Services is the principal purpose of a Federal government procurement, the appropriate NAICS code is 541620 and the size standard is $5 million. If the principal purpose of the Federal government procurement is Environmental Remediation Services *and* it meets the conditions stated in Footnote 14, the contracting officer will assign NAICS 562910 with the 500 employee size standard. We recognize that these three industries are closely related. As industry data become available for these industries, we will reconsider their size standard(s).

Lastly, the coalition suggests we review the $5 million ''anchor'' size standard for industries generally classified as Services. In 1994 we increased nearly all receipts based size standards because inflation had reduced the number of small businesses eligible to participate in Federal programs reserved for small business. We are reviewing all receipts based small business size standards to determine the extent of inflation since the 1994 increase, and whether we should adjust the size standards to reflect inflation's effects since then. Once we determine the need for an increase, we will publish a proposed rule in the **Federal Register** concerning the change.

While we are open to requests to change one or more size standards, this rule is limited to replacing the existing table of small business size standards with a new one based on more current and accurate industry definitions. This rule does not reevaluate existing small business size standards nor does it intend to change any. We modify size standards occasionally, but only after we have separately evaluated individual industries and their size standards. Such modifications are separate SBA actions. Following the requirements set forth in the Administrative Procedure Act, we fully explain our methodology and reasons for a contemplated change, and do not make changes without having provided an opportunity for public comment.

For example, we have proposed increasing size standards for the Help Supply Services (SIC 7363), 11 of the 19 Health Services (Major Group 80), the General and Special Construction Industries (Major Groups 15, 16 and 17), Garbage and Refuse Collection (part of SIC 4212) and Refuse Systems (SIC 4953). The comment period is closed on those proposed rules, and we will publish our decision on them as Final Rules in the **Federal Register** in the near future. However, those size standards, once published as final, will apply to industries in the current table of size standards based on the SIC system, until October 1, 2000. From that date forward they will apply to the related industries as they are described in NAICS. The table that is the subject of this rule is based only on existing size standards.

3. The SBA comment noted that in Table IV of the proposed rule we did not affix Footnote 10 to NAICS codes 531311, 531312, 531390 and 561920, but had listed those NAICS codes in the text of Footnote 10 as if the footnote applied to those codes. Footnote 10 allows firms in those industries to exclude certain amounts when calculating average annual receipts under 13 CFR 121.104(a)(1). Footnote 10 to this table is the same as Footnote 6 to the table based on SIC industry descriptions.

Footnote 10 does not apply to firms in NAICS codes 531311 (Residential Property Managers), 531312 (Nonresidential Property Managers) and 531390 (Other Activities Related to Real Estate), since they do not work on commission. Including them in the list of NAICS codes to which Footnote 10 applied was inadvertent on our part. Therefore, we modify Footnote 10 to apply only to NAICS 531210 (Offices of Real Estate Agents and Brokers), NAICS 541810 (Advertising Agencies), NAICS 561510 (Travel Agencies) and NAICS 561920 (Convention and Trade Show Organizers).

The SBA comment also noted that the proposed rule did not reflect the change of the acronym SIC to NAICS in §§ 121.103(f)(3)(i), 121.103(f)(3)(i)(A), and 121.103(f)(3)(iii). We overlooked those changes in the proposed rule, but have included them in this final rule. The changes are not substantive. Rather, ''NAICS'' replaces ''SIC'' there as it does in the other sections of this part. They are the logical outgrowth of this overall change. There were no other comments in this regard.

Reasons for This Change

We explained in our October 22, 1999, proposed rule why we believed a new table of size standards based on NAICS should replace the existing table based on SIC. NAICS is a significant improvement over the SIC system and provides a better structure on which to establish size standards by industry category. NAICS was developed to describe the structure of today's economy. We have determined that the new table of small business size standards reflecting NAICS industries is in the interests of small business. We stated in our October 22, 1999, proposed rule why we believe we should use NAICS for small business size standards, namely because (1) the SIC system has not kept up with the economy; (2) NAICS recognizes the growth and expansion of the services and technological industries; (3) the Census Bureau will no longer organize and make data available for SIC industries after the 1997 Economic Census; and (4) we believe that all other Federal agencies will switch to NAICS for their program and administrative purposes. Having a single industry classification system within the Federal government will avoid confusion and inconsistency that would likely result if we delay issuing a new table of size standards based on NAICS.

Implementation Date of NAICS Size Standards

NAICS-based size standards are effective for all Federal small business programs beginning with FY 2001, which starts October 1, 2000. We have selected this date to implement NAICS-based size standards because (1) Federal government recordkeeping and statistics will be more consistent and comparable with past data and for analyzing future small business activity if implementation of the new table of size standards is at the beginning of a fiscal year; (2) we and other users of size standards will need to collect data on small business programs on the NAICS format to be able to compare those data with the future Federal statistics; and (3) small business size standards apply to most Federal agencies and their programs involving small businesses, and they will need time to determine how to implement the new size standards and to develop training tools necessary to do so.

Present Status of NAICS

OMB adopted NAICS to replace the 1987 SIC system. NAICS is based on concepts developed by the U.S. Economic Classification Policy Committee (ECPC), an interagency committee established by OMB, with Statistics Canada and Mexico's Instituto Nacional de Estadística Geografía e Informática. We did not in our proposed rule, nor do we here, include the entire texts of OMB's or ECPC's documents. We suggest that interested parties review the April 9, 1997, **Federal Register** (62 FR 17288–17478) notice,

together with earlier **Federal Register** notices, proposed rules and other papers and documents that preceded and followed that final notice. We believe that this will help interested parties understand NAICS better and increase their awareness of the changes that may affect them and their industry. Copies of all **Federal Register** notices, including SBA's October 22, 1999, proposed rule, are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by calling 1 (202) 512–1800. Those with access to the Internet can obtain all **Federal Register** notices for 1995 and forward via GPO Access at *http://www.access.gpo.gov/su_docs.* In addition, the U.S. Department of Commerce, Bureau of Census (Census Bureau) at *http://www.census.gov/epcd/www/naics.html* has the April 9, 1997, **Federal Register** notice and other NAICS related documents.

How We Converted the Size Standards From SIC-Based to NAICS-Based

The October 22, 1999, proposed rule contains a full description of our methodology in determining the correct size standards to use for the NAICS industry descriptions. We included a table (Table III in the proposed rule) that summarized guidelines for the conversions. Comments supported our methodology and this rule is the result of our applying them consistently. Therefore, we have made no changes to the size standards we proposed in that notice. We repeat those guidelines below in Table I, which is the same as Table III in the proposed rule.

TABLE I

If the NAICS industry is composed of:	The size standard for the NAICS industry is:
1. One SIC industry or part of one SIC industry	The same size standard as for the SIC industry or part.
e.g., NAICS 331221, NAICS 513111, NAICS 513112, NAICS 513120	
2. More than one SIC industry; parts of more than one SIC industry; or one or more SIC industry and part(s) of one or more SIC industry, *And* they all have the same size standard.	The same size standard as for those SIC industries or parts of SIC industries.
e.g., NAICS 315234, NAICS 513330, NAICS 561599	
3. More than one SIC industry; parts of more than one SIC industry; or one or more SIC industry and part(s) of one or more SIC industry, *And* they do *not* all have the same size standard.	The same size standard as for the SIC industry or SIC industry part(s) that most closely matches the economic activity described by the NAICS industry.
e.g., NAICS 332999, NAICS 334119, NAICS 334612, NAICS 442110, NAICS 487210, NAICS 487990, NAICS 488310, NAICS 532120, NAICS 532220, NAICS 561621, NAICS 711510, NAICS 812220, NAICS 813990	
4. One or more parts of an SIC industry for which SBA has established specific size standards (*i.e.,* further segmented).	The same size standard as for that specific SIC industry part.
e.g., NAICS 234990, NAICS 441229, NAICS 531190, NAICS 541330, NAICS 611512	
5. One or more SIC industries and/or parts of SIC industries that were categorized broadly under the SIC system as Services, Retail Trade, Wholesale Trade or Manufacturing, but are now categorized differently under NAICS.	SBA applied (a) a size standard measure (*e.g.,* number of employees, annual receipts) typical of the NAICS Sector; and (b) the corresponding ''anchor'' size standard. The ''anchor'' size standards are $5 million for Services and Retail Trade, 500 employees for Manufacturing and 100 employees for Wholesale Trade (except for Federal procurement programs, where the standard is 500 employees under the non-manufacturer rule).
e.g., NAICS 311811, NAICS 326212, NAICS 334611, NAICS 339116, NAICS 421990, NAICS 441310	

Following these guidelines we produced a table of small business size standards that accomplished our objectives. There are approximately 1,175 NAICS industries, and small business size standards for virtually all economic activities within the SIC codes remain the same in NAICS. Most of the NAICS small business size standards resulted from applying the first two guidelines. There were no comments suggesting that SBA should consider modifying the guidelines.

Besides the guidelines, SBA included in the October 22, 1999, proposed rule a complete table that showed each NAICS industry with the SIC industry or industries that are related to it. That table (Table IV in the proposed rule) provided the existing size standard(s) for the associated SIC code(s) and the proposed size standard for each NAICS code, as they result from applying the guidelines. Because we applied these guidelines consistently, and the only comments on them that we received were favorable, we are not repeating that table in this rule. Interested parties may refer to the October 22, 1999, proposed rule (64 FR 57187–57286), as cited above, or visit SBA's Web site on size standards site at http://www.sba.gov/size/, and select ''What's New.''

Compliance With Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), the Paperwork Reduction Act (44 U.S.C. 3501 Ch. 35), and Executive Orders and 12988 and 13132

SBA has determined that this rule is not a significant rule within the meaning of Executive Order 12866. For purposes of the Regulatory Flexibility Act, SBA certifies that the rule will affect a significant number of small businesses, but that the impact of the

rule on each business will not be substantial.

This rule applies to all small entities and Federal programs reserved for small entities, except those specifically excluded by Federal legislation or elsewhere under 13 CFR part 121. SBA estimates that relatively few firms will gain or lose small business status because of this rule. Though SBA is establishing a new table of size standards, firms that are now eligible for Federal small business programs will remain eligible to the maximum extent practicable.

There are three significant benefits to this rule. (a) Size standards are based on the most current industry descriptions. (b) Since SBA uses Census data to establish, review, change and/or otherwise modify small business size standards, data SBA obtains from the Census Bureau will be the most recent and accurate economic data available. (c) Collecting and analyzing statistical data on small business participation in the Federal procurement process will be more accurate, particularly in the technological and services industries.

SBA believes that this rule will impose no additional costs on the public. Further, the new NAICS-based table of small business size standards does not add any significant costs to Federal Government programs reserved for small businesses. Federal agencies and other users bear the administrative costs associated with converting from the SIC system to NAICS.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, SBA has determined that this rule does not impose new reporting or record keeping requirements. For purposes of Executive Order 12988, SBA certifies that this rule is drafted, to the extent possible under standards in section 3 of the order. For purposes of Executive Order 13132, SBA has determined that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment.

List of Subjects in 13 CFR Part 121

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

For the reasons stated in the preamble, SBA is amending 13 CFR PART 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

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

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

2. Revise § 121.101 to read as follows:

§ 121.101 What are SBA size standards?

(a) SBA's size standards define whether a business entity is small and, thus, eligible for Government programs and preferences reserved for ''small business'' concerns. Size standards have been established for types of economic activity, or industry, generally under the North American Industry Classification System (NAICS).

(b) NAICS is described in the *North American Industry Classification Manual—United States, 1997* which is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; by calling 1(800) 553–6847 or 1(703) 605–6000; or via the Internet at http://www.ntis.gov/yellowbk/1nty205.htm. The manual includes definitions for each industry, tables showing relationships between 1997 NAICS and 1987 SICs, and a comprehensive index. NAICS assigns codes to all economic activity within twenty broad sectors. Section 121.201 provides a full table of small business size standards matched to the U.S. NAICS industry codes. A full table matching a size standard with each NAICS Industry or U.S. Industry code is also published annually by SBA in the **Federal Register**.

§ 121.103 [Amended]

3. Amend § 121.103 as follows:

a. In paragraph (f)(3)(i) introductory text, replace the acronym ''SIC'' with the acronym ''NAICS.''

b. In paragraph (f)(3)(i)(B)(*1*) replace the acronym ''SIC'' with the acronym ''NAICS.''

c. In paragraph (f)(3)(iii) replace the acronym ''SIC'' with the acronym ''NAICS.''

4. Revise § 121.201 to read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

The size standards described in this section apply to all SBA programs unless otherwise specified in this part. The size standards themselves are expressed either in number of employees or annual receipts in millions of dollars, unless otherwise specified. The number of employees or annual receipts indicates the maximum allowed for a concern and its affiliates to be considered small.

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
	Sector 11—Agriculture, Forestry and Fishing	
	Subsector 111—Crop Production	
111110	Soybean Farming	$0.5
111120	Oilseed (except Soybean) Farming	$0.5
111130	Dry Pea and Bean Farming	$0.5
111140	Wheat Farming	$0.5
111150	Corn Farming	$0.5
111160	Rice Farming	$0.5
111191	Oilseed and Grain Combination Farming	$0.5
111199	All Other Grain Farming	$0.5
111211	Potato Farming	$0.5
111219	Other Vegetable (except Potato) and Melon Farming	$0.5
111310	Orange Groves	$0.5
111320	Citrus (except Orange) Groves	$0.5
111331	Apple Orchards	$0.5
111332	Grape Vineyards	$0.5

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
111333	Strawberry Farming	$0.5
111334	Berry (except Strawberry) Farming	$0.5
111335	Tree Nut Farming	$0.5
111336	Fruit and Tree Nut Combination Farming	$0.5
111339	Other Noncitrus Fruit Farming	$0.5
111411	Mushroom Production	$0.5
111419	Other Food Crops Grown Under Cover	$0.5
111421	Nursery and Tree Production	$0.5
111422	Floriculture Production	$0.5
111910	Tobacco Farming	$0.5
111920	Cotton Farming	$0.5
111930	Sugarcane Farming	$0.5
111940	Hay Farming	$0.5
111991	Sugar Beet Farming	$0.5
111992	Peanut Farming	$0.5
111998	All Other Miscellaneous Crop Farming	$0.5
	Subsector 112—Animal Production	
112111	Beef Cattle Ranching and Farming	$0.5
112112	Cattle Feedlots	$1.5
112120	Dairy Cattle and Milk Production	$0.5
112210	Hog and Pig Farming	$0.5
112310	Chicken Egg Production	$9.0
112320	Broilers and Other Meat Type Chicken Production	$0.5
112330	Turkey Production	$0.5
112340	Poultry Hatcheries	$0.5
112390	Other Poultry Production	$0.5
112410	Sheep Farming	$0.5
112420	Goat Farming	$0.5
112511	Finfish Farming and Fish Hatcheries	$0.5
112512	Shellfish Farming	$0.5
112519	Other Animal Aquaculture	$0.5
112910	Apiculture	$0.5
112920	Horse and Other Equine Production	$0.5
112930	Fur-Bearing Animal and Rabbit Production	$0.5
112990	All Other Animal Production	$0.5
	Subsector 113—Forestry and Logging	
113110	Timber Tract Operations	$5.0
113210	Forest Nurseries and Gathering of Forest Products	$5.0
113310	Logging	500
	Subsector 114—Fishing, Hunting and Trapping	
114111	Finfish Fishing	$3.0
114112	Shellfish Fishing	$3.0
114119	Other Marine Fishing	$3.0
114210	Hunting and Trapping	$3.0
	Subsector 115—Support Activities for Agriculture and Forestry	
115111	Cotton Ginning	$5.0
115112	Soil Preparation, Planting, and Cultivating	$5.0
115113	Crop Harvesting, Primarily by Machine	$5.0
115114	Postharvest Crop Activities (except Cotton Ginning)	$5.0
115115	Farm Labor Contractors and Crew Leaders	$5.0
115116	Farm Management Services	$5.0
115210	Support Activities for Animal Production	$5.0
115310	Support Activities for Forestry	$5.0
211112	Natural Gas Liquid Extraction	500
	Sector 21—Mining	
	Subsector 211—Oil and Gas Extraction	
211111	Crude Petroleum and Natural Gas Extraction	500
211112	Natural Gas Liquid Extraction	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
	Subsector 212—Mining (except Oil and Gas)	
212111	Bituminous Coal and Lignite Surface Mining	500
212112	Bituminous Coal Underground Mining	500
212113	Anthracite Mining	500
212210	Iron Ore Mining	500
212221	Gold Ore Mining	500
212222	Silver Ore Mining	500
212231	Lead Ore and Zinc Ore Mining	500
212234	Copper Ore and Nickel Ore Mining	500
212291	Uranium-Radium-Vanadium Ore Mining	500
212299	All Other Metal Ore Mining	500
212311	Dimension Stone Mining and Quarrying	500
212312	Crushed and Broken Limestone Mining and Quarrying	500
212313	Crushed and Broken Granite Mining and Quarrying	500
212319	Other Crushed and Broken Stone Mining and Quarrying	500
212321	Construction Sand and Gravel Mining	500
212322	Industrial Sand Mining	500
212324	Kaolin and Ball Clay Mining	500
212325	Clay and Ceramic and Refractory Minerals Mining	500
212391	Potash, Soda, and Borate Mineral Mining	500
212392	Phosphate Rock Mining	500
212393	Other Chemical and Fertilizer Mineral Mining	500
212399	All Other Nonmetallic Mineral Mining	500
213111	Drilling Oil and Gas Wells	500
213112	Support Activities for Oil and Gas Operations	$5.0
213113	Support Activities for Coal Mining	$5.0
213114	Support Activities for Metal Mining	$5.0
213115	Support Activities for Nonmetallic Minerals (except Fuels)	$5.0
	Sector 22—Utilities	
	Subsector 221—Utilities	
221111	Hydroelectric Power Generation	4 mil megawatt hours[1]
221112	Fossil Fuel Electric Power Generation	4 mil megawatt hours[1]
221113	Nuclear Electric Power Generation	4 mil megawatt hours[1]
221119	Other Electric Power Generation	4 mil megawatt hours[1]
221121	Electric Bulk Power Transmission and Control	4 mil megawatt hours[1]
221122	Electric Power Distribution	4 mil megawatt hours[1]
221210	Natural Gas Distribution	500
221310	Water Supply and Irrigation Systems	$5.0
221320	Sewage Treatment Facilities	$5.0
221330	Steam and Air-Conditioning Supply	9.0
	Sector 23—Construction	
	Subsector 233—Building, Developing and General Contracting	
233110	1Land Subdivision and Land Development	$5.0
233210	Single Family Housing Construction	17.0
233220	Multifamily Housing Construction	$17.0
233310	Manufacturing and Industrial Building Construction	$17.0
233320	Commercial and Institutional Building Construction	$17.0

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
	Subsection 234—Heavy Construction	
234110	Highway and Street Construction	$17.0
234120	Bridge and Tunnel Construction	$17.0
234910	Water, Sewer, and Pipeline Construction	$17.0
234920	Power and Communication Transmission Line Construction	$17.0
234930	Industrial Nonbuilding Structure Construction	$17.0
234990	All Other Heavy Construction	$17.0
EXCEPT	Except dredging and Surface Cleanup Activities	[2]$13.5
	Subsector 235—Special Trade Contractors	
235110	Plumbing, Heating and Air-Conditioning Contractors	$7.0
235210	Painting and Wall Covering Contractors	$7.0
235310	Electrical Contractors	$7.0
235410	Masonry and Stone Contractors	$7.0
235420	Drywall, Plastering, Acoustical and Insulation Contractors	$7.0
235430	Tile, Marble, Terrazzo and Mosaic Contractors	$7.0
235510	Carpentry Contractors	$7.0
235520	Floor Laying and Other Floor Contractors	$7.0
235610	Roofing, Siding and Sheet Metal Contractors	$7.0
235710	Concrete Contractors	$7.0
235810	Water Well Drilling Contractors	$7.0
235910	Structural Steel Erection Contractors	$7.0
235920	Glass and Glazing Contractors	$7.0
235930	Excavation Contractors	$7.0
235940	Wrecking and Demolition Contractors	$7.0
235950	Building Equipment and Other Machinery Installation Contractors	$7.0
235990	All Other Special Trade Contractors	$7.0
EXCEPT	Base Housing Maintenance[13]	[13]$7.0
	Sectors 31–33—Manufacturing	
	Subsector 311—Food Manufacturing	
311111	Dog and Cat Food Manufacturing	500
311119	Other Animal Food Manufacturing	500
311211	Flour Milling	500
311212	Rice Milling	500
311213	Malt Manufacturing	500
311221	Wet Corn Milling	750
311222	Soybean Processing	500
311223	Other Oilseed Processing	1,000
311225	Fats and Oils Refining and Blending	1,000
311230	Breakfast Cereal Manufacturing	1,000
311311	Sugarcane Mills	500
311312	Cane Sugar Refining	750
311313	Beet Sugar Manufacturing	750
311320	Chocolate and Confectionery Manufacturing from Cacao Beans	500
311330	Confectionery Manufacturing from Purchased Chocolate	500
311340	Non-Chocolate Confectionery Manufacturing	500
311411	Frozen Fruit, Juice and Vegetable Manufacturing	500
311412	Frozen Specialty Food Manufacturing	500
311421	Fruit and Vegetable Canning	[14]500
311422	Specialty Canning	1,000
311423	Dried and Dehydrated Food Manufacturing	500
311511	Fluid Milk Manufacturing	500
311512	Creamery Butter Manufacturing	500
311513	Cheese Manufacturing	500
311514	Dry, Condensed, and Evaporated Dairy Product Manufacturing	500
311520	Ice Cream and Frozen Dessert Manufacturing	500
311611	Animal (except Poultry) Slaughtering	500
311612	Meat Processed from Carcasses	500
311613	Rendering and Meat By-product Processing	500
311615	Poultry Processing	500
311711	Seafood Canning	500
311712	Fresh and Frozen Seafood Processing	500
311811	Retail Bakeries	500
311812	Commercial Bakeries	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
311813	Frozen Cakes, Pies, and Other Pastries Manufacturing	500
311821	Cookie and Cracker Manufacturing	750
311822	Flour Mixes and Dough Manufacturing from Purchased Flour	500
311823	Dry Pasta Manufacturing	500
311830	Tortilla Manufacturing	500
311911	Roasted Nuts and Peanut Butter Manufacturing	500
311919	Other Snack Food Manufacturing	500
311920	Coffee and Tea Manufacturing	500
311930	Flavoring Syrup and Concentrate Manufacturing	500
311941	Mayonnaise, Dressing and Other Prepared Sauce Manufacturing	500
311942	Spice and Extract Manufacturing	500
311991	Perishable Prepared Food Manufacturing	500
311999	All Other Miscellaneous Food Manufacturing	500
	Subsector 312—Beverage and Tobacco Product Manufacturing	
312111	Soft Drink Manufacturing	500
312112	Bottled Water Manufacturing	500
312113	Ice Manufacturing	500
312120	Breweries	500
312130	Wineries	500
312140	Distilleries	750
312210	Tobacco Stemming and Redrying	500
312221	Cigarette Manufacturing	1,000
312229	Other Tobacco Product Manufacturing	500
	Subsector 313—Textile Mills	
313111	Yarn Spinning Mills	500
313112	Yarn Texturing, Throwing and Twisting Mills	500
313113	Thread Mills	500
313210	Broadwoven Fabric Mills	1,000
313221	Narrow Fabric Mills	500
313222	Schiffli Machine Embroidery	500
313230	Nonwoven Fabric Mills	500
313241	Weft Knit Fabric Mills	500
313249	Other Knit Fabric and Lace Mills	500
313311	Broadwoven Fabric Finishing Mills	1,000
313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills	500
313320	Fabric Coating Mills	1,000
	Subsector 314—Textile Product Mills	
314110	Carpet and Rug Mills	500
314121	Curtain and Drapery Mills	500
314129	Other Household Textile Product Mills	500
314911	Textile Bag Mills	500
314912	Canvas and Related Product Mills	500
314991	Rope, Cordage and Twine Mills	500
314992	Tire Cord and Tire Fabric Mills	1,000
314999	All Other Miscellaneous Textile Product Mills	500
	315—Apparel Manufacturing	
315111	Sheer Hosiery Mills	500
315119	Other Hosiery and Sock Mills	500
315191	Outerwear Knitting Mills	500
315192	Underwear and Nightwear Knitting Mills	500
315211	Men's and Boys' Cut and Sew Apparel Contractors	500
315212	Women's, Girls', and Infants' Cut and Sew Apparel Contractors	500
315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing	500
315222	Men's and Boys' Cut and Sew Suit, Coat and Overcoat Manufacturing	500
315223	Men's and Boys' Cut and Sew Shirt (except Work Shirt) Manufacturing	500
315224	Men's and Boys' Cut and Sew Trouser, Slack and Jean Manufacturing	500
315225	Men's and Boys' Cut and Sew Work Clothing Manufacturing	500
315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing	500
315231	Women's and Girls' Cut and Sew Lingerie, Loungewear and Nightwear Manufacturing	500
315232	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing	500
315233	Women's and Girls' Cut and Sew Dress Manufacturing	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket and Skirt Manufacturing	500
315239	Women's and Girls' Cut and Sew Other Outerwear Manufacturing	500
315291	Infants' Cut and Sew Apparel Manufacturing	500
315292	Fur and Leather Apparel Manufacturing	500
315299	All Other Cut and Sew Apparel Manufacturing	500
315991	Hat, Cap and Millinery Manufacturing	500
315992	Glove and Mitten Manufacturing	500
315993	Men's and Boys' Neckwear Manufacturing	500
315999	Other Apparel Accessories and Other Apparel Manufacturing	500
	Subsector 316—Leather and Allied Product Manufacturing	
316110	Leather and Hide Tanning and Finishing	500
316211	Rubber and Plastics Footwear Manufacturing	1,000
316212	House Slipper Manufacturing	500
316213	Men's Footwear (except Athletic) Manufacturing	500
316214	Women's Footwear (except Athletic) Manufacturing	500
316219	Other Footwear Manufacturing	500
316991	Luggage Manufacturing	500
316992	Women's Handbag and Purse Manufacturing	500
316993	Personal Leather Good (except Women's Handbag and Purse) Manufacturing	500
316999	All Other Leather Good Manufacturing	500
	Subsector 321—Wood Product Manufacturing	
321113	Sawmills	500
321114	Wood Preservation	500
321211	Hardwood Veneer and Plywood Manufacturing	500
321212	Softwood Veneer and Plywood Manufacturing	500
321213	Engineered Wood Member (except Truss) Manufacturing	500
321214	Truss Manufacturing	500
321219	Reconstituted Wood Product Manufacturing	500
321911	Wood Window and Door Manufacturing	500
321912	Cut Stock, Resawing Lumber, and Planing	500
321918	Other Millwork (including Flooring)	500
321920	Wood Container and Pallet Manufacturing	500
321991	Manufactured Home (Mobile Home) Manufacturing	500
321992	Prefabricated Wood Building Manufacturing	500
321999	All Other Miscellaneous Wood Product Manufacturing	500
	Subsector 322—Paper Manufacturing	
322110	Pulp Mills	750
322121	Paper (except Newsprint) Mills	750
322122	Newsprint Mills	750
322130	Paperboard Mills	750
322211	Corrugated and Solid Fiber Box Manufacturing	500
322212	Folding Paperboard Box Manufacturing	750
322213	Setup Paperboard Box Manufacturing	500
322214	Fiber Can, Tube, Drum, and Similar Products Manufacturing	500
322215	Non-Folding Sanitary Food Container Manufacturing	750
322221	Coated and Laminated Packaging Paper and Plastics Film Manufacturing	500
322222	Coated and Laminated Paper Manufacturing	500
322223	Plastics, Foil, and Coated Paper Bag Manufacturing	500
322224	Uncoated Paper and Multiwall Bag Manufacturing	500
322225	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses	500
322226	Surface-Coated Paperboard Manufacturing	500
322231	Die-Cut Paper and Paperboard Office Supplies Manufacturing	500
322232	Envelope Manufacturing	500
322233	Stationery, Tablet, and Related Product Manufacturing	500
322291	Sanitary Paper Product Manufacturing	500
322299	All Other Converted Paper Product Manufacturing	500
	Subsector 323—Printing and Related Support Activities	
323110	Commercial Lithographic Printing	500
323111	Commercial Gravure Printing	500
323112	Commercial Flexographic Printing	500
323113	Commercial Screen Printing	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
323114	Quick Printing	500
323115	Digital Printing	500
323116	Manifold Business Form Printing	500
323117	Book Printing	500
323118	Blankbook, Loose-leaf Binder and Device Manufacturing	500
323119	Other Commercial Printing	500
323121	Tradebinding and Related Work	500
323122	Prepress Services	500
	Subsector 324—Petroleum and Coal Products Manufacturing	
324110	Petroleum Refineries	[4] 1,500
324121	Asphalt Paving Mixture and Block Manufacturing	500
324122	Asphalt Shingle and Coating Materials Manufacturing	750
324191	Petroleum Lubricating Oil and Grease Manufacturing	500
324199	All Other Petroleum and Coal Products Manufacturing	500
	Subsector 325—Chemical Manufacturing	
325110	Petrochemical Manufacturing	1,000
325120	Industrial Gas Manufacturing	1,000
325131	Inorganic Dye and Pigment Manufacturing	1,000
325132	Synthetic Organic Dye and Pigment Manufacturing	750
325181	Alkalies and Chlorine Manufacturing	1,000
325182	Carbon Black Manufacturing	500
325188	All Other Basic Inorganic Chemical Manufacturing	1,000
325191	Gum and Wood Chemical Manufacturing	500
325192	Cyclic Crude and Intermediate Manufacturing	750
325193	Ethyl Alcohol Manufacturing	1,000
325199	All Other Basic Organic Chemical Manufacturing	1,000
325211	Plastics Material and Resin Manufacturing	750
325212	Synthetic Rubber Manufacturing	1,000
325221	Cellulosic Organic Fiber Manufacturing	1,000
325222	Noncellulosic Organic Fiber Manufacturing	1,000
325311	Nitrogenous Fertilizer Manufacturing	1,000
325312	Phosphatic Fertilizer Manufacturing	500
325314	Fertilizer (Mixing Only) Manufacturing	500
325320	Pesticide and Other Agricultural Chemical Manufacturing	500
325411	Medicinal and Botanical Manufacturing	750
325412	Pharmaceutical Preparation Manufacturing	750
325413	In-Vitro Diagnostic Substance Manufacturing	500
325414	Biological Product (except Diagnostic) Manufacturing	500
325510	Paint and Coating Manufacturing	500
325520	Adhesive Manufacturing	500
325611	Soap and Other Detergent Manufacturing	750
325612	Polish and Other Sanitation Good Manufacturing	500
325613	Surface Active Agent Manufacturing	500
325620	Toilet Preparation Manufacturing	500
325910	Printing Ink Manufacturing	500
325920	Explosives Manufacturing	750
325991	Custom Compounding of Purchased Resin	500
325992	Photographic Film, Paper, Plate and Chemical Manufacturing	500
325998	All Other Chemical Product and Preparation Manufacturing	500
	Subsector 326—Plastics and Rubber Products Manufacturing	
326111	Unsupported Plastics Bag Manufacturing	500
326112	Unsupported Plastics Packaging Film and Sheet Manufacturing	500
326113	Unsupported Plastics Film and Sheet (except Packaging) Manufacturing	500
326121	Unsupported Plastics Profile Shape Manufacturing	500
326122	Plastics Pipe and Pipe Fitting Manufacturing	500
326130	Laminated Plastics Plate, Sheet and Shape Manufacturing	500
326140	Polystyrene Foam Product Manufacturing	500
326150	Urethane and Other Foam Product (except Polystyrene) Manufacturing	500
326160	Plastics Bottle Manufacturing	500
326191	Plastics Plumbing Fixture Manufacturing	500
326192	Resilient Floor Covering Manufacturing	750
326199	All Other Plastics Product Manufacturing	500
326211	Tire Manufacturing (except Retreading)	[5] 1,000

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
326212	Tire Retreading	500
326220	Rubber and Plastics Hoses and Belting Manufacturing	500
326291	Rubber Product Manufacturing for Mechanical Use	500
326299	All Other Rubber Product Manufacturing	500
	Subsector 327—Nonmetallic Mineral Product Manufacturing	
327111	Vitreous China Plumbing Fixtures and China and Earthenware Bathroom Accessories Manufacturing	750
327112	Vitreous China, Fine Earthenware and Other Pottery Product Manufacturing	500
327113	Porcelain Electrical Supply Manufacturing	500
327121	Brick and Structural Clay Tile Manufacturing	500
327122	Ceramic Wall and Floor Tile Manufacturing	500
327123	Other Structural Clay Product Manufacturing	500
327124	Clay Refractory Manufacturing	500
327125	Nonclay Refractory Manufacturing	750
327211	Flat Glass Manufacturing	1,000
327212	Other Pressed and Blown Glass and Glassware Manufacturing	750
327213	Glass Container Manufacturing	750
327215	Glass Product Manufacturing Made of Purchased Glass	500
327310	Cement Manufacturing	750
327320	Ready-Mix Concrete Manufacturing	500
327331	Concrete Block and Brick Manufacturing	500
327332	Concrete Pipe Manufacturing	500
327390	Other Concrete Product Manufacturing	500
327410	Lime Manufacturing	500
327420	Gypsum Product Manufacturing	1,000
327910	Abrasive Product Manufacturing	500
327991	Cut Stone and Stone Product Manufacturing	500
327992	Ground or Treated Mineral and Earth Manufacturing	500
327993	Mineral Wool Manufacturing	750
327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing	500
	Subsector 331—Primary Metal Manufacturing	
331111	Iron and Steel Mills	1,000
331112	Electrometallurgical Ferroalloy Product Manufacturing	750
331210	Iron and Steel Pipe and Tube Manufacturing from Purchased Steel	1,000
331221	Cold-Rolled Steel Shape Manufacturing	1,000
331222	Steel Wire Drawing	1,000
331311	Alumina Refining	1,000
331312	Primary Aluminum Production	1,000
331314	Secondary Smelting and Alloying of Aluminum	750
331315	Aluminum Sheet, Plate and Foil Manufacturing	750
331316	Aluminum Extruded Product Manufacturing	750
331319	Other Aluminum Rolling and Drawing	750
331411	Primary Smelting and Refining of Copper	1,000
331419	Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum)	750
331421	Copper Rolling, Drawing and Extruding	750
331422	Copper Wire (except Mechanical) Drawing	1,000
331423	Secondary Smelting, Refining, and Alloying of Copper	750
331491	Nonferrous Metal (except Copper and Aluminum) Rolling, Drawing and Extruding	750
331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum)	750
331511	Iron Foundries	500
331512	Steel Investment Foundries	500
331513	Steel Foundries, (except Investment)	500
331521	Aluminum Die-Casting Foundries	500
331522	Nonferrous (except Aluminum) Die-Casting Foundries	500
331524	Aluminum Foundries (except Die-Casting)	500
331525	Copper Foundries (except Die-Casting)	500
331528	Other Nonferrous Foundries (except Die-Casting)	500
	Subsector 332—Fabricated Metal Product Manufacturing	
332111	Iron and Steel Forging	500
332112	Nonferrous Forging	500
332114	Custom Roll Forming	500
332115	Crown and Closure Manufacturing	500
332116	Metal Stamping	500
332117	Powder Metallurgy Part Manufacturing	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
332211	Cutlery and Flatware (except Precious) Manufacturing	500
332212	Hand and Edge Tool Manufacturing	500
332213	Saw Blade and Handsaw Manufacturing	500
332214	Kitchen Utensil, Pot and Pan Manufacturing	500
332311	Prefabricated Metal Building and Component Manufacturing	500
332312	Fabricated Structural Metal Manufacturing	500
332313	Plate Work Manufacturing	500
332321	Metal Window and Door Manufacturing	500
332322	Sheet Metal Work Manufacturing	500
332323	Ornamental and Architectural Metal Work Manufacturing	500
332410	Power Boiler and Heat Exchanger Manufacturing	500
332420	Metal Tank (Heavy Gauge) Manufacturing	500
332431	Metal Can Manufacturing	1,000
332439	Other Metal Container Manufacturing	500
332510	Hardware Manufacturing	500
332611	Spring (Heavy Gauge) Manufacturing	500
332612	Spring (Light Gauge) Manufacturing	500
332618	Other Fabricated Wire Product Manufacturing	500
332710	Machine Shops	500
332721	Precision Turned Product Manufacturing	500
332722	Bolt, Nut, Screw, Rivet and Washer Manufacturing	500
332811	Metal Heat Treating	750
332812	Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers	500
332813	Electroplating, Plating, Polishing, Anodizing and Coloring	500
332911	Industrial Valve Manufacturing	500
332912	Fluid Power Valve and Hose Fitting Manufacturing	500
332913	Plumbing Fixture Fitting and Trim Manufacturing	500
332919	Other Metal Valve and Pipe Fitting Manufacturing	500
332991	Ball and Roller Bearing Manufacturing	750
332992	Small Arms Ammunition Manufacturing	1,000
332993	Ammunition (except Small Arms) Manufacturing	1,500
332994	Small Arms Manufacturing	1,000
332995	Other Ordnance and Accessories Manufacturing	500
332996	Fabricated Pipe and Pipe Fitting Manufacturing	500
332997	Industrial Pattern Manufacturing	500
332998	Enameled Iron and Metal Sanitary Ware Manufacturing	750
332999	All Other Miscellaneous Fabricated Metal Product Manufacturing	500
	Subsector 333—Machinery Manufacturing [6]	
333111	Farm Machinery and Equipment Manufacturing	500
333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing	500
333120	Construction Machinery Manufacturing	750
333131	Mining Machinery and Equipment Manufacturing	500
333132	Oil and Gas Field Machinery and Equipment Manufacturing	500
333210	Sawmill and Woodworking Machinery Manufacturing	500
333220	Plastics and Rubber Industry Machinery Manufacturing	500
333291	Paper Industry Machinery Manufacturing	500
333292	Textile Machinery Manufacturing	500
333293	Printing Machinery and Equipment Manufacturing	500
333294	Food Product Machinery Manufacturing	500
333295	Semiconductor Machinery Manufacturing	500
333298	All Other Industrial Machinery Manufacturing	500
333311	Automatic Vending Machine Manufacturing	500
333312	Commercial Laundry, Drycleaning and Pressing Machine Manufacturing	500
333313	Office Machinery Manufacturing	1,000
333314	Optical Instrument and Lens Manufacturing	500
333315	Photographic and Photocopying Equipment Manufacturing	500
333319	Other Commercial and Service Industry Machinery Manufacturing	500
333411	Air Purification Equipment Manufacturing	500
333412	Industrial and Commercial Fan and Blower Manufacturing	500
333414	Heating Equipment (except Warm Air Furnaces) Manufacturing	500
333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.	750
333511	Industrial Mold Manufacturing	500
333512	Machine Tool (Metal Cutting Types) Manufacturing	500
333513	Machine Tool (Metal Forming Types) Manufacturing	500
333514	Special Die and Tool, Die Set, Jig and Fixture Manufacturing	500
333515	Cutting Tool and Machine Tool Accessory Manufacturing	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
333516	Rolling Mill Machinery and Equipment Manufacturing	500
333518	Other Metalworking Machinery Manufacturing	500
333611	Turbine and Turbine Generator Set Unit Manufacturing	1,000
333612	Speed Changer, Industrial High-Speed Drive and Gear Manufacturing	500
333613	Mechanical Power Transmission Equipment Manufacturing	500
333618	Other Engine Equipment Manufacturing	1,000
333911	Pump and Pumping Equipment Manufacturing	500
333912	Air and Gas Compressor Manufacturing	500
333913	Measuring and Dispensing Pump Manufacturing	500
333921	Elevator and Moving Stairway Manufacturing	500
333922	Conveyor and Conveying Equipment Manufacturing	500
333923	Overhead Traveling Crane, Hoist and Monorail System Manufacturing	500
333924	Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing	750
333991	Power-Driven Hand Tool Manufacturing	500
333992	Welding and Soldering Equipment Manufacturing	500
333993	Packaging Machinery Manufacturing	500
333994	Industrial Process Furnace and Oven Manufacturing	500
333995	Fluid Power Cylinder and Actuator Manufacturing	500
333996	Fluid Power Pump and Motor Manufacturing	500
333997	Scale and Balance (except Laboratory) Manufacturing	500
333999	All Other Miscellaneous General Purpose Machinery Manufacturing	500
	Subsector 334—Computer and Electronic Product Manufacturing [6]	
334111	Electronic Computer Manufacturing	1,000
334112	Computer Storage Device Manufacturing	1,000
334113	Computer Terminal Manufacturing	1,000
334119	Other Computer Peripheral Equipment Manufacturing	1,000
334210	Telephone Apparatus Manufacturing	1,000
334220	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing	750
334290	Other Communications Equipment Manufacturing	750
334310	Audio and Video Equipment Manufacturing	750
334411	Electron Tube Manufacturing	750
334412	Bare Printed Circuit Board Manufacturing	500
334413	Semiconductor and Related Device Manufacturing	500
334414	Electronic Capacitor Manufacturing	500
334415	Electronic Resistor Manufacturing	500
334416	Electronic Coil, Transformer, and Other Inductor Manufacturing	500
334417	Electronic Connector Manufacturing	500
334418	Printed Circuit Assembly (Electronic Assembly) Manufacturing	500
334419	Other Electronic Component Manufacturing	500
334510	Electromedical and Electrotherapeutic Apparatus Manufacturing	500
334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing	750
334512	Automatic Environmental Control Manufacturing for Residential, Commercial and Appliance Use	500
334513	Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables.	500
334514	Totalizing Fluid Meter and Counting Device Manufacturing	500
334515	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals	500
334516	Analytical Laboratory Instrument Manufacturing	500
334517	Irradiation Apparatus Manufacturing	500
334518	Watch, Clock, and Part Manufacturing	500
334519	Other Measuring and Controlling Device Manufacturing	500
334611	Software Reproducing	500
334612	Prerecorded Compact Disc (except Software), Tape, and Record Reproducing	750
334613	Magnetic and Optical Recording Media Manufacturing	1,000
	Subsector 335—Electrical Equipment, Appliance and Component Manufacturing [6]	
335110	Electric Lamp Bulb and Part Manufacturing	1,000
335121	Residential Electric Lighting Fixture Manufacturing	500
335122	Commercial, Industrial and Institutional Electric Lighting Fixture Manufacturing	500
335129	Other Lighting Equipment Manufacturing	500
335211	Electric Housewares and Household Fan Manufacturing	750
335212	Household Vacuum Cleaner Manufacturing	750
335221	Household Cooking Appliance Manufacturing	750
335222	Household Refrigerator and Home Freezer Manufacturing	1,000
335224	Household Laundry Equipment Manufacturing	1,000
335228	Other Major Household Appliance Manufacturing	500
335311	Power, Distribution and Specialty Transformer Manufacturing	750

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
335312	Motor and Generator Manufacturing	1,000
335313	Switchgear and Switchboard Apparatus Manufacturing	750
335314	Relay and Industrial Control Manufacturing	750
335911	Storage Battery Manufacturing	500
335912	Primary Battery Manufacturing	1,000
335921	Fiber Optic Cable Manufacturing	1,000
335929	Other Communication and Energy Wire Manufacturing	1,000
335931	Current-Carrying Wiring Device Manufacturing	500
335932	Noncurrent-Carrying Wiring Device Manufacturing	500
335991	Carbon and Graphite Product Manufacturing	750
335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing	500
	Subsector 336—Transportation Equipment Manufacturing [6]	
336111	Automobile Manufacturing	1,000
336112	Light Truck and Utility Vehicle Manufacturing	1,000
336120	Heavy Duty Truck Manufacturing	1,000
336211	Motor Vehicle Body Manufacturing	1,000
336212	Truck Trailer Manufacturing	500
336213	Motor Home Manufacturing	1,000
336214	Travel Trailer and Camper Manufacturing	500
336311	Carburetor, Piston, Piston Ring and Valve Manufacturing	500
336312	Gasoline Engine and Engine Parts Manufacturing	750
336321	Vehicular Lighting Equipment Manufacturing	500
336322	Other Motor Vehicle Electrical and Electronic Equipment Manufacturing	750
336330	Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing	750
336340	Motor Vehicle Brake System Manufacturing	750
336350	Motor Vehicle Transmission and Power Train Parts Manufacturing	750
336360	Motor Vehicle Seating and Interior Trim Manufacturing	500
336370	Motor Vehicle Metal Stamping	500
336391	Motor Vehicle Air-Conditioning Manufacturing	750
336399	All Other Motor Vehicle Parts Manufacturing	750
336411	Aircraft Manufacturing	1,500
336412	Aircraft Engine and Engine Parts Manufacturing	1,000
336413	Other Aircraft Part and Auxiliary Equipment Manufacturing	1,000
336414	Guided Missile and Space Vehicle Manufacturing	1,000
336415	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing	1,000
336419	Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing	1,000
336510	Railroad Rolling Stock Manufacturing	1,000
336611	Ship Building and Repairing	1,000
336612	Boat Building	500
336991	Motorcycle, Bicycle and Parts Manufacturing	500
336992	Military Armored Vehicle, Tank and Tank Component Manufacturing	1,000
336999	All Other Transportation Equipment Manufacturing	500
	Subsector 337—Furniture and Related Product Manufacturing	
337110	Wood Kitchen Cabinet and Counter Top Manufacturing	500
337121	Upholstered Household Furniture Manufacturing	500
337122	Nonupholstered Wood Household Furniture Manufacturing	500
337124	Metal Household Furniture Manufacturing	500
337125	Household Furniture (except Wood and Metal) Manufacturing	500
337127	Institutional Furniture Manufacturing	500
337129	Wood Television, Radio, and Sewing Machine Cabinet Manufacturing	500
337211	Wood Office Furniture Manufacturing	500
337212	Custom Architectural Woodwork and Millwork Manufacturing	500
337214	Office Furniture (Except Wood) Manufacturing	500
337215	Showcase, Partition, Shelving, and Locker Manufacturing	500
337910	Mattress Manufacturing	500
337920	Blind and Shade Manufacturing	500
	Subsector 339—Miscellaneous Manufacturing	
339111	Laboratory Apparatus and Furniture Manufacturing	500
339112	Surgical and Medical Instrument Manufacturing	500
339113	Surgical Appliance and Supplies Manufacturing	500
339114	Dental Equipment and Supplies Manufacturing	500
339115	Ophthalmic Goods Manufacturing	500
339116	Dental Laboratories	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
339911	Jewelry (except Costume) Manufacturing	500
339912	Silverware and Plated Ware Manufacturing	500
339913	Jewelers' Material and Lapidary Work Manufacturing	500
339914	Costume Jewelry and Novelty Manufacturing	500
339920	Sporting and Athletic Goods Manufacturing	500
339931	Doll and Stuffed Toy Manufacturing	500
339932	Game, Toy, and Children's Vehicle Manufacturing	500
339941	Pen and Mechanical Pencil Manufacturing	500
339942	Lead Pencil and Art Good Manufacturing	500
339943	Marking Device Manufacturing	500
339944	Carbon Paper and Inked Ribbon Manufacturing	500
339950	Sign Manufacturing	500
339991	Gasket, Packing, and Sealing Device Manufacturing	500
339992	Musical Instrument Manufacturing	500
339993	Fastener, Button, Needle and Pin Manufacturing	500
339994	Broom, Brush and Mop Manufacturing	500
339995	Burial Casket Manufacturing	500
339999	All Other Miscellaneous Manufacturing	500
	Sector 42—Wholesale Trade	
	(Not applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)	
	Subsector 421—Wholesale Trade—Durable Goods	
421110	Automobile and Other Motor Vehicle Wholesalers	100
421120	Motor Vehicle Supplies and New Part Wholesalers	100
421130	Tire and Tube Wholesalers	100
421140	Motor Vehicle Part (Used) Wholesalers	100
421210	Furniture Wholesalers	100
421220	Home Furnishing Wholesalers	100
421310	Lumber, Plywood, Millwork and Wood Panel Wholesalers	100
421320	Brick, Stone and Related Construction Material Wholesalers	100
421330	Roofing, Siding and Insulation Material Wholesalers	100
421390	Other Construction Material Wholesalers	100
421410	Photographic Equipment and Supplies Wholesalers	100
421420	Office Equipment Wholesalers	100
421430	Computer and Computer Peripheral Equipment and Software Wholesalers	100
421440	Other Commercial Equipment Wholesalers	100
421450	Medical, Dental and Hospital Equipment and Supplies Wholesalers	100
421460	Ophthalmic Goods Wholesalers	100
421490	Other Professional Equipment and Supplies Wholesalers	100
421510	Metal Service Centers and Offices	100
421520	Coal and Other Mineral and Ore Wholesalers	100
421610	Electrical Apparatus and Equipment, Wiring Supplies and Construction Material Wholesalers	100
421620	Electrical Appliance, Television and Radio Set Wholesalers	100
421690	Other Electronic Parts and Equipment Wholesalers	100
421710	Hardware Wholesalers	100
421720	Plumbing and Heating Equipment and Supplies (Hydronics) Wholesalers	100
421730	Warm Air Heating and Air-Conditioning Equipment and Supplies Wholesalers	100
421740	Refrigeration Equipment and Supplies Wholesalers	100
421810	Construction and Mining (except Petroleum) Machinery and Equipment Wholesalers	100
421820	Farm and Garden Machinery and Equipment Wholesalers	100
421830	Industrial Machinery and Equipment Wholesalers	100
421840	Industrial Supplies Wholesalers	100
421850	Service Establishment Equipment and Supplies Wholesalers	100
421860	Transportation Equipment and Supplies (except Motor Vehicle) Wholesalers	100
421910	Sporting and Recreational Goods and Supplies Wholesalers	100
421920	Toy and Hobby Goods and Supplies Wholesalers	100
421930	Recyclable Material Wholesalers	100
421940	Jewelry, Watch, Precious Stone and Precious Metal Wholesalers	100
421990	Other Miscellaneous Durable Goods Wholesalers	100
	Subsector 422—Wholesale Trade—Nondurable Goods	
422110	Printing and Writing Paper Wholesalers	100
422120	Stationary and Office Supplies Wholesalers	100
422130	Industrial and Personal Service Paper Wholesalers	100

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
422210	Drugs and Druggists' Sundries Wholesalers	100
422310	Piece Goods, Notions and Other Dry Goods Wholesalers	100
422320	Men's and Boys' Clothing and Furnishings Wholesalers	100
422330	Women's, Children's, and Infants' Clothing and Accessories Wholesalers	100
422340	Footwear Wholesalers	100
422410	General Line Grocery Wholesalers	100
422420	Packaged Frozen Food Wholesalers	100
422430	Dairy Product (except Dried or Canned) Wholesalers	100
422440	Poultry and Poultry Product Wholesalers	100
422450	Confectionery Wholesalers	100
422460	Fish and Seafood Wholesalers	100
422470	Meat and Meat Product Wholesalers	100
422480	Fresh Fruit and Vegetable Wholesalers	100
422490	Other Grocery and Related Products Wholesalers	100
422510	Grain and Field Bean Wholesalers	100
422520	Livestock Wholesalers	100
422590	Other Farm Product Raw Material Wholesalers	100
422610	Plastics Materials and Basic Forms and Shapes Wholesalers	100
422690	Other Chemical and Allied Products Wholesalers	100
422710	Petroleum Bulk Stations and Terminals	100
422720	Petroleum and Petroleum Products Wholesalers (except Bulk Stations and Terminals)	100
422810	Beer and Ale Wholesalers	100
422820	Wine and Distilled Alcoholic Beverage Wholesalers	100
422910	Farm Supplies Wholesalers	100
422920	Book, Periodical and Newspaper Wholesalers	100
422930	Flower, Nursery Stock and Florists' Supplies Wholesalers	100
422940	Tobacco and Tobacco Product Wholesalers	100
422950	Paint, Varnish and Supplies Wholesalers	100
422990	Other Miscellaneous Nondurable Goods Wholesalers	100
	Sectors 44–45—Retail Trade	
	Subsector 441—Motor Vehicle and Parts Dealers	
441110	New Car Dealers	$21.0
441120	Used Car Dealers	$17.0
441210	Recreational Vehicle Dealers	$5.0
441221	Motorcycle Dealers	$5.0
441222	Boat Dealers	$5.0
441229	All Other Motor Vehicle Dealers	$5.0
EXCEPT	Aircraft Dealers, Retail	$7.5
441310	Automotive Parts and Accessories Stores	$5.0
441320	Tire Dealers	$5.0
	Subsector 442—Furniture and Home Furnishings Stores	
442110	Furniture Stores	$5.0
442210	Floor Covering Stores	$5.0
442291	Window Treatment Stores	$5.0
442299	All Other Home Furnishings Stores	$5.0
	Subsector 443—Electronics and Appliance Stores	
443111	Household Appliance Stores	$6.5
443112	Radio, Television and Other Electronics Stores	$6.5
443120	Computer and Software Stores	$6.5
443130	Camera and Photographic Supplies Stores	$5.0
	Subsector 444—Building Material and Garden Equipment and Supplies Dealers	
444110	Home Centers	$5.0
444120	Paint and Wallpaper Stores	$5.0
444130	Hardware Stores	$5.0
444190	Other Building Material Dealers	$5.0
444210	Outdoor Power Equipment Stores	$5.0
444220	Nursery and Garden Centers	$5.0

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
	Subsector 445—Food and Beverage Stores	
445110	Supermarkets and Other Grocery (except Convenience) Stores	$20.0
445120	Convenience Stores	$20.0
445210	Meat Markets	$5.0
445220	Fish and Seafood Markets	$5.0
445230	Fruit and Vegetable Markets	$5.0
445291	Baked Goods Stores	$5.0
445292	Confectionery and Nut Stores	$5.0
445299	All Other Specialty Food Stores	$5.0
445310	Beer, Wine and Liquor Stores	$5.0
	Subsector 446—Health and Personal Care Stores	
446110	Pharmacies and Drug Stores	$5.0
446120	Cosmetics, Beauty Supplies and Perfume Stores	$5.0
446130	Optical Goods Stores	$5.0
446191	Food (Health) Supplement Stores	$5.0
446199	All Other Health and Personal Care Stores	$5.0
	Subsector 447—Gasoline Stations	
447110	Gasoline Stations with Convenience Stores	$20.0
447190	Other Gasoline Stations	$6.5
	Subsector 448—Clothing and Clothing Accessories Stores	
448110	Men's Clothing Stores	$6.5
448120	Women's Clothing Stores	$6.5
448130	Children's and Infants' Clothing Stores	$6.5
448140	Family Clothing Stores	$6.5
448150	Clothing Accessories Stores	$6.5
448190	Other Clothing Stores	$5.0
448210	Shoe Stores	$6.5
448310	Jewelry Stores	$5.0
448320	Luggage and Leather Goods Stores	$5.0
	Subsector 451—Sporting Good, Hobby, Book and Music Stores	
451110	Sporting Goods Stores	$5.0
451120	Hobby, Toy and Game Stores	$5.0
451130	Sewing, Needlework and Piece Goods Stores	$5.0
451140	Musical Instrument and Supplies Stores	$5.0
451211	Book Stores	$5.0
451212	News Dealers and Newsstands	$5.0
451220	Prerecorded Tape, Compact Disc and Record Stores	$5.0
	Subsector 452—General Merchandise Stores	
452110	Department Stores	$20.0
452910	Warehouse Clubs and Superstores	$20.0
452990	All Other General Merchandise Stores	$$8.0
	Subsector 453—Miscellaneous Store Retailers	
453110	Florists	$5.0
453210	Office Supplies and Stationery Stores	$5.0
453220	Gift, Novelty and Souvenir Stores	$5.0
453310	Used Merchandise Stores	$5.0
453910	Pet and Pet Supplies Stores	$5.0
453920	Art Dealers	$5.0
453930	Manufactured (Mobile) Home Dealers	$9.5
453991	Tobacco Stores	$5.0
453998	All Other Miscellaneous Store Retailers (except Tobacco Stores)	$5.0
454110	Electronic Shopping and Mail-Order Houses	$8.5
454210	Vending Machine Operators	$5.0

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
454311	Heating Oil Dealers	$9.0
454312	Liquefied Petroleum Gas (Bottled Gas) Dealers	$5.0
454319	Other Fuel Dealers	$5.0
454390	Other Direct Selling Establishments	$5.0
	Sectors 48—49—Transportation	
	Subsector 481—Air Transportation	
481111	Scheduled Passenger Air Transportation	$1,500
481112	Scheduled Freight Air Transportation	$1,500
481211	Nonscheduled Chartered Passenger Air Transportation	$1,500
Except	Offshore Marine Air Transportation Services	$20.0
481212	Nonscheduled Chartered Freight Air Transportation 1,500 EXCEPT Except Offshore Marine Air Transportation Services $20.0 481219 Other Nonscheduled Air Transportation $5.0.	
	Subsector 482—Rail Transportation	
482111	Line-Haul Railroads	$500
482112	Short Line Railroads	$500
	Subsector 483—Water Transportation	
483111	Deep Sea Freight Transportation	$500
483112	Deep Sea Passenger Transportation	$500
483113	Coastal and Great Lakes Freight Transportation	$500
483114	Coastal and Great Lakes Passenger Transportation	$500
483211	Inland Water Freight Transportation	$500
483212	Inland Water Passenger Transportation	$500
	Subsector 484—Truck Transportation	
484110	General Freight Trucking, Local	$18.5
484121	General Freight Trucking, Long-Distance, Truckload	$18.5
484122	General Freight Trucking, Long-Distance, Less Than Truckload	$18.5
484210	Used Household and Office Goods Moving	$18.5
484220	Specialized Freight (except Used Goods) Trucking, Local	$18.5
484230	Specialized Freight (except Used Goods) Trucking, Long-Distance	$18.5
	Subsector 485—Transit and Ground Passenger Transportation	
485110	Mixed Mode Transit Systems	$5.0
485112	Commuter Rail Systems	$5.0
485113	Bus and Motor Vehicle Transit Systems	$5.0
485119	Other Urban Transit Systems	$5.0
485210	Interurban and Rural Bus Transportation	$5.0
485310	Taxi Service	$5.0
485320	Limousine Service	$5.0
485410	School and Employee Bus Transportation	$5.0
485510	Charter Bus Industry	$5.0
485991	Special Needs Transportation	$5.0
485999	All Other Transit and Ground Passenger Transportation	$5.0
	Subsector 486—Pipeline Transportation	
486110	Pipeline Transportation of Crude Oil	1,500
486210	Pipeline Transportation of Natural Gas	$5.0
486910	Pipeline Transportation of Refined Petroleum Products	1,500
486990	All Other Pipeline Transportation	$25.0
	Subsector 487—Scenic and Sightseeing Transportation	
487110	Scenic and Sightseeing Transportation, Land	$5.0
487210	Scenic and Sightseeing Transportation, Water	$5.0
487990	Scenic and Sightseeing Transportation, Other	$5.0
	Subsector 488—Support Activities for Transportation	
488111	Air Traffic Control	$5.0
488119	Other Airport Operations	$5.0
488190	Other Support Activities for Air Transportation	$5.0

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
488210	Support Activities for Rail Transportation	$5.0
488310	Port and Harbor Operations	$18.5
488320	Marine Cargo Handling	$18.5
488330	Navigational Services to Shipping	$5.0
488390	Other Support Activities for Water Transportation	$5.0
488410	Motor Vehicle Towing	$5.0
488490	Other Support Activities for Road Transportation	$5.0
488510	Freight Transportation Arrangement	$18.5
488991	Packing and Crating	$18.5
488999	All Other Support Activities for Transportation	$5.0
	Subsector 491—Postal Service	
491110	Postal Service	$5.0
	Subsector 492—Couriers and Messengers	
492110	Couriers	1,500
492210	Local Messengers and Local Delivery	$18.5
	Subsector 493—Warehousing and Storage	
493110	General Warehousing and Storage	$18.5
493120	Refrigerated Warehousing and Storage	$18.5
493130	Farm Product Warehousing and Storage	$18.5
493190	Other Warehousing and Storage	$18.5
	Sector 51—Information	
	Subsector 511—Publishing Industries	
511110	Newspaper Publishers	500
511120	Periodical Publishers	500
511130	Book Publishers	500
511140	Database and Directory Publishers	500
511191	Greeting Card Publishers	500
511199	All Other Publishers	500
511210	Software Publishers $18.0.	
	Subsector 512—Motion Picture and Sound Recording Industries	
512110	Motion Picture and Video Production	$21.5
512120	Motion Picture and Video Distribution	$21.5
512131	Motion Picture Theaters (except Drive-Ins)	$5.0
512132	Drive-In Motion Picture Theaters	$5.0
512191	Teleproduction and Other Post-Production Services	$21.5
512199	Other Motion Picture and Video Industries	$5.0
512210	Record Production	$5.0
512220	Integrated Record Production/Distribution	750
512230	Music Publishers	500
512240	Sound Recording Studios	$5.0
512290	Other Sound Recording Industries	$5.0
	Subsector 513—Broadcasting and Telecommunications	
513111	Radio Networks	$5.0
513112	Radio Stations	$5.0
513120	Television Broadcasting	$10.5
513210	Cable Networks	$11.0
513220	Cable and Other Program Distribution	$11.0
513310	Wired Telecommunications Carriers	1,500
513321	Paging	1,500
513322	Cellular and Other Wireless Telecommunications	1,500
513330	Telecommunications Resellers	1,500
513340	Satellite Telecommunications	$11.0
513390	Other Telecommunications	$11.0
	Subsector 514—Information Services and Data Processing Services	
514110	News Syndicates	$5.0
514120	Libraries and Archives	$5.0
514191	On-Line Information Services	$18.0

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
514199	All Other Information Services	$5.0
514210	Data Processing Services	$18.0
	Sector 52—Finance and Insurance	
	Subsector 522—Credit Intermediation and Related Activities	
522110	Commercial Banking	$100 mil in assets [8]
522120	Savings Institutions	$100 mil in assets
522130	Credit Unions	$100 mil in assets
522190	Other Depository Credit Intermediation	$100 mil in assets
522210	Credit Card Issuing	$100 mil in assets
522220	Sales Financing	$5.0
522291	Consumer Lending	$5.0
522292	Real Estate Credit	$5.0
522293	International Trade Financing	$100 mil in assets
522294	Secondary Market Financing	$5.0
522298	All Other Non-Depository Credit Intermediation	$5.0
522310	Mortgage and Nonmortgage Loan Brokers	$5.0
522320	Financial Transactions Processing, Reserve, and Clearing House Activities	$5.0
522390	Other Activities Related to Credit Intermediation	$5.0
	Subsector 523—Financial Investments and Related Activities	
523110	Investment Banking and Securities Dealing	$5.0
523120	Securities Brokerage	$5.0
523130	Commodity Contracts Dealing	$5.0
523140	Commodity Contracts Brokerage	$5.0
523210	Securities and Commodity Exchanges	$5.0
523910	Miscellaneous Intermediation	$5.0
523920	Portfolio Management	$5.0
523930	Investment Advice	$5.0
523991	Trust, Fiduciary and Custody Activities	$5.0
523999	Miscellaneous Financial Investment Activities	$5.0
	Subsector 524—Insurance Carriers and Related Activities	
524113	Direct Life Insurance Carriers	$5.0
524114	Direct Health and Medical Insurance Carriers	$5.0
524126	Direct Property and Casualty Insurance Carriers	1,500
524127	Direct Title Insurance Carriers	$5.0
524128	Other Direct Insurance (except Life, Health and Medical) Carriers	$5.0
524130	Reinsurance Carriers	$5.0
524210	Insurance Agencies and Brokerages	$5.0
524291	Claims Adjusting	$5.0
524292	Third Party Administration of Insurance and Pension Funds	$5.0
524298	All Other Insurance Related Activities	$5.0
	Subsector 525—Funds, Trusts and Other Financial Vehicles	
525110	Pension Funds	$5.0
525120	Health and Welfare Funds	$5.0
525190	Other Insurance Funds	$5.0
525910	Open-End Investment Funds	$5.0
525920	Trusts, Estates, and Agency Accounts	$5.0

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
525930	Real Estate Investment Trusts	$5.0
525990	Other Financial Vehicles	$5.0
	Sector 53—Real Estate and Rental and Leasing	
	Subsector 531—Real Estate 531110	
53110	Lessors of Residential Buildings and Dwellings	$5.0
531120	Lessors of Nonresidential Buildings (except Miniwarehouses)	$5.0
531130	Lessors of Miniwarehouses and Self Storage Units	$18.5
531190	Lessors of Other Real Estate Property	$5.0
EXCEPT	Leasing of Building Space to Federal Government by Owners	[9] $15.0
531210	Offices of Real Estate Agents and Brokers	[10] $1.5
531311	Residential Property Managers	$1.5
531312	Nonresidential Property Managers	$1.5
	Subsector 532—Rental and Leasing Services	
532111	Passenger Car Rental	$18.5
532112	Passenger Car Leasing	$18.5
53212	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing	$18.5
532210	Consumer Electronics and Appliances Rental	$5.0
532220	Formal Wear and Costume Rental	$5.0
532230	Video Tape and Disc Rental	$5.0
532291	Home Health Equipment Rental	$5.0
532292	Recreational Goods Rental	$5.0
532299	All Other Consumer Goods Rental	$5.0
532310	General Rental Centers	$5.0
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	$5.0
532412	Construction, Mining and Forestry Machinery and Equipment Rental and Leasing	$5.0
532420	Office Machinery and Equipment Rental and Leasing	$18.0
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	$5.0
	Subsector 533—Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	
533110	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	$5.0
	Sector 54—Professional, Scientific and Technical Services	
	Subsector 541—Professional, Scientific and Technical Services	
541110	Offices of Lawyers	$5.0
541191	Title Abstract and Settlement Offices	$5.0
541199	All Other Legal Services	$5.0
541211	Offices of Certified Public Accountants	$6.0
541213	Tax Preparation Services	$5.0
541214	Payroll Services	$6.0
541219	Other Accounting Services	$6.0
541310	Architectural Services	$4.0
541320	Landscape Architectural Services	$5.0
541330	Engineering Services	$4.0
EXCEPT	Military and Aerospace Equipment and Military Weapons	$20.0
EXCEPT	Contracts and Subcontracts for Engineering Services Awarded Under the National Energy Policy Act of 1992	$20.0
EXCEPT	Marine Engineering and Naval Architecture	$13.5
541340	Drafting Services	$5.0
EXCEPT	Map Drafting	$4.0
541350	Building Inspection Services	$5.0
541360	Geophysical Surveying and Mapping Services	$4.0

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
541370	Surveying and Mapping (except Geophysical) Services	$4.0
EXCEPT	Mapmaking	$4.0
541380	Testing Laboratories	$5.0
541410	Interior Design Services	$5.0
541420	Industrial Design Services	$5.0
541430	Graphic Design Services	$5.0
541490	Other Specialized Design Services	$5.0
541511	Custom Computer Programming Services	$18.0
541512	Computer Systems Design Services	$18.0
541513	Computer Facilities Management Services	$18.0
541519	Other Computer Related Services	$18.0
541611	Administrative Management and General Management Consulting Services	$5.0
541612	Human Resources and Executive Search Consulting Services	$5.0
541613	Marketing Consulting Services	$5.0
541614	Process, Physical Distribution and Logistics Consulting Services	$5.0
541618	Other Management Consulting Services	$5.0
541620	Environmental Consulting Services	$5.0
541690	Other Scientific and Technical Consulting Services	$5.0
541710	Research and Development in the Physical, Engineering, and Life Sciences	[11]500
EXCEPT	Aircraft	1,500
EXCEPT	Aircraft Parts, and Auxiliary Equipment, and Aircraft Engine Parts	1,000
EXCEPT	Space Vehicles and Guided Missiles, their Propulsion Units, their Propulsion Units Parts, and their Auxiliary Equipment and Parts.	1,000
541720	Research and Development in the Social Sciences and Humanities	$5.0
541810	Advertising Agencies	[10] $5.0
541820	Public Relations Agencies	$5.0
541830	Media Buying Agencies	$5.0
541840	Media Representatives	$5.0
541850	Display Advertising	$5.0
541860	Direct Mail Advertising	$5.0
541870	Advertising Material Distribution Services	$5.0
541890	Other Services Related to Advertising	$5.0
541910	Marketing Research and Public Opinion Polling	$5.0
541921	Photography Studios, Portrait	$5.0
541922	Commercial Photography	$5.0
541930	Translation and Interpretation Services	$5.0
541940	Veterinary Services	$5.0
541990	All Other Professional, Scientific and Technical Services	$5.0
	Sector 55—Management of Companies and Enterprises	
	Subsector 551—Management of Companies and Enterprises	
551111	Offices of Bank Holding Companies	$5.0
551112	Offices of Other Holding Companies	$5.0
	Sector 56—Administrative and Support, Waste Management and Remediation Services	
	Subsector 561—Administrative and Support Services	
561110	Office Administrative Services	$5.0
561210	Facilities Support Services12	[12] $5.0
EXCEPT	Base Maintenance [131]	[13] $20.0
561310	Employment Placement Agencies	$5.0
561320	Temporary Help Services	$5.0
561330	Employee Leasing Services	$5.0
561410	Document Preparation Services	$5.0
561421	Telephone Answering Services	$5.0
561422	Telemarketing Bureaus	$5.0
561431	Private Mail Centers	$5.0
561439	Other Business Service Centers (including Copy Shops)	$5.0
561440	Collection Agencies	$5.0
561450	Credit Bureaus	$5.0
561491	Repossession Services	$5.0
561492	Court Reporting and Stenotype Services	$5.0
561499	All Other Business Support Services	$5.0
561510	Travel Agencies	[10] $1.0
561520	Tour Operators	$5.0
561591	Convention and Visitors Bureaus	$5.0

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
561599	All Other Travel Arrangement and Reservation Services	$5.0
561611	Investigation Services	$9.0
561612	Security Guards and Patrol Services	$9.0
561613	Armored Car Services	$9.0
561621	Security Systems Services (except Locksmiths)	$9.0
561622	Locksmiths	$5.0
561710	Exterminating and Pest Control Services	$5.0
561720	Janitorial Services	$12.0
561730	Landscaping Services	$5.0
561740	Carpet and Upholstery Cleaning Services	$3.5
561790	Other Services to Buildings and Dwellings	$5.0
561910	Packaging and Labeling Services	$5.0
561920	Convention and Trade Show Organizers	[10] $5.0
561990	All Other Support Services	$5.0
562111	Solid Waste Collection	$6.0
	Subsector 562—Waste Management and Remediation Services	
562112	Hazardous Waste Collection	$6.0
562119	Other Waste Collection	$6.0
562211	Hazardous Waste Treatment and Disposal	$6.0
562212	Solid Waste Landfill	$6.0
562213	Solid Waste Combustors and Incinerators	$6.0
562219	Other Nonhazardous Waste Treatment and Disposal	$6.0
562910	Remediation Services	$7.0
EXCEPT	Environmental Remediation Services	[14] 500
562920	Materials Recovery Facilities	$6.0
562991	Septic Tank and Related Services	$5.0
562998	All Other Miscellaneous Waste Management Services	$5.0
	Sector 61—Educational Services	
	Subsector 611—Educational Services	
611110	Elementary and Secondary Schools	$5.0
611210	Junior Colleges	$5.0
611310	Colleges, Universities and Professional Schools	$5.0
611410	Business and Secretarial Schools	$5.0
611420	Computer Training	$5.0
611430	Professional and Management Development Training	$5.0
611511	Cosmetology and Barber Schools	$5.0
611512	Flight Training	$18.5
611513	Apprenticeship Training	$5.0
611519	Other Technical and Trade Schools	$5.0
611610	Fine Art Schools	$5.0
611620	Sports and Recreation Instruction	$5.0
611630	Language Schools	$5.0
611691	Exam Preparation and Tutoring	$5.0
611692	Automobile Driving Schools	$5.0
611699	All Other Miscellaneous Schools and Instruction	$5.0
611710	Educational Support Services	$5.0
	Sector 62—Health Care and Social Assistance	
	Subsector 621—Ambulatory Health Care Services	
621111	Offices of Physicians (except Mental Health Specialists)	$5.0
621112	Offices of Physicians, Mental Health Specialists	$5.0
621210	Offices of Dentists	$5.0
621310	Offices of Chiropractors	$5.0
621320	Offices of Optometrists	$5.0
621330	Offices of Mental Health Practitioners (except Physicians)	$5.0
621340	Offices of Physical, Occupational and Speech Therapists and Audiologists	$5.0
621391	Offices of Podiatrists	$5.0
621399	Offices of All Other Miscellaneous Health Practitioners	$5.0
621410	Family Planning Centers	$5.0
621420	Outpatient Mental Health and Substance Abuse Centers	$5.0
621491	HMO Medical Centers	$5.0
621492	Kidney Dialysis Centers	$5.0

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
621493	Freestanding Ambulatory Surgical and Emergency Centers	$5.0
621498	All Other Outpatient Care Centers	$5.0
621511	Medical Laboratories	$5.0
621512	Diagnostic Imaging Centers	$5.0
621610	Home Health Care Services	$5.0
621910	Ambulance Services	$5.0
621991	Blood and Organ Banks	$5.0
621999	All Other Miscellaneous Ambulatory Health Care Services	$5.0
	Subsector 622—Hospitals	
622110	General Medical and Surgical Hospitals	$5.0
622210	Psychiatric and Substance Abuse Hospitals	$5.0
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	$5.0
	Subsector 623—Nursing and Residential Care Facilities	
623110	Nursing Care Facilities	$5.0
623210	Residential Mental Retardation Facilities	$5.0
623220	Residential Mental Health and Substance Abuse Facilities	$5.0
623311	Continuing Care Retirement Communities	$5.0
623312	Homes for the Elderly	$5.0
623990	Other Residential Care Facilities	$5.0
	Subsector 624—Social Assistance	
624110	Child and Youth Services	$5.0
624120	Services for the Elderly and Persons with Disabilities	$5.0
624190	Other Individual and Family Services	$5.0
624210	Community Food Services	$5.0
624221	Temporary Shelters	$5.0
624229	Other Community Housing Services	$5.0
624230	Emergency and Other Relief Services	$5.0
624310	Vocational Rehabilitation Services	$5.0
624410	Child Day Care Services	$5.0
	Sector 71—Arts, Entertainment and Recreation	
	Subsector 711—Performing Arts, Spectator Sports and Related Industries	
711110	Theater Companies and Dinner Theaters	$5.0
711120	Dance Companies	$5.0
711130	Musical Groups and Artists	$5.0
711190	Other Performing Arts Companies	$5.0
711211	Sports Teams and Clubs	$5.0
711212	Race Tracks	$5.0
711219	Other Spectator Sports	$5.0
711310	Promoters of Performing Arts, Sports and Similar Events with Facilities	$5.0
711320	Promoters of Performing Arts, Sports and Similar Events without Facilities	$5.0
711410	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures	$5.0
711510	Independent Artists, Writers, and Performers	$5.0
	Subsector 712—Museums, Historical Sites and Similar Institutions	
712110	Museums	$5.0
712120	Historical Sites	$5.0
712130	Zoos and Botanical Gardens	$5.0
712190	Nature Parks and Other Similar Institutions	$5.0
	Subsector 713—Amusement, Gambling and Recreation Industries	
713110	Amusement and Theme Parks	$5.0
713120	Amusement Arcades	$5.0
713210	Casinos (except Casino Hotels)	$5.0
713290	Other Gambling Industries	$5.0
713910	Golf Courses and Country Clubs	$5.0
713920	Skiing Facilities	$5.0
713930	Marinas	$5.0
713940	Fitness and Recreational Sports Centers	$5.0

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
713950	Bowling Centers	$5.0
713990	All Other Amusement and Recreation Industries	$5.0
	Sector 72—Accommodation and Food Services	
	Subsector 721—Accommodation	
721110	Hotels (except Casino Hotels) and Motels	$5.0
721120	Casino Hotels	$5.0
721191	Bed and Breakfast Inns	$5.0
721199	All Other Traveler Accommodation	$5.0
721211	RV (Recreational Vehicle) Parks and Campgrounds	$5.0
721214	Recreational and Vacation Camps (except Campgrounds)	$5.0
721310	Rooming and Boarding Houses	$5.0
	Subsector 722—Food Services and Drinking Places	
722110	Full-Service Restaurants	$5.0
722211	Limited-Service Restaurants	$5.0
722212	Cafeterias	$5.0
722213	Snack and Nonalcoholic Beverage Bars	$5.0
722310	Food Service Contractors	$15.0
722320	Caterers	$5.0
722330	Mobile Food Services	$5.0
722410	Drinking Places (Alcoholic Beverages)	$5.0
	Sector 81—Other Services	
	Subsector 811—Repair and Maintenance	
811111	General Automotive Repair	$5.0
811112	Automotive Exhaust System Repair	$5.0
811113	Automotive Transmission Repair	$5.0
811118	Other Automotive Mechanical and Electrical Repair and Maintenance	$5.0
811121	Automotive Body, Paint and Interior Repair and Maintenance	$5.0
811122	Automotive Glass Replacement Shops	$5.0
811191	Automotive Oil Change and Lubrication Shops	$5.0
811192	Car Washes	$5.0
811198	All Other Automotive Repair and Maintenance	$5.0
811211	Consumer Electronics Repair and Maintenance	$5.0
811212	Computer and Office Machine Repair and Maintenance	$18.0
811213	Communication Equipment Repair and Maintenance	$5.0
811219	Other Electronic and Precision Equipment Repair and Maintenance	$5.0
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.	$5.0
811411	Home and Garden Equipment Repair and Maintenance	$5.0
811412	Appliance Repair and Maintenance	$5.0
811420	Reupholstery and Furniture Repair	$5.0
811430	Footwear and Leather Goods Repair	$5.0
811490	Other Personal and Household Goods Repair and Maintenance	$5.0
	Subsector 812—Personal and Laundry Services	
812111	Barber Shops	$5.0
812112	Beauty Salons	$5.0
812113	Nail Salons	$5.0
812191	Diet and Weight Reducing Centers	$5.0
812199	Other Personal Care Services	$5.0
812210	Funeral Homes and Funeral Services	$5.0
812220	Cemeteries and Crematories	$5.0
812310	Coin-Operated Laundries and Drycleaners	$5.0
812320	Drycleaning and Laundry Services (except Coin-Operated)	$3.5
812331	Linen Supply	$10.5
812332	Industrial Launderers	$10.5
812391	Garment Pressing, and Agents for Laundries	$5.0
812399	All Other Laundry Services	$5.0
812910	Pet Care (except Veterinary) Services	$5.0
812921	Photo Finishing Laboratories (except One-Hour)	$5.0
812922	One-Hour Photo Finishing	$5.0

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	Description (N.E.C. = Not Elsewhere Classified)	Size standard in number of employees or millions of dollars
812930	Parking Lots and Garages	$5.0
812990	All Other Personal Services	$5.0
	Subsector 813—Religious, Grantmaking, Civic, Professional and Similar Organizations	
813110	Religious Organizations	$5.0
813211	Grantmaking Foundations	$5.0
813212	Voluntary Health Organizations	$5.0
813219	Other Grantmaking and Giving Services	$5.0
813311	Human Rights Organizations	$5.0
813312	Environment, Conservation and Wildlife Organizations	$5.0
813319	Other Social Advocacy Organizations	$5.0
813410	Civic and Social Organizations	$5.0
813910	Business Associations	$5.0
813920	Professional Organizations	$5.0
813930	Labor Unions and Similar Labor Organizations	$5.0
813940	Political Organizations	$5.0
813990	Other Similar Organizations (except Business, Professional, Labor, and Political Organizations)	$5.0

Footnotes

[As noted at the head of the table in the Supplementary Information above, the following footnotes relate only to SBA's proposed size standards. Footnotes to existing size standards follow the table of size standards in the Supplementary Information above.]

1. *NAICS codes 221111, 221112, 221113, 221119, 221121, 221122*—A firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.

2. *NAICS code 234990*—Dredging: To be considered small for purposes of Government procurement, a firm must perform at least 40 percent of the volume dredged with its own equipment or equipment owned by another small dredging concern.

3. *NAICS code 311421*—For purposes of Government procurement for food canning and preserving, the standard of 500 employees excludes agricultural labor as defined in 3306(k) of the Internal Revenue Code, 26 U.S.C. § 3306(k).

4. *NAICS code 324110*—For purposes of Government procurement, the firm may not have more than 1,500 employees nor more than 75,000 barrels per day capacity of petroleum-based inputs, including crude oil or bona fide feedstocks. Capacity includes owned or leased facilities as well as facilities under a processing agreement or an arrangement such as an exchange agreement or a throughput. The total product to be delivered under the contract must be at least 90 percent refined by the successful bidder from either crude oil or bona fide feedstocks.

5. *NAICS code 326211*—For Government procurement, a firm is small for bidding on a contract for pneumatic tires within Census Classification codes 30111 and 30112, provided that:

(a) The value of tires within Census Classification codes 30111 and 30112 which it manufactured in the United States during the previous calendar year is more than 50 percent of the value of its total worldwide manufacture,

(b) the value of pneumatic tires within Census Classification codes 30111 and 30112 comprising its total worldwide manufacture during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during that period, and

(c) the value of the principal product which it manufactured or otherwise produced, or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during that period.

6. *NAICS Subsectors 333, 334, 335 and 336*—For rebuilding machinery or equipment on a factory basis, or equivalent, use the NAICS code for a newly manufactured product. Concerns performing major rebuilding or overhaul activities do not necessarily have to meet the criteria for being a ''manufacturer'' although the activities may be classified under a manufacturing NAICS code. Ordinary repair services or preservation are not considered rebuilding.

7. *NAICS code 336413*—Contracts for the rebuilding or overhaul of aircraft ground support equipment on a contract basis are classified under NAICS code 336413.

8. *NAICS Codes 522110, 522120, 522130, 522190, 522210* and *522930*—A financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year. ''Assets'' for the purposes of this size standard means the assets defined according to the Federal Financial Institutions Examination Council 034 call report form.

9. *NAICS code 531190*—Leasing of building space to the Federal Government by Owners: For Government procurement, a size standard of $15.0 million in gross receipts applies to the owners of building space leased to the Federal Government. The standard does not apply to an agent.

10. *NAICS codes 531210, 541810, 561510 and 561920*—As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue.

11. *NAICS code 541710*—For research and development contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the manufacturing industry.

(a) ''Research and Development'' means laboratory or other physical research and development. It does not include economic, educational, engineering, operations, systems, or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

(b) For purposes of the Small Business Innovation Research (SBIR) program only, a different definition has been established by law. See § 121.701 of these regulations.

(c) ''Research and Development'' for guided missiles and space vehicles includes evaluations and simulation, and other services requiring thorough knowledge of complete missiles and spacecraft.

12. *NAICS code 561210*—Facilities Management, a component of NAICS 561210, includes establishments, not classified elsewhere, which provide overall management and personnel to perform a variety of related support services in operating a complete facility in or around a specific building, or within another business or Government establishment. Facilities management means furnishing three or more personnel supply services which may include, but are not limited to secretarial services, typists, word processing, maintaining files and/or libraries, telephone answering, switchboard operation, reproduction or mimeograph service, mailing service, writers, bookkeeping, financial or

business management, public relations, conference planning, minor office equipment maintenance and repair, use of information systems (not programming), word processing, travel arrangements, maintaining files and/or libraries.

13. *NAICS code 235990 (All Other Special Trade Contractors)* and *NAICS code 561210 (Facilities Support Services)*—Base Maintenance:

(a) If one of the activities of base maintenance, as defined in paragraph (b) (below in this endnote) can be identified with a separate industry and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard is that of the particular industry, and not the base maintenance size standard.

(b) ''Base Maintenance'' requires the performance of three or more separate activities in the areas of service or special trade construction industries. If services are performed, these activities must each be in a separate NAICS code including, but not limited to, Janitorial and Custodial Service, Fire Prevention Service, Messenger Service, Commissary Service, Protective Guard Service, and Grounds Maintenance and Landscaping Service. If the contract requires the use of special trade contractors (plumbing, painting, plastering, carpentry, etc.), all such special trade construction activities are considered a single activity and classified as Base Housing Maintenance. Since Base Housing Maintenance is only one activity, two additional activities are required for a contract to be classified as ''Base Maintenance.''

14. NAICS 562910—Environmental Remediation Services:

(a) For SBA assistance as a small business concern in the industry of Environmental Remediation Services, other than for Government procurement, a concern must be engaged primarily in furnishing a range of services for the remediation of a contaminated environment to an acceptable condition including, but not limited to, preliminary assessment, site inspection, testing, remedial investigation, feasibility studies, remedial design, containment, remedial action, removal of contaminated materials, storage of contaminated materials and security and site closeouts. If one of such activities accounts for 50 percent or more of a concern's total revenues, employees, or other related factors, the concern's primary industry is that of the particular industry and not the Environmental Remediation Services Industry.

(b) For purposes of classifying a Government procurement as Environmental Remediation Services, the general purpose of the procurement must be to restore a contaminated environment and also the procurement must be composed of activities in three or more separate industries with separate NAICS codes or, in some instances (*e.g.,* engineering), smaller sub-components of NAICS codes with separate, distinct size standards. These activities may include, but are not limited to, separate activities in industries such as: Heavy Construction; Special Trade Construction; Engineering Services; Architectural Services; Management Services; Refuse Systems; Sanitary Services, Not Elsewhere Classified; Local Trucking Without Storage; Testing Laboratories; and Commercial, Physical and Biological Research. If any activity in the procurement can be identified with a separate NAICS code, or component of a code with a separate distinct size standard, and that industry accounts for 50 percent or more of the value of the entire procurement, then the proper size standard is the one for that particular industry, and not the Environmental Remediation Service size standard.

§ 121.402 [Amended]

5. Amend § 121.402 as follows:

a. In paragraph (a) and (d) replace the acronym ''SIC'' with the acronym ''NAICS.''

b. In paragraph (b) replace all ''SIC'' acronyms with ''NAICS'' and in the second sentence, add ''United States'' after the first NAICS acronym.

c. In paragraph (c) replace all ''SIC'' acronyms with the acronym ''NAICS'' and replace the word ''a'' before the second NAICS acronym with the word ''an.''

d. In paragraph (e) replace the words ''a SIC'' with ''an NAICS.''

§ 121.403 [Amended]

6. In § 121.403, replace the acronym ''SIC'' in the heading and the first sentence with the acronym ''NAICS.''

§ 121.406 [Amended]

7. In paragraph (c)(1) of § 121.406, replace the acronym ''SIC'' with the acronym ''NAICS.''

§ 121.409 [Amended]

8. In § 121.409, replace the acronym ''SIC'' with the acronym ''NAICS.''

§ 121.410 [Amended]

9. In the last sentence of paragraph (a) of § 121.410, remove the phrase ''SIC code 8711'' and replace it with ''NAICS code 541330.''

§ 121.603 [Amended]

10. In paragraph (a) of § 121.603, replace the acronym ''SIC'' with the acronym ''NAICS.''

§ 121.1102 [Amended]

11. In § 121.1102, replace the acronym ''SIC'' in the heading and the text with the acronym ''NAICS.''

§ 121.1103 [Amended]

12. Amend § 121.1103 as follows:

a. In the heading and the first sentence of paragraph (a), replace the phrase ''a SIC'' with ''an NAICS.''

b. In paragraph (b), replace the acronym ''SIC'' with the acronym ''NAICS.''

§ 121.1202 [Amended]

13. In paragraph (d) of § 121.1202, replace the phrase ''a four-digit'' with ''an NAICS'' and replace the acronym ''SIC'' with ''NAICS.''

§ 121.1204 [Amended]

14. In paragraphs (a)(3) and (b)(1)(ii) of § 121.1204, replace the acronym ''SIC'' with the acronym ''NAICS.''

Dated: April 3, 2000.

Fred P. Hochberg,

Acting Administrator.

[FR Doc. 00–11874 Filed 5–12–00; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–72–AD; Amendment 39–11722; AD 2000–09–13]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Jetstream Model 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to British Aerospace Jetstream Model 3201 airplanes. This AD requires you to inspect the fuel quantity indication system for damage to the insulation of the wiring within the fuel tanks, and repair or replace damaged wiring. Damage is defined as corrosion (indicated by a dark stain), cuts, or nicks. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to detect damage to the insulation of the wiring within the fuel tanks of the fuel quantity indication system, which could result in a malfunction in the cockpit indicators and/or electrical sparking inside the fuel tank with consequent fire or explosion.

DATES: This AD becomes effective on June 23, 2000.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of June 23, 2000.

ADDRESSES: You may get the service information referenced in this AD from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland;

telephone: (01292) 672345; facsimile: (01292) 671625. You may examine this information at Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–72–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: Mr. S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 506, Kansas City, Missouri 64106; telephone: (816) 329–4145; facsimile: (816) 329–3091.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

What caused this AD? This AD is the result of damage to the insulation of the wiring within the wing fuel tanks of the fuel quantity indication system on two British Aerospace Jetstream Model 3201 airplanes. Further investigation shows that the damage to the insulation occurred during factory installation.

Has FAA taken any action to this point? 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 British Aerospace Jetstream Model 3201 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on January 6, 2000 (65 FR 729). The NPRM proposed to require you to inspect the fuel quantity indication system for damage to the insulation of the wiring within the fuel tanks, with necessary repair or replacement of damaged wiring. Damage is defined as corrosion (indicated by a dark stain), cuts, or nicks.

The NPRM would require you to accomplish the proposed actions in accordance with British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; or British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; Revision No. 1: November 12, 1999.

Was the public invited to comment? The FAA offered interested persons the opportunity to participate in the making of this amendment. We have given due consideration to the one comment received.

Comment Disposition

What is the Commenter's Concern? The commenter requests that FAA extend the compliance time to 3 months instead of 100 hours time-in-service (TIS) or 60 calendar days, whichever occurs first. The commenter states that high usage Jetstream Model 3201 airplanes can accumulate 100 hours TIS in well under 30 days. The commenter's concern is that entities with large fleets of the affected airplanes may not be able to accomplish the proposed AD if not given at least a 30-day period.

What is FAA's Response to the Concern? We concur with extending the compliance time, but not to 3 months. We will maintain the 60 calendar days, and will increase the 100-hour TIS time to 200 hours TIS. This will give the high usage airplanes more than 30 days to accomplish the action and the low usage airplanes 60 days. British Aerospace issued the service information in September 1999 and specified compliance in October 1999. The change in the compliance time coincides with the service bulletin.

The FAA's Determination

What is FAA's final determination on this issue? After reviewing 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 change in the compliance time and minor editorial corrections.

How do these changes and corrections affect the AD? We have determined that the change 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.

Compliance Time of This AD

What is the compliance time of this AD? The compliance time of this AD is within the next 200 hours TIS or 60 calendar days, whichever occurs first.

Why is the compliance in both calendar time and hours TIS? The compliance time of this AD is presented in both calendar time and hours TIS. Damage to the insulation of the wires in the fuel quantity indicator system could result in corrosion in the core conductor. Corrosion damage can then develop regardless of whether the airplane is in flight, and may not develop until a later time. Therefore, in order to assure that any damage does not go undetected, we are utilizing a compliance time of both hours TIS and calendar time (the prevalent one being that which occurs first).

Cost Impact

How many airplanes does this AD impact? The FAA estimates that this AD affects 115 airplanes in the U.S. registry.

What is the cost impact of this action on owners/operators of the affected airplanes? We estimate that it would take approximately 60 workhours per airplane to accomplish this action, at an average labor rate of $60 an hour. Based on these figures, FAA estimates the cost impact of this AD on U.S. operators at $414,000, or $3,600 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.

The FAA has determined 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 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. We have placed a copy of the final regulatory evaluation prepared for this action in the Rules Docket. You may obtain a copy of it at 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, under 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. FAA amends Section 39.13 by adding a new airworthiness directive (AD) to read as follows:

2000–09–13 British Aerospace: Amendment 39–11722; Docket No. 99–CE–72–AD.

(a) What airplanes are affected by this AD? This AD applies to Jetstream Model 3201 airplanes, all serial numbers, 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 must comply with this AD.

(c) What problem and safety aspects does this AD address? The actions specified by this AD are intended to detect damage to the insulation of the wiring within the fuel tanks of the fuel quantity indication system. If not detected and corrected, this damage could result in a malfunction in the cockpit indicators and/or electrical sparking inside the fuel tank with consequent fire or explosion.

(d) What actions must I accomplish to address this problem? To address this problem, you must accomplish the following:

Action	Compliance time	Procedures
Inspect the fuel quantity indication system for damage to the insulation of the wiring within the fuel tanks. Damage is defined as corrosion (indicated by a dark stain), cuts, or nicks.	At whichever of the following that occurs first: —Within the next 200 hours time-in-service (TIS) after June 23, 2000 (the effective date of this AD); or. —On or before August 21, 2000 (60 days after the effective date of this AD).	Accomplish these actions in accordance with one of the following: —British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; or —British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; Revision No. 1: November 12, 1999.
Replace or repair any damaged wiring	Prior to further flight after the inspection required by this AD.	Accomplish in accordance with one of the previously referenced service bulletins.

(e) Can I comply with this AD in any other way?

(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 any airplane referenced in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For those airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e)(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.

(f) 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) 329–4140; facsimile: (816) 329–4090.

(g) 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.

(h) Who should I contact if I have questions regarding the service information? Direct all questions or technical information related to this AD to British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 672345; facsimile: (01292) 671625.

(i) Are any service bulletins incorporated into this AD by reference? You must accomplish the actions required by this AD in accordance with British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; or British Aerospace Jetstream Alert Service Bulletin 28–A–JA990841, Original Issue: September 8, 1999; Revision No. 1: November 12, 1999. 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 British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland. You can look at copies at 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) Has another airworthiness authority addressed this action? The subject of this AD is addressed in British AD 003–09–99, dated September 13, 1999.

(k) When does this amendment become effective? This amendment becomes effective on June 23, 2000.

Issued in Kansas City, Missouri, on May 4, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–11718 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–21–AD; Amendment 39–11724; AD 2000–09–15]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. MU–2B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Mitsubishi Heavy Industries, Ltd. (Mitsubishi) MU–2B series airplanes. This AD requires modifying the airplanes' operating systems. This AD results from several icing-related incidents and accidents of MU–2B series airplanes, and the Federal Aviation Administration's investigation of the airplane design and pilot's ability to operate in icing conditions. The actions specified by this AD are intended to assist in preventing departure from controlled flight while operating in icing conditions.

DATES: This AD becomes effective on July 24, 2000.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of July 24, 2000.

ADDRESSES: You may get the service information referenced in this AD from Mitsubishi Heavy Industries America, Inc., 15303 Dallas Parkway, suite 685, LB-77, Dallas, Texas 75248; telephone: (972) 980–5001; facsimile: (972) 980–5091. You may examine this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–21–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: Contact one of the following for questions or more information related to this subject: Mr. John Dow, Aerospace Engineer, Small Airplane Directorate, FAA, 901 Locust, Room 301, Kansas City, Missouri 64106, telephone: (816) 329–4121; facsimile: (816) 426–4090; Mr. Carl Fountain, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone:

(562) 627–5222; facsimile: (562) 627–5228; or Ms. Alma Ramirez-Hodge, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5147; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

What caused this AD?

This AD is the result of several icing-related incidents and accidents of MU–2B series airplanes, and FAA's investigation of both the airplane design and pilot's ability to operate in icing conditions.

Has FAA taken any action to this point?

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 Mitsubishi MU–2B series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 21, 1998 (63 FR 27872). The NPRM proposed to require you to incorporate the following modifications on the airplane's operating systems:

(1) An ice detection system;

(2) A deice monitoring system;

(3) An automatic autopilot disconnect system and a trim-in-motion alert system;

(4) An engine continuous-duty ignition replacement system; and

(5) An auto-ignition (re-light) system.

The NPRM also proposed to require you to fabricate a placard (using 1/8-inch letters) with the following words and proposed to require you to install this placard within the pilot's clear view:

''Prior to the first flight of each day, a negative torque sensing (NTS) check and a Propeller Feather Valve check must be performed in accordance with the Normal Checklist Procedures.''

Accomplishment of the proposed actions as specified in the NPRM would be required in accordance with:

• Mitsubishi MU–2 Service Bulletin (SB) No. 217, Revision B, dated November 7, 1996;

• Mitsubishi MU–2 SB No. 226, which incorporates the following pages:

Pages	Revision level	Date
2 through 11, 13 through 24, 27 through 57, and 59 through 93	A	January 13, 1997.
1, 12, 24, 25, 26, and 58	B	February 27, 1997.

• Mitsubishi MU–2 SB No. 231, dated July 2, 1997, Mitsubishi MU–2 SB No. 232, dated July 2, 1997;

• Mitsubishi MU–2B SB No. 074/74–001, dated October 9, 1991;

• Test Instrumentation, Inc. Document No. MU2–1001, Rev. C, dated June 15, 1997;

• Test Instrumentation, Inc. Document No. MU2–4001, Rev. C, dated June 30, 1997;

• Test Instrumentation, Inc. Document No. MU2–5001, Rev. E., dated May 21, 1997; and

• Test Instrumentation, Inc. Document No. MU2–6005, dated September 28, 1997.

Was the Public Invited To Comment?

Interested persons were afforded an opportunity to participate in the making of this amendment through the following avenues:

• Comments to the Docket file in accordance with the procedures specified in the NPRM; and

• Communications with FAA at a public meeting held in December 1998. Announcement of this public meeting was published in the **Federal Register** on September, 29, 1998 (63 FR 51865).

Summary of This AD Action

Several icing-related incidents and accidents of Mitsubishi MU–2B series airplanes caused FAA to investigate the airplane design and pilot's ability to operate in icing conditions. The FAA conducted a special certification review, which focused on factual information related to Mitsubishi MU–2B series airplanes involved in icing incidents/accidents. This review was named a Focused Fact Finding Special Certification Review (FFFSCR). This review shows that several accidents and incidents have occurred, and that modifications to the airplane design and additional pilot training may prevent future accidents/incidents. The training issues were addressed in AD 97–20–14, Amendment 39–10150 (62 FR 51594, October 2, 1997).

The following presents whether FAA has included in or excluded from this final rule each action that was proposed in the NPRM:

Modification	Included in or excluded from AD
Ice Detection System	Excluded from AD.
Deice Monitoring System	Included in AD.
Automatic Autopilot Disconnect System and Trim-in-motion Alert System	Included in AD.
Engine Continuous-duty Ignition Replacement System	Excluded from AD.
Auto-ignition (Re-light System)	Included in AD.
Placard to require negative torque sensing (NTS) check and Propeller Feather Valve check as part of the Normal Checklist Procedures.	Excluded from AD.

The following presents the actions we proposed in the NPRM, but are excluding from the final rule AD. Also included is a brief description of why we are excluding each one:

1. *Ice detection system:* The Aviation Rulemaking Advisory Committee (ARAC) recently established an Ice Protection Harmonization Working Group (IPHWG). We are waiting for this group to conclude its study before deciding whether to require an ice detection system on the affected airplanes;

2. *Engine continuous-duty ignition system:* We determined that the safety aspect of this AD only required the incorporation of the auto-ignition (re-light) system or the engine continuous-duty ignition system. We chose the auto-ignition (re-light system) because it is independent of other pilot actions; and

3. *Placard to require negative torque sensing (NTS) check and propeller feather valve check as part of the Normal Checklist Procedures:* We determined that the safety aspects of including this information did not outweigh the confusion that could be

generated through the installation of such a large placard on the instrument panel. If our analysis of the continued airworthiness of the affected airplanes shows that this information is necessary, we may initiate further rulemaking to require this information to become part of the Limitations Section of the Airplane Flight Manual (AFM).

The FAA has determined that the modifications required in this AD will correct the unsafe condition identified in the NPRM. We considered all comments received.

The following paragraphs present the comments received on the NPRM and at the public meeting. Also included is FAA's response to each comment, including any changes incorporated into the final rule based on the comments.

Comment Issue No. 1: Pilot Training

What Is the Commenters' Concern?

Many commenters state that inadequate pilot training is the cause of the referenced incidents and accidents of the Mitsubishi MU–2B series airplanes.

What Is FAA's Response to the Concern?

The FAA partially concurs. The FAA has determined that both systems modifications and pilot training are needed to prevent future icing accidents and incidents on the Mitsubishi MU–2B series airplanes. Training issues were addressed in AD 97–20–14, Amendment 39–10150 (62 FR 51594, October 2, 1997). The FAA will continue to monitor the need for future training and will take any appropriate action. This AD addresses the systems modifications.

We are not changing the AD as a result of these comments.

Comment Issue No. 2: Ice Detection System

What Are the Commenters' Concerns?

Numerous commenters object to the incorporation of an ice detection system because:

1. Pilot training is the issue and FAA should focus on providing the appropriate training.

2. The ice detection system will not solve the problem because the Aerospatiale Model ATR–72 airplane involved in the Roselawn accident had an ice detection system installed and a problem still existed.

3. The Roselawn accident with the Aerospatiale Model ATR–72 airplane would not have occurred if the autopilot had remained connected; therefore, the problem with the Mitsubishi MU–2B series airplanes is the autopilot disconnect.

4. The ice detection system is a bad idea because of the excellent visual icing cues of the MU–2B series airplanes and the potential for unrecognized mechanical failure.

5. Based on a commenter's experience in another type of airplane, the ice detection system could provide false positive warnings.

6. Install BF Goodrich Company SMART BOOTS on the affected airplanes. These boots incorporate electronic sensors imbedded into the surface of the vertical stabilizer deicing system; and detect the presence of ice on the surface of the boots, the proper functioning of the boots, and the presence of residual ice. The commenter believes that this system would allow FAA to learn more about the icing environment as it relates to the affected airplanes.

7. An ice detection system is unnecessary because the pilot would use the visual cues to detect ice and could then activate the deicing system. This would make the need for an ice detection system unnecessary.

8. Since the pilot is aware of the ice prior to the ice detection alert, the system is unnecessary, expensive, and a waste of money.

What Is FAA's Response to the Concerns?

The Aviation Rulemaking Advisory Committee (ARAC) has established an Ice Protection Harmonization Working Group (IPHWG). One of the areas this group is currently studying is the safety impact of having ice protection systems incorporated on aircraft. Because this study is ongoing and the IPHWG has not made any recommendations, we have determined not to require the ice detection system in this AD. We will evaluate the information that the IPHWG provides at the conclusion of the study to determine whether we should initiate rulemaking regarding this subject. The Mitsubishi MU–2B series airplanes would be among many aircraft evaluated to determine whether an ice detection system should be incorporated. The AD requirements for the automatic autopilot disconnect system and trim-in-motion alert system provide protection in the event of undetected, dangerous ice accretions. We determined that the modifications required by this AD, including the automatic autopilot disconnect system and trim-in-motion alert system, will provide the operators the necessary warning and equipment to safely operate their airplanes.

We excluded the ice detection system requirement from the AD.

Comment Issue No. 3: Stall Recovery

What Is the Commenter's Concern?

One commenter questions why FAA did not give the option (as a method of accomplishing the AD) of advancing the power (engine torque) to as high as possible (*i.e.*, in excess of 150 percent, which occurred in another type design airplane). This idea is based on the commenter's operating experience in recovering from a stall during an icing-related incident.

What Is FAA's Response to the Concern?

We do not concur. When the engine torque is advanced over 100 percent, the thrust of the propeller may be reduced because of the flow separation of portions of the blade. Instead of an increase in thrust, a reduction in overall thrust is likely. Airflow over the wing in the propwash can be degraded. FAA analysis of the incident that the commenter refers to shows that the airplane recovery occurred when the flaps were extended from the cruise configuration to 15 degrees and when the angle of attack was decreased. The flow over the wing returned, control of the airplane was regained, and the roll attitude stabilized.

We are not changing the AD as a result of this comment.

Comment Issue No. 4: Misuse of the AD Process

What Are the Commenter's Concerns?

One commenter states that (1) AD's are only for defects in design or potential equipment failures; and (2) proceeding with the AD would be a misuse of the AD process.

What Is FAA's Response to the Concerns?

We do not concur. An AD is the vehicle that FAA uses to mandate modifications, inspections, etc., in order to correct an unsafe condition on products (airplanes). That condition could be caused by airplane usage (fatigue), quality control, design, maintenance problems (where the procedures to accomplish such maintenance are not available to the field or the current maintenance procedures are not meeting the necessary safety level), or any other problem. The FAA has determined that an unsafe condition exists in the Mitsubishi MU–2B series airplanes when utilized in icing conditions, and that the airplane modifications specified in the AD are necessary to correct this unsafe condition. We are not using this

AD to improve the level of safety or upgrade the certification level of the Mitsubishi MU–2B airplanes.

We are not changing the AD as a result of these comments.

Comment Issue No. 5: Other Airplane Designs Are More Susceptible to Icing Problems Than the Mitusbishi MU–2B Series Airplanes

What Is the Commenters' Concern?

Several commenters suggest that other airplane models (specifically Raytheon models) are more susceptible to problems while operating in icing conditions than the Mitsubishi MU–2B series airplanes. The commenters believe FAA should withdraw the NPRM for this reason.

What Is FAA's Response to the Concern?

The FAA does not concur that the NPRM should be withdrawn because of the statement that other airplanes are more susceptible to problems while operating in icing conditions. The FAA analyzes the service history and design of each specific airplane make and model type design before taking AD action. Based on the service history and design of the Mitsubishi MU–2B series airplanes, FAA has determined that AD action is necessary. This does not mean that FAA will not take AD action on any other type design airplanes or that the Mitsubishi MU–2B series airplanes are being singled out from other type design airplanes. The FAA will continue to analyze the service history and design of each specific airplane make and model type design, and initiate and implement any appropriate rulemaking action.

We are not changing the AD as a result of these comments.

Comment Issue No. 6: No Evidence That the Affected Airplanes Are Susceptible to Undetectable Ice Accumulation

What Is the Commenter's Concern?

One commenter objects to the stated purpose and provisions specified in the NPRM. In particular, the commenter states that there is no evidence that the Mitsubishi MU–2B series airplanes are susceptible to undetectable ice accumulation.

What Is FAA's Response to the Concern?

The FAA does not concur. In one reported incident of undetectable ice accumulation on one of the affected airplanes, a pilot in 14 CFR part 135 operations experienced a 20-knot decrease in airspeed and a change of positive climb rate to a descent. After examining the airplane surfaces, the crew saw no evidence of ice and instead only saw a shiny appearance on the leading edge of the wing. At this time, the crew operated the deicing boots and witnessed approximately 1-inch of ice shedding from the leading edge of the wing. Airplane performance was restored to the level that existed before the airplane entered the icing condition and before operation of the deicing boots. The bulk of the ice was on the surface of the boots and not the unprotected areas of the fuselage or the propellers. Transparent (clear) ice can result from high liquid water conditions, high airspeed, static air temperatures just below freezing, large droplets, or a combination of any of these conditions. The Mitsubishi MU–2B series airplanes have shown flight characteristics in icing conditions with clear ice formation that are hazardous. These hazards may be attributed to a decreased stall angle, suddenness and the degree of roll upset, a subsequent rapid increase in airspeed, the consequent loss of control after ice accumulation, and difficulty in recovering from any of the above problems. We determined that the modifications required by this AD, including the automatic autopilot disconnect system and trim-in-motion alert system, will provide the operators the necessary warning and equipment to safely operate their airplanes.

We are not changing the AD as a result of this comment.

Comment Issue No. 7: High Incident/Accident Rate for the Mitsubishi MU–2B Series Airplanes

What Is the Commenter's Concern?

One commenter states that, of the 700 Mitsubishi MU–2B series airplanes in service, over 100 have been involved in incidents/accidents.

What Is FAA's Response to the Concern?

The FAA infers from this that the commenter agrees with and supports the AD.

We are not changing the AD as a result of this comment.

Comment Issue No. 8: No AD Justification Based on the FFFSCR

What Is the Commenters' Concern?

Several commenters state that, since the Mitsubishi MU–2B series airplanes ''passed all the tests'' in the FFFSCR, issuing an AD requiring modifications would be contrary to the FFRSCR. The commenters do not believe FAA should issue the AD because the airplane meets the appropriate certification regulations.

What Is FAA's Response to the Concern?

We do not concur. The FFFSCR specifically addressed flight into icing conditions. The tests were not pass/fail situations. The FFFSCR specifies that several accidents have occurred, and that future accidents/incidents may be prevented by modifications to the airplane design and by additional training to enhance the pilot's ability to manage the airplane in adverse operating conditions.

As discussed previously, an AD is the vehicle that FAA uses to correct unsafe conditions in type design products. A product that meets all certification requirements can still be found to have an unsafe condition that could exist or develop; also, an unsafe condition does not necessarily exist for products that do not meet certification requirements. Whether a product is in compliance with other regulations is unrelated to whether AD action should be taken on that product.

We are not changing the AD as a result of these comments.

Comment Issue No. 9: Unsafe Condition Already Covered by Existing AD's

What Is the Commenter's Concern?

One commenter states that the unsafe condition referenced in this AD is already addressed by current AD's that apply to Mitsubishi MU–2B series airplanes:

- One that requires training for the pilots of the affected airplanes;
- One that requires incorporating a minimum speed limitation; and
- One that addresses actions to take when flying into severe icing.

For this reason, the commenter requests that FAA withdraw the NPRM.

What Is FAA's Response to the Concern?

We do not concur. The current AD's that address severe icing and a minimum speed limitation contain information that applies to many type design airplanes, not just the Mitsubishi MU–2B series airplanes. Pilot training and system modifications are specific to the type design of the Mitsubishi MU–2B series airplanes. The FFFSCR specifies that several accidents have occurred, and that future accidents/incidents may be prevented by modifications to the airplane design and by additional training to enhance the pilot's ability to manage the airplane in adverse operating conditions. We have determined that both systems modifications and pilot training are needed to prevent future icing incidents on the Mitsubishi MU–2B series airplanes. Training issues were addressed in AD 97–20–14, Amendment 39–10150 (62 FR 51594, October 2, 1997). The FAA will continue to monitor the need for future training and

will take appropriate action. This AD addresses the systems modifications.

We are not changing the AD as a result of this comment.

Comment Issue No. 10: Trim-in-Motion

What Is the Commenters' Concern?

Several commenters oppose the incorporation of a trim-in-motion system. The commenters state that the trim-in-motion system will annunciate during normal trim activation and the pilot will hear the trim-in-motion alert continuously and ''tune it out.'' The commenters would like FAA to eliminate the trim-in-motion system requirement.

What Is FAA's Response to the Concern?

We do not concur. The trim-in-motion system for the MU–2B series airplanes annunciates only after the trim wheel has rotated more than 30 degrees in the nose-up direction when the flaps are retracted. This should eliminate ''nuisance alerts''.

We are not changing the AD as a result of these comments.

Comment No. 11: Automatic Autopilot Disconnect

What Are the Commenters' Concerns?

Several commenters oppose the incorporation of an automatic autopilot disconnect. The commenters express the following concerns:

1. The automatic autopilot disconnect is dangerous in that the autopilot could become disconnected in high workload conditions.

2. The Mitsubishi MU–2B series airplane is a one-pilot airplane and the autopilot provides a useful function as a workload reliever.

3. The automatic autopilot disconnect is unnecessary because no accidents have occurred since the AD was issued that required a minimum 180 knot indicated airspeed (KIAS). The commenters would like FAA to eliminate the automatic autopilot disconnect requirement.

4. The autopilot would disconnect at a speed slightly faster than the best rate of climb speed for certain weight and altitude combinations. The commenters state that icing rarely occurs above 25,000 feet. This is the desired altitude in certain weather conditions where the slowest airspeeds are required for the best rate of climb. The commenters believe that a hazardous situation would exist if the pilot were to hand fly the airplane to achieve the best rate of climb instead of utilizing the autopilot.

What Are FAA's Responses to the Concerns?

The following presents FAA's response to each of the concerns regarding the automatic autopilot disconnect:

1. We concur that high workload conditions exist. However, the objective of the automatic autopilot disconnect is to prevent the autopilot from applying nose-up elevator control with pitch trim until the airplane stalls. When implemented, the pilot will be forced to take control of the airplane before the autopilot applies pitch control in the full trimmed nose-up direction. If the autopilot controls the airplane into a stall, then the chance of a recovery is unlikely. The automatic autopilot disconnect would, prior to a stall condition, give control to the pilot and allow detection and prevention of a stall. The automatic autopilot disconnects well below the cruise speed and just above the stall speed.

2. We concur that the Mitsubishi MU–2B series airplane is a single-pilot airplane and the autopilot provides a useful function as a workload reliever. The airplane was certificated without the autopilot and is considered optional equipment. Any pilot of this aircraft should be able to handle situations without the use of the autopilot the same as with the autopilot. As discussed above, the automatic disconnect function activates at a speed that provides increased margin to contaminated stall. This places the pilot in situations where the continued reliance on the autopilot may mask natural stall warnings prior to stall and upset.

3. We do not concur with the commenter that no accidents have occurred since the AD was issued to require a minimum 180 KIAS in icing conditions, and therefore the automatic autopilot disconnect is unnecessary. Since 1993 when the 180 KIAS minimum speed was established, an airplane upset occurred in an accident in Malad City, Utah. Speeds were lower than 180 KIAS.

4. We do not concur that a hazardous situation would exist if the pilot would hand fly the airplane at altitudes above 25,000 feet. Cumulonimbus clouds account for the icing above 25,000 feet. These clouds contain some of the most severe forms of icing conditions. Icing accrued at lower altitudes may easily remain on the airfoil and then the airplane could carry this ice to higher altitudes. As discussed earlier, these airplanes were certificated without the autopilot and the autopilot is considered optional equipment. Any pilot of this aircraft should be able to handle situations without the use of the autopilot the same as with the autopilot.

We are not changing the AD as a result of these comments.

Comment Issue No. 12: Require Either an Auto-ignition (Re-light) System or an Engine Continuous-Duty Ignition Replacement System

What Is the Commenters' Concern?

The commenters believe that requiring either the engine continuous-duty ignition replacement system or the auto-ignition (re-light) system is acceptable. The commenters state that requiring both is redundant and FAA has not provided justification for requiring both.

What Is FAA's Response to the Concern?

We concur that both of these systems should not be required. Based upon the operating record of other airplanes equipped with the auto-ignition (re-light) system, FAA believes that this system is the best for restoring engine power because:

- Manual selection of the ignition after ice detection depends on the pilot seeing the ice and knowing when the airplane is no longer in a condition conducive to flameout; and

- Use of the engine continuous-duty ignition replacement system for extended periods of time incurs repetitive igniter replacement costs. The use of the auto-ignition (re-light) system is independent of pilot ice detection. This system is also energized for a short period of time so it incurs less operating cost.

We excluded the requirement of incorporating an engine continuous-duty ignition replacement system.

Comment Issue No. 13: Experienced MU–2B Series Airplanes Operators Were Not Contacted

What Is the Commenters' Concern?

Several commenters question why FAA never contacted ''experienced'' MU–2B series airplane operators.

What Is FAA's Response to the Concern?

We contacted several MU–2B series airplane operators to seek information on possible upsets or near upsets in icing conditions. Among these were pilots in 14 CFR part 91 and part 135 operations.

We are not changing the AD as a result of these comments.

Comment Issue No. 14: Specific Accidents Are Unrelated to This AD

What Are the Commenters' Concerns?

Several commenters believe that most of the MU–2B series airplane accidents are unrelated to the subject matter of this AD. The commenters state that FAA should not take AD action because the accidents were related to pilot error or judgement. Some of the commenters state that, when you take the pilot error or judgement issues away, there are not enough accidents to warrant AD action.

What Is FAA's Response to the Concerns?

We do not concur. We determined that human error has not accounted for all accidents and incidents involving MU–2B series airplanes. The type and severity of the icing conditions in these accidents has resulted in fatalities to the occupants of these MU–2B series airplanes. This is because they were in uncontrolled flight into terrain from altitudes of 16,000 feet to 22,000 feet. Accidents are not a prerequisite for issuing an AD. The only prerequisite is an unsafe condition that is likely to exist or develop in other airplanes of the same type design.

We are not changing the AD as a result of these comments.

Comment Issue No. 15: Operation Outside the Design Envelope

What Is the Commenter's Concern?

One commenter states that the AD is not justified because the pilots of the Mitsubishi MU–2B series airplanes are flying outside the design limits of the airplane.

What Is FAA's Response to the Concern?

We do not concur. The FAA does not have evidence of the affected airplanes being flown outside of the design limits up to the moment of loss of control.

We are not changing the AD as a result of this comment.

Comment Issue No. 16: The MU–2B Passed All Tests

What Are the Commenters' Concerns?

One commenter states that AD action is unnecessary because the MU–2B series airplanes passed all the tests during the FFFSCR. Another commenter states that the MU–2B airplanes passed all the tests during the special certification review (SCR) that FAA performed in 1984.

What Is FAA's Response to the Concerns?

We do not concur. The purpose of the 1984 SCR was for the overall aspects of the airplane, and was not specific to icing-related problems. The 1996 FFFSCR specifically addressed flight into icing conditions. The tests during this FFFSCR were not pass/fail situations. The final report of the FFFSCR includes all the findings and conclusions and makes 14 different recommendations, including equipment and training recommendations.

We are not changing the AD as a result of these comments.

Comment Issue No. 17: Power is the Key to Exiting Icing Conditions

What Is the Commenter's Concern?

One commenter states that the one key to exiting icing conditions is power. The commenter requests that FAA focus on increasing power instead of system modifications.

What Is FAA's Response to the Concern?

We do not concur. While power is a key when a pilot immediately exits icing conditions, airfoil lift and stall aerodynamics are most significant in icing conditions. The significant aerodynamic characteristics for the MU-2B series airplanes are the stall angle of attack and lift coefficient with ice accretion. These could lead to increased drag, which may result in an insufficient amount of engine power (thrust) available to exit the icing conditions. The level of thrust necessary to overcome all icing conditions could be more than the MU–2B series airplanes can provide. Nominal changes in propeller effectiveness with ice accretion decrease propeller performance.

We are not changing the AD as a result of this comment.

Comment Issue No. 18: Similar Action Necessary for Other Aircraft

What Is the Commenter's Concern?

One commenter states that the icing accident statistics of other airplanes are higher than the Mitsubishi MU–2B series airplanes. The commenter specifically calls out the statistics for the Cessna Model 421 airplanes. Another commenter states that FAA should require similar actions on the Commander Model 114 airplanes.

What Is FAA's Response to the Concern?

The Cessna Model 421 airplanes and the Commander Model 114 airplanes are a different type design to that of the Mitsubishi MU–2B series airplanes. The FAA looks at the service history and design of each particular aircraft to determine whether an unsafe condition exists or is likely to develop, and AD action is necessary. The FAA will issue an AD if it determines that similar action needs to be taken on any other type design aircraft.

We are not changing the AD as a result of these comments.

Comment Issue No. 19: MU–2B Attracts Financially Weak Operators

What Is the Commenter's Concern?

One commenter states that the MU–2B series airplanes attract operators who do not have the financial strength to properly maintain their aircraft and train their crews. The commenter indicates that this is due to the affected airplanes being market bargains because of factors such as the issuance of the NPRM and the mandatory training AD against the MU–2B series airplanes. The FAA infers that the commenter believes the AD is only necessary to those operators without proper financial resources.

What Is FAA's Response to the Commenter's Concern?

The FAA does not concur. The unsafe condition exists when the airplane is flying in icing conditions. The FAA initiates AD action based only on whether an unsafe condition exists or could develop on type design aircraft. The market value of the affected airplanes or the financial status of the owners/operators of those airplanes does not enter into FAA's decision.

We are not changing the AD as a result of this comment.

Comment Issue No. 20: Severity of Ice Testing

What Is the Commenters' Concern?

Several commenters question the severity of the icing problems found during the tanker testing conducted with the FFFSCR. The commenters state that the AD is not necessary because they believe this testing is the primary justification for the AD.

What Is FAA's Response to the Concern?

We do not concur. The tanker testing was intended to examine only the ice accretion aft of the active portion of the deicing boots. This was where the ice accretion was found on the ATR airplane in the Roselawn accident. During this testing, only small portions of the airplane were exposed to the icing cloud at any particular time because the icing effect could not be accomplished simultaneously on all airplane surfaces located behind the tanker.

The entire natural icing environment cannot be replicated using computational fluid dynamics (CFD). This environment also cannot be sampled during flight testing in natural

icing conditions. Each condition is unique and variable. If you then account for airplane design, the chances for developing the most severe ice shape for any one aerodynamic characteristic is difficult.

This information reveals that neither the testing nor other tools are able to address all possible hazardous conditions on the Mitsubishi MU–2B series airplanes. The FAA has determined that the systems modifications required by this AD will give the pilot the best chance of maintaining control of the airplane in icing conditions.

We are not changing the AD as a result of these comments.

Comment Issue No. 21: Congressional Pressure

What Is the Commenters' Concern?

Several commenters believe that FAA yielded to congressional pressures in conducting the FFFSCR and issuing the NPRM. These commenters state that the FFFSCR was precipitated by a letter from a U.S. congressman relating to an accident in Zwingle, Iowa. The MU–2B series airplane in this accident experienced an uncontained propeller blade failure and then struck a silo. The commenters believe the AD is unnecessary and FAA is taking action because of politics.

What Is FAA's Response to the Concern?

Although it was part of the information we reviewed when deciding to conduct the FFFSCR, the congressional letter was not the determining factor. The FAA was already analyzing the service history of the Mitsubishi MU–2B series airplanes. The decision to issue the NPRM was based on:

- The conclusions made from the FFFSCR;
- The review of the affected airplanes' service history; and -
- The testing and approval of the system modifications included in the NPRM.

Our analysis of the situation does not link the Iowa accident referenced in the congressman's letter to the icing problems of the MU–2B series airplanes.

We are not changing the AD as a result of these comments.

Comment Issue No. 22: AD is an Economic Burden

What Are the Commenters' Concerns?

Several commenters addresss the economic impact caused by this AD and recent AD's against the MU–2B airplanes, including:

1. The AD's are senseless and have gone beyond reason;
2. The apparent bending of the regulatory rules against the MU–2B series airplanes has resulted in higher insurance premiums, higher parts costs, and decreased aircraft values; and
3. The NPRM, if adopted as a final rule, will cost each owner/operator about $27,000.

What Are FAA's Responses to the Concerns?

Our response to each concern follows:

1. We do not concur. The FAA presumes that the commenters are referring to the NPRM and other AD's written against the MU–2B series airplanes. Each AD, including the NPRM, must be justified through the identification of an unsafe condition. The FAA followed all regulatory processes for the AD's, including the NPRM, against the affected airplanes;
2. The FAA does not concur. As stated above, FAA followed all regulatory processes for the AD's, including the NPRM, against the affected airplanes; and
3. The FAA concurs that the NPRM as written would cost approximately $27,000 per airplane. The final rule will actually cost less than that proposed in the NPRM since the requirement for the ice detection system modification and the engine continuous-duty ignition replacement system modification are excluded. The FAA completed a Regulatory Flexibility Analysis on the NPRM. This analysis included the above modifications. The FAA has determined that the safety problems that would exist if this AD was not required outweigh the negative cost impact of this AD upon the public.

We Are not changing the AD as a result of these comments.

Comment Issue No. 23: Product Improvement Modifications

What Are the Commenters' Concerns?

Several commenters state that the installations specified in the NPRM are product improvements and do not address a true unsafe condition. The commenters indicate that Mitsubishi developed the modifications and issued the service bulletins before the FFFSCR.

Another commenter believes that FAA will use this AD as an example in mandating other product improvements in equipment such as global positioning systems (GPS) and stormscopes.

What Is FAA's Response to the Concerns?

We concur that a few of the modifications were developed prior to the FFFSCR. Since FAA had not mandated these modifications through an AD, they could have been considered product improvements at that time. Since that time, FAA performed the FFFSCR; determined that an unsafe condition exists and an AD should be issued; and analyzed the modifications that Mitsubishi developed. Part of addressing the unsafe condition is incorporating the modifications that were developed prior to the FFFSCR. The FAA can only mandate modifications that exist through an AD. An unsafe condition must be demonstrated for any AD action.

We are not changing the AD as a result of these comments.

Comment Issue No. 24: Require a Type Rating and Copilot for Certain Operations

What Are the Commenter's Concerns?

One commenter states that the following should be required when operating MU–2B series airplanes under 14 CFR part 135:

1. The pilot-in-charge should have a type rating; and
2. All Mitsubishi MU–2B series airplanes should have a copilot.

What Are FAA's Responses to the Concerns?

We do not concur with these concerns for the following reasons:

1. During the special certification review performed in 1984, FAA determined that a type rating was not necessary. Nothing has changed to warrant the need for a type rating.
2. Mandating a copilot in 14 CFR part 135 operations is beyond the scope of AD action. The FAA would need to make a rulemaking change to the specific regulation.

We are not changing the AD as a result of these comments.

Comment Issue No. 25: Delete the Requirement for Installing a Placard on the Instrument Panel

What Is the Commenters' Concern?

Several commenters request that the FAA delete the requirement to install a placard to require a negative torque sensing (NTS) check and propeller feather valve check as part of the Normal Checklist Procedures. The commenters state that confusion could be generated through the installation of such a large placard on the instrument panel.

What Is FAA's Response to the Concern?

We concur that a placard is not the best way of accomplishing this action. These checks are currently part of the

Normal Checklist Procedures Section of the AFM. The FAA encourages accomplishment of all actions specified in this section. However, the only mandatory actions in the AFM are those included in the Limitations Section.

Mandating these checks as part of an addition to the Limitations Section of the AFM would impose actions that go beyond the scope of what was already proposed in the NPRM. If our analysis of the continued airworthiness of the affected airplanes shows that it is necessary to mandate these actions, we may initiate further rulemaking to require this information to become part of the Limitations Section of the AFM.

We excluded the placard requirement from the AD.

The FAA's Determination

What Is FAA's Final Determination on This Issue?

After reviewing 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 changes described above and minor editorial corrections.

How Do These Changes and Corrections Affect the AD?

We have determined that the 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.

Compliance Time of This AD

What Is the Compliance Time of This AD?

The compliance time of this AD is within the next 12 calendar months after the effective date.

Why Is the Compliance in Calendar Time Instead of Hours Time-in-Service?

We have determined that the compliance time of this AD should be specified in calendar time instead of hours time-in-service. Although the condition addressed by this AD is unsafe while the airplane is in flight, the condition is not a result of repetitive airplane operation. The potential for the unsafe condition occurring is the same on the first flight as it is for subsequent flights. The compliance time of ''12 calendar months after the effective date of this AD'' will not inadvertently ground airplanes and will assure that all owners/operators of the affected airplanes accomplish this action in a reasonable time period.

Regulatory Flexibility Determination and Analysis

The Regulatory Flexibility Act of 1980 was enacted by Congress to assure that small entities are not unnecessarily or disproportionately burdened by government regulations. This Act establishes ''as principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve this principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a ''significant economic impact on a substantial number of small entities.'' If the determination is that it will, the agency must prepare a Regulatory Flexibility Analysis as described in the Act. However, if after a review for a proposed or final rule, an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the Act provides that the head of the agency may so certify and a Regulatory Flexibility Analysis is not required. A statement providing the factual basis for this determination must be included in the Docket file, and the reasoning should be clear.

The FAA has determined that this AD will have a significant economic impact on a substantial number of small entities. After a review of alternatives, as required by section 603(c) of the Act, this AD is the least costly alternative to reduce the possibility of an unsafe condition on Mitsubishi MU–2B series airplanes when operating in icing conditions.

The entities affected by this AD are believed to be mostly in Standard Industrial Classification (SIC) 4522, ''Air Transportation, Nonscheduled.'' Under the Small Business Administration (SBA), Table of Size Standards, March 1, 1996, an entity in SIC 4522 would be a small business if it has fewer than 1,500 employees.

The U.S. Registered Aircraft Database shows approximately 200 operators of Mitsubishi MU–2B series airplanes in the United States, but that only 13 entities operate 2 or more of these airplanes. Ownership of more than 1 MU–2B series airplane is believed to be limited to 5 percent of the affected aircraft owners. Only one of these operators had 10 or more of these airplanes. The total number of owners operating MU–2B series airplanes is in the range of 320 to 340, and the names of the owners suggest that the majority of these airplanes are operated by small entities. Consequently, this AD is likely to affect a substantial number of small entities.

The initial cost for each owner/operator of an MU–2B series airplane is estimated to be approximately $25,728. Reported usage rates of 32 to 33 hours per month (almost 400 hours per year) indicate that an airplane will be subject to a total of four inspections per year. At a nominal inspection time of 1 workhour per inspection and labor cost of $60 per workhour, the annual inspection costs will be approximately $240 per airplane. These estimates include costs for the associated record keeping. A reasonable range of costs arising from this AD is suggested in the following table:

Cost of capital	Remaining life of aircraft (in years)	Annualized cost		Present value of total cost
		Initial	Total	
10%/year	20	$3,022	$3,262	$27,771
15%/year	20	4,110	4,350	27,230
10%/year	10	4,187	4,427	27,203
15%/year	10	5,126	5,366	26,933

The remaining life for an affected airplane will depend on the demand for the types of service provided (such as cargo delivery and medical evacuation), as well as the difference in cost between providing this service with the MU–2B series airplanes and the cost of using alternative aircraft or modes of transportation. According to the

manufacturer, detailed inspections show that deterioration of the airframes has been quite small, so that a 20-year life expectancy may be a reasonable presumption. In addition, the manufacturer acknowledged recent instances of retired MU–2B series airplanes being returned to service. These considerations suggest that it is reasonable to presume a relatively long expected life for many of the MU–2B series airplanes, so that the annualized cost per affected aircraft may average less than $5,000.

With an average annual cost per airplane in the range of $3,200 to $5,400 (consistent with 10 to 20 years of remaining life and capital costs of 10 to 15 percent per year), the present value of the total cost will be approximately $27,000 per airplane. The total annualized cost of this AD for the U.S. fleet will be in the range of $1 million ($320 \times \$3,200 = \$1,024,000$) to $1.8 million ($340 \times \$5,400 = \$1,836,000$). The present discounted value of total costs imposed by this AD are in the range of $8.6 million to $9.4 million. Market values for the affected airplanes are believed to be in the range of $300,000 to $800,000, depending on the airplane's age, condition, and installed equipment. Therefore, the AD costs will be about 3.5 percent to 9 percent ($(\$27,000 / \$800,000) \times 100\% = 3.5\%$ to $(\$27,000 / \$300,000) \times 100\% = 9\%$) of the market value of the airplane. Because the costs imposed by this AD will be proportionately higher for less expensive airplanes, it is likely that they will also be proportionately higher for smaller, less financially strong operators than for larger operators.

In developing the Regulatory Flexibility Analysis, several alternatives to this AD were considered. The alternatives included:

Option No. 1

Take no action, including not issuing this AD.

The FAA's Position on Option No. 1: Taking no action will permit the continuation of current conditions that could result in a repeat of icing-related accidents similar to those that have occurred over the past 10 years.

Option No. 2

Require additional training.

The FAA's Position on Option No. 2: The FAA addressed the training issue in AD 97–20–14, Amendment 39–39–10150 (62 FR 51594). This AD requires periodic training for the pilots and crew flying any Mitsubishi MU–2 series airplane. The training provides information relative to flight into possible or forecast icing conditions. This training should assist in reducing future ice-related accidents for the affected airplanes.

Option No. 3

Issue AD action to restrict the MU–2B series airplanes operators from flight into known or suspected icing conditions.

The FAA's Position on Option No. 3: The FAA has determined that restricting flight into known or suspected icing conditions will not eliminate inadvertent encounters with icing conditions. Such restrictions may have little effect on flying into unforecast icing conditions with inoperable anti-ice equipment and insufficient flight planning. Unknown forecast conditions and insufficient flight planning contributed to two of the accidents (and 13 of the 14 fatalities) cited. In addition, such a restriction will impose costs on owners/operators because the airplanes will be prevented from making flights, despite being outfitted with anti-ice equipment.

Option No. 4

Require the actions in this AD.

The FAA's Position on Option No. 4: The FAA has determined that requiring the modifications in this AD will help prevent undetected failure conditions and provide a timely warning prior to upset. This warning will enable the pilot to manually control the airplane before an unsafe condition develops.

The FAA has determined that this AD is likely to have benefits in excess of costs and is not aware of a less costly alternative that will be likely to address the unsafe condition addressed in this AD.

A copy of the complete Regulatory Flexibility Analysis may be obtained from FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri .

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, FAA determines that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined 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) Could have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. We have placed a copy of the draft regulatory evaluation prepared for this action in the Rules Docket. You may obtain a copy of it at 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, under 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. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

2000–09–15 Mitsubishi Heavy Industries, LTD.: Amendment 39–11724; Docket No. 97–CE–21–AD.

(a) *What airplanes are affected by this AD?* This AD applies to all serial numbers of the following Mitsubishi airplane models, certificated in any category:

MU–2B
MU–2B–10
MU–2B–15
MU–2B–20
MU–2B–25
MU–2B–26
MU–2B–26A
MU–2B–30
MU–2B–35
MU–2B–36
MU–2B–36A
MU–2B–40
MU–2B–60

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to assist in preventing departure from controlled flight while operating in icing conditions.

(d) *What actions must I accomplish to address this problem?* Within the next 12 calendar months after July 24, 2000 (the effective date of this AD), you must incorporate the following modifications:

(1) Install a pneumatic deice monitoring system. You must use the procedures contained in Test Instrumentation, Inc. Document No. MU2–5001, Rev. E., dated

May 21, 1997; and Mitsubishi MU–2 Service Bulletin (SB) No. 232, dated July 2, 1997.

(2) Install a trim-in-motion alerting system and automatic autopilot disconnect system. Use the procedures contained in Test Instrumentation, Inc. Document No. MU2–1001, Rev. C, dated June 15, 1997; Test Instrumentation, Inc. Document No. MU2–4001, Rev. C, dated June 30, 1997; and Mitsubishi MU–2 SB No. 231, dated July 2, 1997.

(3) Install an auto-ignition (re-light) system. Use the procedures contained in Mitsubishi MU–2 SB No. 226, which incorporates the following pages:

Pages	Revision level	Date
2 through 11, 13 through 23, 27 through 57, and 59 through 93.	A	January 13, 1997.
1, 12, 24, 25, 26, and 58.	B	October 27, 1997.

(e) *Can I comply with this AD in any other way?*

(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 of one of the following approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager.

(A) Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Lakewood, California 90712; or

(B) Fort Worth Airplane Certification Office, FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150.

(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 (e)(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.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact one of the following:

(1) Small Airplane Directorate, FAA, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4121; facsimile: (816) 426–4090;

(2) Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone: (562) 627–5222; facsimile: (562) 627–5228; or

(3) Fort Worth Airplane Certification Office, FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5147; facsimile: (817) 222–5960.

(g) *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.

(h) *Are any service bulletins incorporated into this AD by reference?*

(1) You must accomplish the actions required by this AD in accordance with the following:

(i) Mitsubishi MU–2 SB No. 226, which incorporates the following pages:

Pages	Revision level	Date
2 through 11, 13 through 23, 27 through 57, and 59 through 93.	A	January 13, 1997.
1, 12, 24, 25, 26, and 58.	B	October 27, 1997.

(ii) Mitsubishi MU–2 SB No. 231, dated July 2, 1997;

(iii) Mitsubishi MU–2 SB No. 232, dated July 2, 1997;

(iv) Test Instrumentation, Inc. Document No. MU2–1001, Rev. C, dated June 15, 1997, and attachments;

(v) Test Instrumentation, Inc. Document No. MU2–4001, Rev. C, dated June 30, 1997, and attachments; and

(vi) Test Instrumentation, Inc. Document No. MU2–5001, Rev. E., dated May 21, 1997, and attachments.

(2) The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51.

(3) You can get copies from Mitsubishi Heavy Industries America, Inc., 15303 Dallas Parkway, suite 685, LB–77, Dallas, Texas. You can look at copies at 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.

(i) *When does this amendment become effective?* This amendment becomes effective on July 24, 2000.

Issued in Kansas City, Missouri, on May 5, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–11863 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–103–AD; Amendment 39–11726; AD 2000–10–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, A321, A330, and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A319, A320, A321, A330, and A340 series airplanes, that requires repetitive inspections to detect missing and incorrectly installed parts of the footrest actuator assembly, and replacement of discrepant parts with new parts. This AD also provides for optional terminating action for the repetitive inspections. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent detachment of the footrest assembly actuator, which could result in partial blockage of the rudder pedals and reduced controllability of the airplane.

DATES: Effective June 19, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 19, 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 all Airbus Model A319, A320, A321, A330, and A340 series airplanes was published in the **Federal Register** on July 14, 1999 (64 FR 37915). That action proposed to require repetitive inspections to detect missing and incorrectly installed parts of the footrest actuator assembly, and replacement of discrepant parts with new parts. That AD also would provide for optional terminating action for the repetitive inspections.

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

Explanation of Changes Made to This Final Rule

1. The notice of proposed rulemaking (NPRM) references All Operator Telex (AOT) 25–14 (for Model A319, A320, and A321 series airplanes) and AOT 25–13 (for Model A330 and A340 series airplanes); both dated December 17, 1998, as the appropriate sources of service information for accomplishment of the actions specified by paragraph (a) of the NPRM. Instead, this amendment requires that the actions specified by that paragraph be accomplished in accordance with Airbus Service Bulletin A320–25–1220 and A320–25–1225, both dated November 19, 1999 (for Model A319, A320, and A321 series airplanes); A330–25–3105, dated October 22, 1999, and A330–25–3110, dated December 23, 1999 (for Model A330 series airplanes); and A340–25–4131, dated October 22, 1999, and A340–25–4136, dated December 23, 1999 (for Model A340 series airplanes); as applicable. The inspection procedures specified by those service bulletins are similar to the procedures specified by AOT 25–13 and 25–14; however, the service bulletins also include graphics to show the areas of inspection and replacement (repair). **Note 2** has been added to this AD to give credit to operators for accomplishment of the actions specified in the AOT's prior to the effective date of this AD.

2. **Note 4** of the proposed rule has been renumbered as NOTE 6 in the final rule, and two references to French airworthiness directives have been changed to reflect later revision numbers.

Support for the Proposed Rule

The Air Transport Association (ATA) of America states that one of its members concurs with the proposal and offers no further comments.

Requests To Include Terminating Action

• One commenter states that Airbus Service Bulletin A320–25–1225 includes procedures for the installation of a new footrest actuator, Modification 28472, and that such a modification should be considered terminating action for the repetitive inspections.

The FAA acknowledges the commenter's request and has determined that the installation of Modification 28472 during production or the accomplishment of Airbus Service Bulletin A320–25–1225, or the installation of Modification 47376 during production or the accomplishment of Airbus Service Bulletin A330–25–3110 or A340–25–4136, constitutes optional terminating action for the repetitive inspections required by this AD. In light of this, the FAA has added a new paragraph (c) to the final rule to include this new option.

• Another commenter states that it is in the process of issuing a request for funding to remove the footrest from the seat, and that ''it is our expectation that this will be terminating action.''

The FAA acknowledges the commenter's statement and points out that paragraph (b) of the proposed rule provides for optional terminating action for the repetitive inspection requirements of this AD. Therefore, no change to the final rule is necessary in this regard.

Request to Credit Operators With Prior Accomplishment of Inspections

One commenter states that operators were notified of a proposed rule mandating repetitive inspections of the cockpit footrest actuator assembly. The first inspection (detailed visual) was required at 500 flight hours after the effective date of the proposed AD, followed by a repeat inspection at intervals not to exceed 15 months. The commenter also states that AOT 25–14, dated December 17, 1998, specifies a production quality control check and that the manufacturer issued two messages to specify that all airplanes undergoing production quality checks may take credit for accomplishing the inspections specified at 500 flight hours. For this reason, the commenter requests that all airplanes that have accomplished such a check be excluded from the detailed visual inspection within 500 flight hours after the effective date of this AD, and only be required to accomplish that inspection at intervals not to exceed 15 months. The commenter considers that such a policy will not impair the safety of the airplanes.

The FAA concurs and considers that such a check during production would detect any discrepancy, such as a missing or broken retaining clip, and preclude the necessity for the initial inspection at 500 flight hours. For that reason, **Note 3**, preceding paragraph (a) of this AD, has been added to provide credit for prior accomplishment of the initial detailed visual inspection required by that paragraph.

Conclusion

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

Cost Impact

The FAA estimates that 208 Model A319, A320, A321, A330, and A340 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $37,440, or $180 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have 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:

2000–10–02 Airbus: Amendment 39–11726. Docket 99–NM–103–AD.

Applicability: All Model A319, A320, A321, A330, and A340 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

Note 2: Inspections and replacement actions accomplished prior to the effective date of this amendment, in accordance with Airbus All Operator Telex (AOT) 25–14 (for Model A319, A320, and A321 series airplanes), and AOT 25–13 (for Model A330 and A340 series airplanes), both dated December 17, 1998, are considered acceptable for compliance with the initial inspection and replacement actions specified by paragraph (a) of this AD.

Note 3: An initial detailed visual inspection accomplished during production prior to the effective date of this amendment is considered acceptable for compliance with the initial inspection required by paragraph (a) of this AD.

To prevent detachment of the footrest assembly actuator, which could result in partial blockage of the rudder pedals and reduced controllability of the airplane, accomplish the following:

Detailed Visual Inspections

(a) Within 500 flight hours after the effective date of this AD, perform a detailed visual inspection of the footrest actuator assembly for discrepancies (including bent pins and missing or incorrectly installed retaining rings and pins), in accordance with Airbus Service Bulletin A320–25–1220, dated November 19, 1999 (for Model A319, A320, and A321 series airplanes); A330–25–3105, dated October 22, 1999 (for Model A330 series airplanes); or A340–25–4131, dated October 22, 1999 (for Model A340 series airplanes); as applicable.

(1) *If no discrepancy is detected:* Repeat the inspection thereafter at intervals not to exceed 15 months.

(2) *If any discrepancy is detected:* Accomplish the actions of paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Prior to further flight, remove the actuator system from the footrest assembly and conduct a detailed visual inspection of the pins for damage, distortion, or wear in accordance with the applicable service bulletin. If any damage, distortion, or wear of the pin, or any discrepancy of the pin or the ring is detected, prior to further flight, replace that pin or ring with a new part in accordance with the applicable service bulletin. And

(ii) Repeat the detailed visual inspection of the footrest actuator assembly thereafter at intervals not to exceed 15 months.

Note 4: 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.''

Optional Terminating Actions

(b) Removal of the footrest assembly constitutes terminating action for the repetitive inspection requirements of this AD.

(c) Accomplishment of Modification 28472 during production, or Airbus Service Bulletin A320–25–1225, dated November 19, 1999 (for Model A319, A320, and A321 series airplanes); or accomplishment of Modification 47376 during production, or Airbus Service Bulletin A330–25–3110 or A340–25–4136, both dated December 23, 1999 (for Model A330 and A340 series airplanes); as applicable; constitutes terminating action for the inspection requirements 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 5: 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 actions shall be done in accordance with Airbus Service Bulletin A320–25–1220, dated November 19, 1999 (for Model A319, A320, and A321 series airplanes); Airbus Service Bulletin A320–25–1225, dated November 19, 1999 (for Model A319, A320, and A321 series airplanes); Airbus Service Bulletin A330–25–3105, dated October 22, 1999 (for Model A330 series airplanes); Airbus Service Bulletin A330–25–3110, dated December 23, 1999 (for Model A330 series airplanes); Airbus Service Bulletin A340–25–4131, dated October 22, 1999 (for Model A340 series airplanes); and Airbus Service Bulletin A340–25–4136, dated December 23, 1999 (for Model A340 series airplanes); 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 6: The subject of this AD is addressed in French airworthiness directives 1999–047–110(B) R1 (for Model A340 series airplanes) and 1999–048–090(B) R1 (for Model A330 series airplanes), both dated December 15, 1999; and 1999–074–127(B), R1, dated January 26, 2000 (for Model A319, A320, and A321 series airplanes).

(g) This amendment becomes effective on June 19, 2000.

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

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–11949 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–01]

Modification of Class D Airspace; Establishment of Class E Airspace; and Modification of Class E Airspace; Belleville, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace, modifies Class E airspace and establishes Class E airspace at Belleville, IL. An Instrument Landing System (ILS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 32L, a Tactical Air Navigation (TACAN) SIAP to Rwy 32L, and a TACAN SIAP to Rwy 14R, have been developed for Scott AFB/MidAmerica Airport. Controlled airspace extending upward from the surface is needed to contain aircraft executing these approaches. This action increases the radius of the existing Class D airspace, creates a new Class E airspace extension to the Class D airspace, and modifies the existing Class E airspace by increasing the radius and modifying the extensions, for Scott AFB/MidAmerica Airport.

EFFECTIVE DATE: 0901 UTC, August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, February 18, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class D airspace and Class E airspace and create Class E airspace at Belleville, IL (65 FR 8322). The proposal was to modify controlled airspace extending upward from the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations are published in paragraph 5000, Class E airspace areas designated as extensions to a Class D airspace area are published in paragraph 6004, and Class E airspace areas extending upward from 700 feet or more above the surface of the earth 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 D airspace designation and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class D airspace and Class E airspace and creates Class E airspace at Belleville, IL, to accommodate aircraft executing instrument flight procedures into and out of Scott AFB/MidAmerican Airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, 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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

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

* * * * *

Paragraph 5000 Class D airspace.

* * * * *

AGL IL D Belleville, IL [Revised]

Belleville, Scott AFB/MidAmerica Airport, IL
(Lat. 38°32′43″ N., long. 89°50′07″ W.)

That airspace extending upward from the surface to and including 3,000 feet MSL within an 4.9-mile radius of the Scott AFB/MidAmerica Airport. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D airspace area.

* * * * *

AGL IL E4 Belleville, IL [New]

Belleville, Scott AFB/MidAmerica Airport, IL
(Lat. 38°32′43″ N., long. 89°50′07″ W.)
Scott TACAN
(Lat. 38°32′43″ N., long. 89°51′06″ W.)

That airspace extending upward from the surface within 1.5 miles each side of the Scott TACAN 312° radial extending from the 4.9-mile radius of the Scott AFB/MidAmerica Airport to 10.0 miles northwest of the Scott TACAN. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

AGL IL E5 Belleville, IL [Revised]

Belleville, Scott AFB/MidAmerica Airport, IL
(Lat. 38°32′43″ N., long. 89°50′07″ W.)
Scott TACAN
(Lat. 38°32′43″ N., long. 89°51′06″ W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of Scott AFB/MidAmerica Airport and within 1.5 miles each side of the Scott TACAN 312° radial extending from the 7.4-mile radius to 10.0 miles northwest of the Scott TACAN and within 1.7 miles each side of the Scott TACAN 140° radial extending from the 7.4-mile radius to 14.0 miles southeast of the Scott TACAN, excluding that airspace within the St. Jacob, IL, and Cahokia, IL, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on April 26, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–12166 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–03]

Modification of Class D Airspace; Rapid City, SD; Modification of Class D Airspace; Rapid City Ellsworth AFB, SD; and Modification of Class E Airspace; Rapid City, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace at Rapid City, SD, modifies Class D airspace at Ellsworth AFB, SD, and modifies Class E airspace at Rapid City, SD. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 32 has been developed for Rapid City Regional Airport. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing this approach. This action increases the radius of the existing Class D and Class E airspace for Rapid City Regional Airport, and modifies the legal description of the Class D airspace for Ellsworth AFB to include the formentioned modification.

EFFECTIVE DATE: 0901 UTC, August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, February 18, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class D airspace and Class E airspace at Rapid City, SD, and modify Class D airspace at Rapid City, Ellsworth AFB, SD (65 FR 8321). The proposal was to modify controlled airspace extending upward from the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations are published in paragraph 5000, Class E airspace areas designated as extensions to a Class D airspace area are published in paragraph 6004, and Class E airspace designated as surface areas are published in paragraph 6002, 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 D airspace designations and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class D airspace and Class E airspace at Rapid City, SD, and Modifies Class D airspace at Rapid City, Ellsworth AFB, SD, to accommodate aircraft executing instrument flight procedures into and out Rapid City Regional Airport and Ellsworth AFB. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 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 Pints, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 5000 Class D Airspace.

* * * * *

AGL SD D Rapid City, SD [Revised]

Rapid City Regional Airport, SD
(Lat. 44°02′43″ N., long. 103°03′27″ W.)
Ellsworth AFB, SD
(Lat. 44°08′42″ N., long. 103°06′13″ W.)

That airspace extending upward from the surface to an including 5,7000 feet MSL within an 4.4-mile radius of the Rapid City Regional Airport, excluding the portion north of a line between the intersection of the Rapid City Regional Airport 4.4-mile radius and the Ellsworth AFB, SC, 4.7-mile radius. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AGL SD D Rapid City Ellsworth AFB, SC [Revised]

Rapid City Ellsworth AFB, SD
(Lat. 44°08′42″ N., long. 103°06′13″ W.)
Rapid City Regional Airport, SD
(Lat. 44°02′43″ N., long. 103°03′27″ W.)
Ellsworth AFB TACAN
(Lat. 44°08′20″ N., long. 103°06′06″ W.)

That airspace extending upward from the surface to and including 5,800 feet MSL within an 4.7-mile radius of Ellsworth AFB, and within 2.2 miles each side of the Ellsworth AFB TACAN 322° radial, extending from the 4.7-mile radius to 6.1 miles northwest of the TACAN, excluding that airspace south of a line between the intersection of the Ellsworth AFB 4.7-mile radius and the Rapid City Regional Airport 4.4-mile radius.

* * * * *

Paragraph 6003 Class E airspace areas desigatned as an extension to a Class D airspace area.

* * * * *

AGL SD E4 Rapid City, SD [Revised]

Rapid City Regional Airport, SD
(Lat. 44°02′43″ N., long. 103°03′27″ W.)
Rapid City VORTAC
(Lat. 43°58′34″ N., long. 103°00′44″ W.)

That airspace extending upward from the surface within 2.6 miles each side of the Rapid City VORTAC 155°/335° radials extending from the 4.4-mile radius of the Rapid City Regional Airport to 7.0 miles southeast of the VORTAC, excluding that airspace within the Rapid City, SD, Class D airspace area. This Class E airspace area is effective during the specific dates and

times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace designated as a surface area.

* * * * *

AGL SD E2 Rapid City, SD [Revised]

Rapid City Regional Airport, SD
(Lat. 44°02′43″ N., long. 103°03′27″ W.)
Ellsworth AFB, SD
(Lat. 44°08′42″ N., long. 103°06′13″ W.)
Rapid City VORTAC
(Lat. 43°58′34″ N., long. 103°00′44″ W.)

Within a 4.4-mile radius of the Rapid City Regional Airport, excluding the portion north of a line between the intersection of the Rapid City Regional Airport 4.4-mile radius and the Ellsworth AFB 4.7-mile radius, and that airspace extending upward from the surface within 2.6 miles each side of the Rapid City VORTAC 155°/335° radials extending from the 4.4-mile radius of the Rapid City Regional Airport to 7.0 miles southeast of the VORTAC, excluding that airspace within the Rapid City, SD, Class D airspace area. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois, on April 26, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–12164 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–78]

Modification of Class E Airspace; Yankton, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Yankton, SD. This action amends the effective hours of the Class E surface area from one (1) hour per day to twenty-four (24) hours per day to accommodate regular air carrier operations that occur outside the current times of operation of the surface area. The purpose of this action is to afford an increased level of safety during instrument flight operations for the commercial air carrier operations at the Chan Gurney Municipal Airport.

EFFECTIVE DATE: 0901 UTC, August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, January 19, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Yankton, SD (64 FR 2864). The proposal was to increase the effective hours of operation from one (1) hour per day to twenty-four (24) hours per day to accommodate air carrier operations for Chan Gurney Municipal Airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas designated as a surface area for an airport published in paragraph 6002 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 designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modified Class E airspace at Yankton, SD, by amending the hours of operation of the Class E airspace for Chan Gurney Municipal Airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, 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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority : 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 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 6002 Class E airspace areas designated as a surface area for an airport.

AGL SD E2 Yankton, SD [Revised]

Yankton, Chan Gurney Municipal Airport, SD
(Lat. 42° 55′ 00″ N., long. 97° 23′ 09″ W.)
Yankon VOR/DME
(Lat. 42° 55′ 06″ N., long. 97° 23′ 06″ W.)

Within an 4.1-mile radius of the Chan Gurney Municipal Airport, and within 2.4 miles each side of the Yankton VOR/DME 319° radial extending from the 4.1-mile radius to 7.4 miles northwest of the VOR/DME and within 2.4 miles southwest of the Yankton VOR/DME 145° radial and 2.8 miles northeast of the Yankton VOR/DME 145° radial extending from the 4.1-mile radius to 7.4 miles southeast of the VOR/DME.

* * * * *

Issued in Des Plaines, Illinois on April 26, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–12165 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–04]

Modification of Class E Airspace; Ely, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace Ely, MN. A VHF Omnidirectional Range-A (VOR–A) Standard Instrument Approach Procedure (SIAP) has been developed for Ely Municipal Airport, MN. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing this approach. This action increases the radius and adds an additional extension to the existing Class E airspace for Ely Municipal Airport.

EFFECTIVE DATE: 0901 U.T.C., August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, February 18, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Ely, MN (65 FR 8324). The proposal was to modify controlled airspace extending upward from the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designated as surface areas are published in paragraph 6002, and Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by references in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Ely, MN, to accommodate aircraft executing instrument flight procedures into and out Ely Municipal Airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, 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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 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 6002 Class E airspace designated as a surface area.

* * * * *

AGL MN E2 Ely, MN [Revised]

Ely Municipal, MN
(Lat. 47° 49′ 28″ N., long. 91° 49′ 51″ W.)
Ely VOR/DME
(Lat. 47° 49′ 19″ N., long. 91° 49′ 49″ W.)

Within an 4.0-mile radius of the Ely Municipal Airport, and within 2.4 miles each side of the VOR/DME 108° radial extending from the 4.0-mile radius to 7.0 miles southeast of the VOR/DME, and within 2.4 miles each side of the VOR/DME 302° radial extending from the 4.0-mile radius to 7.0 miles northwest of the VOR/DME, and within 2.4 miles each side of the VOR/DME 172° radial extending from the 4.0-mile radius to 7.0 miles south of the VOR/DME. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter the continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

AGL MN E5 Ely, MN [Revised]

Ely Municipal Airport, MN
(Lat. 47° 49′ 28″ N., long. 91° 49′ 51″ W.)

That airspace extending upward from 700 feet above the surface within an 7.7-mile radius of the Ely Municipal Airport, excluding that airspace within Prohibited Area P–204.

* * * * *

Issued in Des Plaines, Illinois on April 26, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–12163 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in June 2000. Interest assumptions are also published on the PBGC's web site (http://www.pbgc.gov).

EFFECTIVE DATE: June 1, 2000.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General

Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) a set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to Part 4022). (See the PBGC's two final rules published March 17, 2000, in the **Federal Register** (at 65 FR 14752 and 14753). Effective May 1, 2000, these rules changed how the interest assumptions are used and where they are set forth in the PBGC's regulations.)

Accordingly, this amendment (1) adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during June 2000, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during June 2000, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during June 2000.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 7.10 percent for the first 25 years following the valuation date and 6.25 percent thereafter. These interest assumptions represent an increase (from those in effect for May 2000) of 0.10 percent for the first 25 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 5.25 percent for the period during which a benefit is in pay status, 4.50 percent during the seven-year period directly preceding the benefit's placement in pay status, and 4.00 percent during any other years preceding the benefit's placement in pay status. These interest assumptions are unchanged from those in effect for May 2000.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during June 2000, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 80, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
			* * * * * * *					
80	6–1–00	7–1–00	5.25	4.50	4.00	4.00	7	8

3. In appendix C to part 4022, Rate Set 80, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
	*	*	*	*	*	*	*	
80	6–1–00	7–1–00	5.25	4.50	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
	*	*	*	*	*	
June 2000	.0710	1–25	.0625	>25	N/A	N/A

Issued in Washington, DC, on this 8th day of May 2000.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 00–12089 Filed 5–12–00; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 08–00–009]

RIN 2115–AE47

Drawbridge Operation Regulation; Upper Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Commander, Eighth Coast Guard District is temporarily changing the regulation governing the Rock Island Railroad & Highway Drawbridge, across the Upper Mississippi River at Mile 482.9, at Rock Island, Illinois. The Drawbridge need not open for river traffic and may remain in the closed-to-navigation position from 8 a.m. to 10 a.m. on May 14, 2000. This temporary rule is issued to allow the scheduled running of a foot race as part of a local community event.

DATES: This rule is effective from 8 a.m. Central Standard Time on May 14, 2000 to 10 a.m. Central Standard Time on May 14, 2000.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD 08–00–009 and are available for inspection or copying at room 2.107f in the Robert A. Young Federal Building at Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103–2832, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103–2832, at (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rule is being promulgated without an NPRM due to the short time frame allowed between the submission of the request by the U.S. Army and the date of the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This rule should be made effective in less than 30 days due to the short time frame allowed between the submission of the request by the U.S. Army and the date of the event.

Background and Purpose

On March 6, 2000, the Department of Army Rock Island Arsenal requested a temporary change to the operation of the Rock Island Railroad & Highway Drawbridge across the Upper Mississippi River, Mile 482.9 at Rock Island, Illinois. The Rock Island Railroad Drawbridge navigation span has a vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. Presently, the draw opens on signal for passage of river traffic. The Rock Island Arsenal requested the drawbridge be permitted to remain closed-to-navigation from 8 a.m. until 10 a.m. on May 14, 2000. During this time, a foot race will cross the bridge. This temporary drawbridge operation regulation has been coordinated with the commercial waterway operators. No objections to the proposed temporary rule were raised.

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 temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This is because river traffic is not likely to be delayed more than 2 hours.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule will be in effect for only 2 hours early in the day and the Coast Guard expects the impact of this action to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Any individual that qualifies or, believes he or she qualifies as a small entity and requires assistance with the provisions of this rule, may contact Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 539–3900, extension 378.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

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 sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Promulgation of changes to drawbridge regulations has been found not to have significant effect on the human environment. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation of part 117 continues to read as follows:

Authority: 33 U.S.C. Sec. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From 8 a.m. to 10 a.m. on May 14, 2000, § 117.T394 is temporarily added to read as follows:

§ 117.T394 Upper Mississippi River.

Rock Island Railroad and Highway Drawbridge, Mile 482.9, Upper Mississippi River. From 8 a.m. to 10 a.m. on May 14, 2000 the drawspan need not open for river traffic and may be maintained in the closed-to-navigation position.

Dated: April 24, 2000.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 00–12074 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1–00–123]

RIN 2115–AA97

Safety Zone: Chelsea Street Bridge, Chelsea River, Chelsea, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Chelsea River surrounding the Chelsea Street Bridge. The safety zone temporarily closes all waters of the Chelsea River 100 yards upstream and 100 yards downstream from the centerline of the Chelsea Street Bridge. The safety zone is needed to protect vessels from the hazards posed during repairs to the bridge fender system.

EFFECTIVE DATES: This rule is effective from Tuesday, May 30, 2000, through Saturday, June 3, 2000, between 9 p.m. and 7:30 a.m. and from Monday, June 5, 2000 through Saturday, June 10, 2000 between 6 p.m. and 5 a.m.

ADDRESSES: Comments and material received from the public, as well as

documents indicated in this preamble as being available in the docket, are part of docket CGD1–00–123 and are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Brian Downey, Waterways Management Division, Coast Guard Marine Safety Office Boston, (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Regulatory Information

As authorized by 5 U.S.C. 553, the Coast Guard did not publish a Notice of Proposed Rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in implementing this rule would be contrary to the public interest since immediate action is needed to close a portion of the Chelsea River and protect the maritime public from the hazards associated with bridge repair activities.

Background and Purpose

The Chelsea Street Bridge over the Chelsea River, Chelsea, MA, requires repairs. During the repair evolution, barges will be moored in the center of the channel. Barge placement requires the closure of the waterway to ensure vessel safety during repairs to the bridge fender system.

This regulation establishes a safety zone in all waters of the Chelsea River 100 yards upstream and 100 yards downstream from the centerline of the Chelsea Street Bridge. This safety zone prohibits entry into or movement within this portion of the Chelsea River. In an effort to maximize commerce during the channel closures, waterway user input was solicited at a March 9, 2000 meeting hosted by Marine Safety Office Boston. The meeting was attended by 13 stakeholders. The nature of the repair work to be conducted requires low tide conditions. The Coast Guard was able to balance this need with community demands through the aforementioned open forum, which arrived at a group consensus between marine operators, the bridge owner, construction contractor, and harbor pilots. A current safety zone under 33 CFR 165.120 closes this same channel portion to vessels over 630.5 feet between sunset and sunrise. Therefore, the group, based on the contractor's recommendation, agreed upon the nightly closures. The duration of the safety zone will be from Tuesday, May 30, 2000 through Saturday, June 3, 2000, between 9 p.m. and 7:30 a.m. and from Monday, June 5, 2000 through Saturday, June 10, 2000 between 6 p.m. and 5 a.m. The Coast Guard will make Marine Safety Information Broadcasts informing mariners of this safety zone.

Regulatory Evaluation

This final 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 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the limited duration of the safety zone and limited commercial traffic expected in the area during the effective periods. Moreover, commercial operators will receive advance channel closure notification through Port Operators' Group meetings, Safety Marine Information Broadcasts and industry dissemination. The early notification will permit mariners ample time to alter voyage plans.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Chelsea River from May 30, 2000 through June 3, 2000 between 9 p.m. and 7:30 a.m. and from June 5 through 10, 2000 between 6 p.m. and 5 a.m.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The Coast Guard will issue maritime advisories before the effective period that will be widely available to users of the river; and the closures are based on waterway user input.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offered to assist small entities in understanding this final rule so that they could better evaluate its effects on them and participate in the rulemaking process. The Coast Guard coordinated a March 9, 2000 meeting of Chelsea River users to gain input and feedback about the channel closures. The group agreed upon the schedule provided.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards.

The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposal calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under Executive Order 13132 and has determined that this rule does not have federalism implications 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 sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under Figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165— REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T00–123 to read as follows:

§ 165.T00–123 Safety Zone: Chelsea Street Bridge, Chelsea River, Chelsea, MA

(a) *Location.* The following area is a safety zone: All waters of the Chelsea River 100 yards upstream and 100 yards downstream from the centerline of the Chelsea Street Bridge.

(b) *Effective Dates.* This rule is effective from Tuesday, May 30, 2000 through Saturday, June 3, 2000 between 9 p.m. and 7:30 a.m. and Monday, June 5, 2000 through Saturday, June 10, 2000 between 6 p.m. and 5 a.m.

(c) *Regulations.* (1) Entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, (COTP) Boston.

(2) All persons and vessels shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(3) The general regulations covering safety zones in § 165.23 apply.

Dated: May 5, 2000.

J.R. Whitehead,

Captain, Coast Guard. Captain of the Port, Boston, Massachusetts.

[FR Doc. 00–12148 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Western Alaska 00–002]

RIN 2115–AA97

Safety Zone; Port Graham, Cook Inlet, AK

AGENCY: Coast Guard, DOT,

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary 600-yard radius safety zone Port Graham, Cook Inlet, Alaska. The Heavy-lift vessel SWAN will anchor in this position and off-load equipment for the Exploratory Drilling Structure 'OSPREY'. This safety zone is implemented to ensure the safe and timely anchoring, loading, and departure of vessels and a barge operating in Port Graham, Cook Inlet, Alaska.

DATES: This temporary final rule is effective from 12:01 a.m. on June 12, 2000, until 11:59 p.m. on June 16, 2000.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Rick Rodriguez, Chief of Port Operations, USCG Marine Safety Office, Anchorage, at (907) 271–6724.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553 (b) (B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM and delaying the effective date would be contrary to national safety interests since immediate action is needed to minimize potential danger to the public. The OSPREY platform is a large structure that is difficult to maneuver, and will be towed in the strong currents of Cook Inlet, Alaska. Publishing an NPRM and delaying the effective date of the regulation would be contrary to the public interest, because immediate action is necessary to protect participants and other vessel traffic from the potential hazards associated with the operation.

Background and Purpose

The Coast Guard is establishing a temporary 600-yard radius safety zone on the navigable waters of the United States around latitude 59°21′36″ N, longitude 151°50′40″ W (NAD 1983). The Heavy-lift vessel SWAN will anchor in this position and off-load the tower, tower legs, and associated equipment for the Exploratory Drilling Structure 'OSPREY' in Port Graham, Cook Inlet, Alaska. The safety zone is designed to permit the safe and timely anchoring, off-loading, and departure of this vessel in the narrow timeframe in which this can be safely done. The safety zone's 600-yard standoff also aids the safety of these evolutions by minimizing conflicts and hazards that might otherwise occur with other transiting vessels. The limited size of the zone is designed to minimize impact on other mariners transiting through 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 cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this rule will have significant economic impacts on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. Because this safety zone is very small, will only be in effect for five days, and does not impede access to other

maritime facilities in the area, the Coast Guard believes there will be no impact to small entities. Therefore, the Coast Guard certifies under 5 U.S.C. § 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because it establishes a safety zone.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

Temporary Final Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 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; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. From 12:01 a.m. on June 12, 2000, until 11:59 p.m. on June 16, 2000, § 165.T17–002 is temporarily added to read as follows:

§ 165.T17–002 Safety Zone; Port Graham, Cook Inlet, Alaska.

(a) *Description.* The following area is a Safety Zone: All navigable waters within a 600-yard radius of the Heavy-lift vessel SWAN, located in Port Graham, Cook Inlet, Alaska.

(b) *Effective dates.* This section is effective from 12:01 a.m. on June 12, 2000, until 11:59 p.m. on June 16, 2000.

(c) *Regulations.* (1) The Captain of the Port means the Captain of the Port, Western Alaska. The Captain of the Port may authorize or designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf as his representative.

(2) The general regulations governing safety zones contained in Title 33 Code of Federal Regulations § 165.23 apply. No person or vessel may enter, transit through, anchor or remain in this safety zone, with the exception of attending vessels, without first obtaining permission from the Captain of the Port, Western Alaska, or his representative. The Captain of the Port or his representative may be contacted in the vicinity of the SWAN via marine VHF channel 16. The Captain of the Port's representative can also be contacted by telephone at (907) 271–6700.

Dated: April 14, 2000.

W.J. Hutmacher,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. 00–12151 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 22, 117, 122, 123, 124, 125, 144, 270, and 271

[FRL–6561–5]

RIN 2040–AC70

Amendments to Streamline the National Pollutant Discharge Elimination System Program Regulations: Round Two

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today revising the National Pollutant Discharge Elimination System (NPDES) regulations. This revision is part of an Agency-wide effort to respond to a directive issued by the President on February 21, 1995, which directed Federal agencies to review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, EPA initiated a detailed review of its regulations to determine which provisions were obsolete, duplicative, or unduly burdensome. On June 29, 1995, EPA issued a rule (60 FR 33926) which removed some regulatory provisions in the Office of Water program regulations (including certain NPDES provisions) that were clearly obsolete. Today's revision is intended to further streamline NPDES, Resource Conservation and Recovery Act (RCRA), Prevention of Significant Deterioration (PSD), and Underground Injection Control (UIC) permitting procedures, and CWA 301(h) variance request procedures, by revising requirements to eliminate redundant regulatory language, provide clarification, and remove or streamline unnecessary procedures which do not provide any environmental benefits. Conforming changes to other requirements are also made in today's rule. These revisions are identified and discussed in the Supplementary Information section below.

DATES: This rule becomes effective June 14, 2000. For judicial review purposes, this final rule is promulgated as of 1:00 P.M. (eastern standard time) on May 30, 2000 as provided in.

ADDRESSES: The complete administrative record for the final rule have been established and includes supporting documentation as well as printed, paper versions of electronic comments. Copies of information in the record are available upon request. A reasonable fee may be charged for copying. The record is available for inspection and copying from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, at the Water Docket, EPA, East Tower Basement, 401 M Street, SW, Washington, DC. For access to docket materials, please call (202) 260–3027.

FOR FURTHER INFORMATION CONTACT: Howard Rubin, Water Permits Division(4203), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 260–2051 or Thomas Charlton, Water Permits Division(4203), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260–6960.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are facilities that discharge pollutants to waters of the United States that are required to have National Pollutant Discharge Elimination System (NPDES) permits.

Category	Examples of regulated entities
Federal, State, Local, and Tribal Governments.	Facilities which discharge pollutants to waters of the U.S. under the NPDES program. Facilities which discharge pollutants under the RCRA, PSD, and UIC program. Facilities requesting a CWA 301(h) variance request.
Private Industry	Facilities which discharge pollutants to waters of the U.S. under the NPDES program. Facilities which discharge pollutants under the RCRA, PSD, and UIC program. Facilities requesting a CWA 301(h) variance request.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is likely to be regulated by this action, you should carefully read the applicability criteria of 122.1 and 124.1 of Title 40 of the Code of Federal Regulations. If you have any questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Organization

Information in this preamble is organized as follows:

I. Background
II. Revisions
A. Revisions to Part 122
1. Purpose and Scope (40 CFR 122.1)
2. NPDES Program Definitions (40 CFR 122.2, 124.2)
3. New Sources/New Dischargers (40 CFR 122.4, 124.56)
4. EPA Application Forms (40 CFR 122.1(d)(1), 122.21(a), 122.21(d), 122.26(c)(1))
5. Effluent Characteristics (40 CFR 122.21(g)(7))
6. Signatories (40 CFR 122.22)
7. Group Permit Applications (40 CFR 122.26(c)(2))
8. General Permits (40 CFR 122.28)
9. Monitoring (40 CFR 122.41(j), 122.41(l)(4), 122.44(i)(1)(iv), 122.48)
10. Effluent Guideline Limits in Permits (40 CFR 122.44(a))
11. Reopener Clauses (40 CFR 122.44(c))
12. Best Management Practices (40 CFR 122.44(k))
13. Termination of Permits (40 CFR 122.64)
B. Revisions to Part 123
1. Requirements for Permitting (40 CFR 123.25)
2. Transmission of Information to EPA (40 CFR 123.44)
C. Revisions to Public Hearing Requirements for NPDES Permit Actions and RCRA Permit Terminations
1. Summary of Proposed Rule
2. Comment and EPA Responses
3. Final Rule
D. Removal and Reservation of Part 125, Subpart K—Criteria and Standards for Best Management Practices Authorized under Section 304(e) of the Act
E. Provisions Without Comments
F. Miscellaneous Corrections
III. Administrative Requirements
A. Executive Order 12866
B. Executive Order 13132
C. Executive Order 13045
D. Executive Order 13084
E. The Unfunded Mandates Reform Act
F. Regulatory Flexibility Act
G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act
I. Congressional Review Act

I. Background

On February 21, 1995, the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer and by June 1, 1995, identify those rules that are obsolete or unduly burdensome. EPA conducted a review of its rules, including those issued under the Federal Water Pollution Control Act, as amended (FWPCA) (33 U.S.C. 1251 *et seq.*) (also cited below, as the Clean Water Act or CWA), the Safe Drinking Water Act (SDWA) (42 U.S.C. 300f *et seq.*), and the Marine Protection, Research, and Sanctuaries Act (also known as the Ocean Dumping Act) (33 U.S.C. 1401 *et seq.*). In March and April of 1995, EPA solicited informal comments from the public, regulated entities, States, and municipalities on ways to identify rules that are obsolete, redundant, or unduly burdensome. Toward that end, a number of meetings were held with the public by the EPA Regional Offices. On April 3, 1995, EPA issued a preliminary report which identified those regulatory provisions that were amenable to streamlining. On December 11, 1996, EPA proposed the Amendments to Streamline the National Pollutant Discharge Elimination System Program Regulations: Round Two in the **Federal Register** (61 FR 65268).

Today EPA is issuing the final version of the Round II NPDES Streamlining Rule. This final rule revises the NPDES program regulations in parts 122, 123, 124 and 125 to eliminate redundant requirements, remove superfluous language, provide clarification, and remove or streamline unnecessary procedures which do not provide any environmental benefits. Included in today's final rule are revisions which revise the permit appeals process for EPA-issued NPDES permits by replacing the evidentiary hearing procedures found at part 124, subpart E with a direct appeal to the Environmental Appeals Board. This is not intended to affect the permit appeal procedures for State-authorized NPDES programs.

Today's notice does not represent the end of EPA's efforts to reinvent and streamline its regulations. Further reinvention efforts are under way with respect to the pretreatment program and the core NPDES regulations. There is also a continuing dialogue between EPA and the public on permit reinvention in the context of the National Advisory Council for Environmental Policy and Technology (NACEPT).

II. Revisions

A. Revisions to Part 122

1. Purpose and Scope (40 CFR 122.1)

a. Summary of Proposed Rule. Section 122.1 provides a general description of the purpose and scope of the NPDES program regulations. In the December 1996 proposal, EPA proposed several non-substantive changes to remove superfluous language and to provide for more clarity. EPA did not intend to change any existing substantive requirements. To provide better service to its customers, EPA also proposed providing a note in this provision to assist readers in contacting EPA if they have questions regarding the NPDES program or its rules. EPA also explored the possibility of providing for the electronic submission of queries to the NPDES program.

b. Significant Comments and EPA Response. Some comments were made on the issue of providing a note or responding to electronic queries. Some commenters requested assurance that any contacts listed in the note and responses made to electronic queries be from people who are authorized to speak on the Agency's behalf. Another commenter requested that EPA develop a location on the Office of Water's Internet web site that lists most frequent queries and EPA's responses. All other comments regarding this section were to express general support for the proposed revision.

Today's final rule provides the address and phone number for the

Water Permits Division (formerly known as the Permits Division) which provides national oversight for the NPDES, Sewage Sludge, and Pretreatment programs, and the website address of that office's homepage on the Internet. EPA believes that EPA's phone receptionists are able to route callers to the appropriate EPA staff who are knowledgeable about a particular issue or program area. At this time, EPA declines to provide a system for handling electronic queries that is specific to the Water Permits Division since agency-wide procedures are being examined as part of the Agency's effort to respond to such queries. The Office of Water already maintains a web site containing frequently asked questions regarding the NPDES program. This is located at http://www.epa.gov/owm/.

c. Final Rule. EPA is adopting the proposed rule and adding the appropriate home page reference.

2. NPDES Program Definitions (40 CFR 122.2, 124.2)

a. Summary of Proposed Rule. In the December 1996 notice, EPA proposed to streamline the NPDES program definitions found at parts 122 and 124 by removing redundant or superfluous language. EPA also proposed amending § 122.2 to add references to definitions that are found elsewhere in parts 122, 123, and 403. The inclusion of such references in a single location was intended to assist readers in finding specific provisions in the NPDES regulations and was not intended to expand the application of those definitions if they are restricted to a particular section.

b. Significant Comments and EPA Response. One commenter requested that EPA define the term ''nonprocess wastewater''. Currently there is no such definition. Another commenter suggested that EPA change the definition of point source to exclude ''domestic users'' in a future rulemaking as a way to focus resources away from *de minimis* discharges. A commenter noted that the definitions for ''publicly owned treatment works'' (POTWs) differ between § 122.2 and § 403.3 and recommended that these definitions be standardized.

EPA declines at this time to add a definition for ''nonprocess wastewater'' since such definition was not in the proposed rule. EPA will consider recommendation in the next rulemaking to streamline the NPDES regulations. At that time, EPA will also solicit comment on modifying the definition of point source to exclude ''domestic users''. EPA will adopt the POTW definition that is found in § 403.3 for § 122.2 to achieve better consistency.

c. Final Rule. EPA is adopting the proposed rule and adopting the POTW definition found in § 403.3 for § 122.2.

3. New Sources/New Dischargers (40 CFR 122.4, 124.56)

a. Summary of Proposed Rule. Section 122.4(i) prohibits the issuance of a permit to a new source or new discharger if the discharge would cause or contribute to a violation of water quality standards. A new source or new discharger may, however, obtain a permit for discharge into a water segment which does not meet applicable water quality standards by submitting information demonstrating that there is sufficient loading capacity remaining in waste load allocations (WLAs) for the stream segment to accommodate the new discharge and that existing dischargers to that segment are subject to compliance schedules designed to bring the segment into compliance with the applicable water quality standards.

EPA proposed revising these information submission requirements to allow the Director to waive the present submittal of information requirements under § 122.4(i) where the permitting authority determines that it already has the required information. In many instances the information required to be submitted by the applicant (such as waste load allocations available or compliance schedules for existing discharges) may already be in the Director's files. Where the information is not available or current, the Director may not waive the requirement for the applicant to generate all supporting documentation. EPA notes that this information (as with any information which details how permit limits are derived) should be included in the fact sheet or statement of basis for the permit. See 40 CFR 124.7, 124.8, and 124.56. To underscore the importance of such information and to clarify an existing requirement, EPA has also included an express requirement in §§ 122.4(i) and 122.56(b)(1) that information which demonstrates how the criteria for permit issuance in § 122.4(i) are met is included in the fact sheet for the permit. EPA notes that this revision merely clarifies existing requirements found at §§ 124.7, 124.8, and 124.56 and does not result in an increased burden to the regulated community or permit issuing authorities.

All of the comments received supported this effort. In addition to comments providing generalized support, there were two specific comments. A commenter asked if new sources/dischargers should be obligated to provide all of the information where the Director already has some. The EPA feels that applicants must provide only that information which the Director does not have. Additionally, a commenter asked that EPA provide additional clarification as to what constitutes ''adequate information?'' The EPA feels that what constitutes ''adequate information'' is the information that is normally and properly submitted during the permit application process for the imposition of water quality based effluent limitations (WQBELs), the development of WLAs, and § 122.4(i) permit situations.

b. Final Rule. EPA is adopting the rule as proposed

4. EPA Application Forms (40 CFR 122.1(d)(1), 122.21(a), 122.21(d), 122.26(c)(1))

In the December 1996 notice, EPA proposed to consolidate §§ 122.1(d)(1) and 122.22(d) and move them to a new location, § 122.21(a), because most of the requirements in these two paragraphs are duplicative. EPA also proposed to add language in proposed § 122.21(a)(2) to clarify which EPA forms may be required for a particular discharger. The proposal also included new language to allow for the possibility of electronic submittal of application information in the event that the Agency approves the electronic application submittal process. At that time, authorized States would have the option of using electronic submission of application information. Finally, the December 1996 notice stated there were other ongoing efforts to update EPA's forms which may result in nonsubstantive revisions to paragraph (a)(2).

In December 1995, EPA proposed revisions to streamline and update the municipal (Form 2A) and sewage sludge permit (Form 2S) application regulations. See 60 FR 62546 (Dec. 6, 1995). Because the Form 2A/Form 2S and Round II Streamlining rules would have affected the same portions of the NPDES regulations, EPA has decided in the interest of better efficiency to merge the Round II application revisions into the Form 2A/Form 2S rulemaking. All comments concerning that proposed revision have been addressed in the Form 2A/Form 2S final rulemaking. *See* 64 FR 42434 (Aug. 4, 1999).

5. Effluent Characteristics (40 CFR 122.21(g)(7))

a. Summary of Proposed Rule. Section 122.21(g)(7) requires that applicants for permits for existing manufacturing, commercial, mining, and silvicultural

discharges must submit information on effluent characteristics. On November 16, 1990 (55 FR 48062), EPA revised § 122.21(g)(7) to add language which specifically addresses storm water application requirements. However, the addition of this language has made paragraph (g)(7) more difficult to read because there is a large amount of uninterrupted text and it is difficult to separate out requirements that are specific to storm water discharges. The December 1996 proposal proposed to provide greater clarity to paragraph (g)(7) through the insertion of additional paragraph headings. No substantive changes to 40 CFR 122.21(g)(7) were proposed by this revision. EPA also proposed to revise references to provisions in paragraph (g)(7) that are found elsewhere in the NPDES regulations (40 CFR 122.21(g)(8); 122.21, notes 1, 2, and 3; 122.26(c)(1)(i); and 122.26(d)(2)(iv)(C)(2)) to ensure those references reflect § 122.21(g)(7)'s new structure.

b. Significant Comments and Response. In response to the proposed insertion of additional paragraph headings, the EPA received a comment recommending that the last two sentences in 40 CFR 122.21(g)(7)(ii) be moved to 40 CFR 122.21(g)(7)(i). EPA declines to follow that suggestion since it believes those two sentences provide needed clarification to the storm water sampling procedures in paragraph (ii). Additionally, paragraph (i) already addresses sampling.

EPA also received a comment that the proposed paragraph headings were insufficient and additional clarification was needed. In response to this comment, the EPA has added paragraph titles to the new paragraphs to make them easier to read.

c. Final Rule. EPA has adopted these revisions as proposed but with the addition of paragraph headings. These paragraph headings are intended to aid in the reading of this section and do not, in any way, modify the substantive content of the section.

6. Signatories (40 CFR 122.22)

a. Summary of Proposed Rule. The December 1996 proposed revision to 40 CFR 122.22 called for the elimination of the numeric criteria for designating responsible corporate officers who manage one or more manufacturing, production, or operating facilities. The numeric criteria, which specified that the signer '' * * * may be the manager of * * * facilities employing more than 250 persons or having gross sales or expenditures exceeding $25 million (in second quarter 1980 dollars) * * *'', were developed to ensure that facility managers who sign permit applications had high-level corporate knowledge of a corporation's pollution control operations and are authorized to make management decisions which govern the operation of the regulated facility. However, those criteria have become less valuable in the face of the changing management organization of many facilities. The December 1996 proposal proposed replacing the numeric criteria with more flexible narrative criteria, which specified the authority and responsibilities of the appropriate signer without specifying the resource levels that the signer manages. Under the proposed criteria, signatories include a manager of one or more manufacturing, production, or operating facilities, provided: (1) The manager was authorized to make management decisions which govern the operation of the regulated facility including the ability to allocate resources, make major capital investments, or initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; (2) the manager could ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and (3) where authority to sign documents had been assigned or delegated to the manager in accordance with corporate procedures.

b. Significant Comments and EPA Response. In response to this revision, commenters requested that EPA allow those who are eligible under the current criteria to remain eligible signatories. EPA notes that an ability to meet the old, numeric criteria would constitute sufficient evidence that an individual understands the need to comply with permits and has the authority to allocate resources toward permit compliance sufficient to meet the requirements of today's rule. Today's rule should not be interpreted as excluding signatories who were eligible under the previous criteria.

Some commenters responded that the wording of the proposed revision, which called for signers to have the ability to allocate resources and make major capital investments, excluded many facility managers, who they believe are the appropriate signers, and who do not have unilateral authority over allocation of resources. In response to these concerns, EPA will change the proposed language '' * * * allocate resources, make major capital investments'' into '' * * * having, as an explicit or implicit, position-related duty of capital investment recommendations * * *''. This will increase the flexibility in designating a signer, without eliminating the requirement that the signer have a role in allocating resources for environmental compliance.

A commenter asked EPA to expand requirements to address partnerships managed like corporations. EPA declines to take this action because it is beyond the scope of the proposal and because partnerships face different liability issues than do corporations. In a partnership, liability is not limited as it is in a corporation and general partners are held directly accountable for the organization's actions. It is therefore, important that a general partner be the signer of the permit as required in the NPDES regulations at 40 CFR 122.22(a)(2).

Additionally, a commenter asked that EPA broaden and clarify signatory eligibility by changing language in § 122.22(a)(1) to allow for a signature by any employee who (1) has the authority to gather and verify accurately and complete information necessary to the filings and (2) is duly authorized by management. EPA declines to incorporate that suggested revision because those two criteria by themselves are not sufficient to ensure that signatories have high level corporate knowledge of a corporation's pollution control operations and are authorized to make management decisions which govern the operation of the regulated facility. The commenter also asked that EPA better define ''major'' and use the term ''funding'' in lieu of ''capital investment''. EPA declines to adopt those changes because it believes that developing a stringent definition of the term ''major'' would only generate problems similar to those of the existing, numeric criteria. Lastly, EPA believes the term ''capital investment'' has a stronger association with infrastructure development, such as that needed for compliance, than the term ''funding''.

c. Final Rule. As stated above, EPA is adopting the rule as proposed with the exception of changing the language ''* * * allocate resources, make major capital investments * * *.'' to ''having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations * * *''.

7. Group Permit Applications (40 CFR 122.26(c)(2))

a. Summary of Proposed Rule. In the proposal for today's rule, EPA proposed to remove the storm water group permit

application provisions which are no longer necessary in light of the wide availability of general permits. The group application process was designed to accommodate the initial influx of first-time permit applications from Phase I industrial activities and was based, in part, on the limited availability of storm water general permits in States. However, the deadlines for submitting group applications for storm water Phase I facilities expired on October 1, 1992, and coverage under storm water general permits is now widely available. At present, forty three States are authorized to issue general permits (with EPA issuing storm water general permits for those States and jurisdictions that are without EPA authorization).

General permits provide a more flexible approach to storm water coverage and can accomplish the goals of the group permit application process (i.e., more efficient monitoring, reduced application burdens) without requiring that applicants form into groups prior to applying for permit coverage. EPA also believes that storm water pollution prevention plans (a principal requirement of most storm water general permits) will ensure that general permit conditions are appropriate and applicable for the industrial activities covered. Consequently, EPA believes the group application option is no longer needed. Today's rule eliminates the group application option at § 122.26(c)(2), and makes conforming changes to paragraph (c)(1). EPA notes that the removal of the group application provisions will not impact EPA's ability to reissue the Multi-Sector General Permit, which was developed based on group applications, because it is a general permit and any revisions to it will be based on information collected during the life of the permit.

b. Significant Comments and EPA Response. In response to the proposed revisions, some commenters thought EPA should retain the group application language until such time as it can be confirmed that there are no programs at the State level which are relying on the provisions of § 122.26(c)(2) in developing and administering storm water programs. Commenters are concerned that this will reduce flexibility for States who rely on the group application process for information development. At present, all State programs except the Virgin Islands have general permit authority and no State has elected to issue a group permit rather than a general permit. Therefore, EPA believes that removing the group permit provisions will not reduce the States' flexibility to regulate storm water discharges.

Commenters also believe this removal represents a significant policy decision, not appropriately made in regulations designed to eliminate ''obsolete, ineffective, or unduly burdensome regulations''. EPA disagrees and believes that eliminating the group application provisions is appropriate for this rulemaking since those provisions are clearly obsolete and redundant in light of general permits. Furthermore, EPA believes that retaining group applications may confuse permit applicants as to whether EPA or States will issue group permits. Since both EPA and States are using general permits and not group permits, EPA believes it is important to eliminate this potential confusion.

Some commenters noted that EPA's decision to remove the group permit application provisions would foreclose the possibility of groups not included in the 29 sectors identified in the multi-sector permit seeking and obtaining coverage under a group storm water permit. EPA disagrees with the commenters and notes that groups not included in the 29 sectors can obtain coverage under a general permit for their storm water discharges. EPA also notes that the multi-sector permit is a general permit which will not be affected by the removal of the group permit application provisions.

Commenters also feel that the group permit application provisions may be of value in future Phase II storm water permitting implementation. EPA believes, based on discussions during the phase II FACA meetings, that the scope and nature of the Phase II storm water rule is more compatible with the use of general permits and that the group application rules would require that applicants submit more information than needed. Given the widespread availability of general permits, EPA believes that general permits are a better permitting mechanism.

c. Final Rule. EPA has adopted the final rule as proposed.

8. General Permits (40 CFR 122.28)

a. Summary of Proposed Rule. In the proposal to today's rule, EPA proposed to revise the NPDES regulations to allow non-storm water general permits to cover more than one point source category or subcategory.[1] This revision was expected to increase the effectiveness of general permits that are issued on a geographic basis since it would be easier to use a single general permit to provide comprehensive controls on number of different discharges (as separate categories) within a geographic area such as a watershed. This revision was also expected to result in cost savings to permitting authorities since a single multi-category general permit could take the place of multiple single category general permits.

EPA noted, however, that the types of operations conducted or wastes discharged within each category or subcategory authorized by the general permit (except for general permits for storm water discharges) would still have to be substantially the same. Within each identified category or subcategory, limitations would have to be identical for all covered dischargers or treatment works treating domestic sewage.

EPA also proposed to revise the general permit regulations to clarify that where dischargers are subject to water quality-based limitations (WQBELs), discharges within a specific category or subcategory shall be subject to the same WQBELs.

b. Significant Comments and EPA response. In response to the proposal, several commenters expressed concern regarding WQBELs in general permits, stating that they are more appropriate for site-specific permits. They recommended that only technology-based limits and best management practices be used. EPA notes these concerns but declines to limit general permits to imposing only technology based limits. EPA believes there are situations where general permits can effectively impose WQBELS such as where a general permit is developed in close coordination with a total maximum daily load (TMDL) and/or a wasteload allocation. There are already cases in which general permits are being used to impose WQBELs on facilities with the same water quality requirements. One example of this is in the Commonwealth of Puerto Rico. Puerto Rico does not allow for mixing zones and thus discharges must meet water quality standards at the point of discharge making it possible to establish WQBEL in general permits which apply to all discharges without variation.

[1] Before this amendment, EPA's general permits regulations at 40 CFR 122.28(a)(2) provided that the ''general permit may be written to regulate * * * either: (i) Storm water point sources, or *a category* of point sources other than storm water that * * * (A) involve the same or substantially similar types of operations; (B) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices; (C) require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal; (D) Require the same or similar monitoring; and (E) in the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.'' (Italics added.)

Therefore, EPA believes that there are enough situations in which WQBELs are appropriate in general permits for this modification to be useful.

A commenter has requested an explanation of how general permits can be used to impose WQBELs. As mentioned above, general permits could impose WQBELS in areas where there are no mixing zones. A general permit containing WQBELs, for example, could also be developed in close coordination with a total maximum daily load (TMDL) and/or a wasteload allocation, or to cover a category of dischargers at a certain discharge level for an entire watershed.

A commenter expressed concerns over allowing general permits to cover multiple categories of dischargers. The commenter is concerned that development of overly broad general permits covering similar, but distinct, practices would result in unnecessary limits and conditions for some covered facilities. The commenter requested language in the preamble stating that coverage of general permits must not be so expansive that unnecessary requirements are placed on any of the categories that are regulated. Although EPA believes that such a scenario is possible, it is more likely that general permits will be developed to minimize imposing undue requirements on facilities. Also, applicants can always request coverage under an individual permit if they believe a general permit's requirements to be unnecessarily onerous. Thus, EPA declines to include such language.

Additionally, a commenter has suggested that general permits covering multiple categories are inappropriate for sludge disposal because of differing methods of disposal. EPA disagrees because general permits can be developed with categories that are based on differing methods of disposal.

A further comment has been made to request that general permits be expanded to cover cooling water discharges and discharges from remedial technologies for removing Volatile Organic Compounds. EPA believes that the creation of those categories is best left to the permitting authority who is familiar with the circumstances surrounding each general permit (subject to the requirements of 40 CFR 122.28(a)(2)), and declines to create a specified general permit category in this regulation. However, EPA does not by this decision mean to imply that general permits for such categories are prohibited if the permitting authority believes them to be appropriate.

Lastly, a commenter has stressed the importance of proposed paragraph 40 CFR 122.28(a)(4) and requested that it be retained in the final rule. EPA agrees with the commenter and has retained this provision in the final rule.

c. Final Rule. EPA has adopted the final rule as proposed.

9. Monitoring (40 CFR 122.41(j), 122.41(l)(4), 122.44(i)(1)(iv), 122.48)

a. Summary of the proposed rule. In the proposal to today's rule, EPA proposed to consolidate the monitoring provisions found at §§ 122.41 (j), (l)(4), and 122.44(i) and place them in § 122.48. In addition, EPA proposed to add a cross reference to the new consolidated monitoring requirements at § 122.41(j) to ensure that monitoring remains a standard condition for all NPDES permits. This revision was not intended to result in any substantive changes to the NPDES monitoring requirements. On the basis of comments received which raise the possibility that the proposed revisions might result in a substantive change to the monitoring requirements, EPA has decided to not finalize this portion of the proposed rule at this time. EPA expects to finalize this consolidation in a future rulemaking

10. Effluent Guideline Limits in Permits (40 CFR 122.44(a))

a. Summary of Proposed Rule. EPA proposed to revise § 122.44(a) by providing minor clarification changes in existing paragraph (a) and redesignating it as paragraph (a)(1), and by adding a new paragraph, (a)(2), to allow Directors on a case-by-case basis to not require effluent limits and monitoring for certain guideline-listed pollutants if a discharger could certify that those pollutants would not be in the discharge.

To receive this waiver from monitoring requirements, permittees would have to submit a certification (along with supporting information) with each permit application or application for permit renewal. The waiver would have to be included as an express condition in the permit. This revision was not intended to waive monitoring for any pollutants that should be limited on the basis of water quality standards. For those pollutants whose monitoring requirements had been waived (known hereafter as ''waived pollutants''), the proposal would not have allowed for discharge of those pollutants in any amount. Thus, applicants were cautioned to not pursue this approach if there was any possibility that waived pollutants might be discharged.

b. Significant Comments and EPA Response—(1) *Proposed § 122.44(a)(1).* One commenter stated that the phrase ''as appropriate'' in proposed § 122.44(a)(1) is misplaced, because it modifies ''effluent limitations and standards promulgated under section 301(b)(1) or 301(b)(2)'', but not ''new source performance standards promulgated under section 306 of the CWA''. The commenter suggested that the phrase be deleted because an existing phrase ''when applicable'' in the introductory text of § 122.44 already ensures that all of the requirements in § 122.44 will be applied when appropriate. EPA agrees and is removing the term ''as appropriate'' from the final rule. EPA is also replacing the citations to sections 301(b)(1) and 301(b)(2) with a single citation to section 301 of the CWA.

(2) *Proposed § 122.44(a)(2)—Generalized Support for the Waiver Concept.* A large number of commenters expressed support for the concept of providing a waiver from monitoring requirements for guideline-listed pollutants as a way to reduce unnecessary burdens on the regulated community. Some commenters indicated that the current requirements caused significant burdens. One commenter noted that facilities in the organic chemicals, plastics, and synthetic fiber (OCPSF) point source category must have limits and monitoring requirements for 63 organic chemicals even though some facilities only have the potential to discharge one or two chemicals. Another commenter noted the current regulatory requirements have led to endless questioning of departmental staff by permittees which resulted in an unwarranted diversion of staff time and resources.

EPA agrees with the above comments and is providing for a waiver from monitoring requirements, but not a waiver from the limit, in today's rule as described below.

(3) *Applicability of the Waiver to First Term Permits.* Some of the commenters expressed concerns with the availability of this waiver for new sources. They believed that the Agency would not have enough data or enough familiarity with a ''new source'' to be able to safely apply this waiver. The commenters recommended that the waiver be made available to a discharger only after the first permit term.

EPA agrees with these concerns and believes that they apply to all new permittees (not just ''new sources''). Consequently, EPA is making this waiver available only after the first term of the permit. The Agency believes that this restriction will greatly simplify the waiver process since the information generated during the first permit term

will: (1) Assist permittees in determining whether to seek a waiver, (2) assist Directors in determining whether to grant such waivers, and (3) reduce the risk of a permittee discharging a waived pollutant.

(4) *No Discharge Limit in the Waiver.* A number of comments were received relating to the proposed no-discharge limit on pollutants subject to the waiver (''waived pollutants''). Those comments generally opined that the no-discharge requirement would be impossible to meet and so onerous as to discourage use of the waiver. Some commenters believed that it would not be possible for a discharger to certify that a pollutant is not present in any amount because it might be present in amounts below detectable levels. Some commenters also noted that guideline-listed pollutants may be present in trace amounts from sources other than manufacturing processes such as intake water; the use of cleaners, corrosion of equipment, pipes and fittings; or from research operations. One commenter noted that the no-discharge requirement might require facilities to pretreat intake water.

Some commenters also suggested alternatives to the no discharge requirement. One commenter recommended that the waiver be allowed for pollutants that are present in trace amounts from sources that are unrelated to the manufacturing process. A commenter recommended that the waiver be allowed where a facility is not further adding pollutants to those already in its intake water. Another commenter recommended that the waiver be allowed if the pollutant is not regulated in the manufacturing process as a raw material, is not present in raw materials, is not generated as a product or by-product, and is not present in wastes from the manufacturing processes in analytical quantifiable concentrations. Some commenters recommended that the final rule be changed to allow permittees to certify that the pollutant is not detectable. Other commenters also recommended that EPA apply the waiver in situations where a pollutant is repeatedly found in amounts well below the guideline-based limit or below what are believed to be ''levels of concern''. Some commenters suggested that EPA consider just allowing guideline-listed pollutants to be monitored without limits. One commenter requested that EPA consider retaining permit limits for guideline-listed pollutants while removing the minimum yearly monitoring requirements for pollutants with permit limits.

In response to these comments and other considerations, EPA is issuing the final rule to allow for the waiver from monitoring requirements if the facility can certify that the pollutant is not present in its discharge or is present only at background levels from intake water with no increase in the pollutant due to activities of the discharger.

EPA declines to allow monitoring waivers for pollutants that are added by dischargers in minute amounts (*e.g.,* use of common cleaners or from research operations) because human activity might lead to substantial increases in those pollutant discharges which may threaten the aquatic environment. Consequently, there is a continuing need to monitor those pollutants. EPA also notes that at least one national effluent guideline addresses the introduction of incidental amounts of pollutants from cleaning, maintenance, or research operations and EPA does not believe it is appropriate to apply the waiver to a pollutant that is added to the waste stream and subject to an effluent guideline. *See* 40 CFR 414.11(b) (applying the Organic Chemicals, Plastics, and Synthetic Fibers Effluent Guidelines to wastewater discharges from research and development operations). Metals or other pollutants which can leach from pipes may also pose a threat to the environment and EPA believes monitoring should be retained for such discharges. With respect to pollutants which occur in amounts below ''levels of concern'', the discharge of such pollutants can also increase from human activity and EPA believes that monitoring is necessary to ensure that an appropriate level of treatment continues to be provided. EPA does share the belief that excellent treatment performance should be encouraged. Therefore, EPA has provided via guidance, a method to reduce, but not eliminate, monitoring in recognition of excellent performance. See ''Interim Guidance for Performance—Based Reductions of NPDES Permit Monitoring Frequencies' dated April 19, 1996.

With respect to determining whether a pollutant is not present or is present at only background levels from intake water without any increase of the pollutant due to activities of the discharger, EPA believes that this determination can be accomplished in a number of ways depending on the situation. In some cases, knowledge about a facility's process and infrastructure is enough to determine that an addition will occur. For example, a pollutant may be a known by-product of certain processes used in a facility and it would be reasonable for a permitting authority to find that the pollutant is added even if the addition is difficult to detect in the effluent. Similarly, knowledge that certain industrial processes do not use or generate a particular pollutant and that the pollutant would not be added in other ways may also be a sufficient basis for concluding that a pollutant is not added. To provide flexibility to deal with a variety of situations, today's rule does not establish the minimum data needed to make this determination. Rather, the Director should determine the most appropriate approach using his or her best professional judgment. This issue is discussed in more detail below under the heading (5).

Today's rule retains limits for waived pollutants since removing those limits may be interpreted under the Federal permit shield provisions to allow the discharge of those pollutants in unlimited quantities. *See* 40 CFR 122.5.

(5) *Process of Granting the Waiver.* A number of commenters asked what information is required for a waiver to be granted while noting that the proposed rule did not state what specific information was necessary. One commenter asked whether a one time analysis of the outfall would be sufficient. Another commenter expressed the belief that the permit application provides sufficient information to determine if the waiver is appropriate. Another commenter requested that the certification language be revised to recognize the availability of source information (*e.g.,* SARA Toxics Release Inventory or pollutant analyses submitted with permit application) when determining whether to grant a waiver.

EPA believes that the amount of information needed to grant the waiver will vary with each permit applicant. However, in many cases, information sufficient to grant or deny a waiver will be found in the permit application and from information generated from any prior permits issued to the facility. Inspection reports, sampling data submitted by the applicant, and the SARA Toxics Release Inventory all contain information which may be considered when a permit is being developed and may also assist Directors in determining whether to grant the waiver. Directors are also free to request any additional information they believe they need under section 308 of the Clean Water Act in order to make a waiver determination. EPA wishes to reiterate that the monitoring waiver is good only for the term of the permit and that permittees must reapply for it when applying for a reissued permit.

(6) *Enforcement Issues Associated with the Waiver.* Some commenters expressed concerns that the proposed revision to § 122.44(a) could be interpreted to mean that a Director would only have enforcement authority for waived pollutants and not for pollutants not listed in the permit or that the revision would abrogate the protection provided by EPA's permit shield provisions.

One commenter asked how the program will take into consideration cases where the detection limit of a trace pollutant may decrease as a result of improved analytical methodologies. Another commenter asked how EPA would respond to the detection of an unauthorized pollutant in a discharge, even if the permittee had a system in place to prevent its introduction.

EPA notes that today's revision to § 122.44(a) retains limits for all guideline-listed pollutants and is not intended to alter EPA's enforcement authority. Any exceedance of the effluent limit found in the permit would be a permit violation regardless of whether a waiver is in place. Today's rule is also not intended to change EPA's requirements and policies regarding the permit shield provisions at 40 CFR 122.5. Permittees are also liable for any discharge of a pollutant beyond that which serves as the basis of the waiver. Two pertinent examples of this include: (1) Where a waiver is based on a discharger's certification that the waived pollutant is not present in the discharge and the pollutant is subsequently found to be present, or (2) where a waiver is based on a certification that the pollutant is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger and the pollutant is subsequently found to be added to the discharge by the discharger. Permittees are liable for any violation of a permit requirement and are subject to the full range of enforcement responses. Factors such as the nature, severity, and frequency of violation, human health and environmental impacts, and compliance history of the permittee are considered by the Director when determining an appropriate enforcement response. For example, in situations where a waived pollutant thought to be absent is discovered through improved detection techniques or as the unintended consequence of a change in the facility's operation, the Director may issue an administrative compliance order to require monitoring for that pollutant, or the permit could be modified (as a minor modification under 40 CFR 122.63(b)(2)) to require such monitoring. These responses may be particularly appropriate in situations where a pollutant is discharged in an amount which exceeds that which serves as the basis of the waiver but below the guideline-listed limit.

Permittees should be aware that if they change their facility's operations in a way that may result in pollutant discharges beyond what serves as the basis for the waiver, they are obligated under 40 CFR 122.41(l)(2) to report that change to the Director. If permittees discover in their discharge, pollutant levels which exceed what is authorized by the waiver, they must also report that presence to the Director in accordance with § 122.41(l).

(7) *Suspending the Waiver if Facility Operations Change.* Some commenters requested that permittees be required to resume monitoring for all guideline-listed pollutants for at least one year after a process change or change in materials use, regardless of waiver.

EPA declines to make these suggested changes because there are already provisions in the NPDES regulations to alert permit issuing authorities to situations where it may be necessary to reinstate monitoring. Sections 122.41(l)(1) and 122.42(a)(1) impose reporting requirements for planned physical alterations or additions to a permitted facility. Section 122.44(l)(2) requires that permittees provide advance notice to the Director of any planned changes to the permitted facility or activity which may result in non-compliance with permit requirements, including those contained in a monitoring waiver. Additionally, § 122.62(a)(1) provides for permit modification if ''[t]here are material and substantial alterations or additions to the permitted facility . . . which occurred after permit issuance which would justify the application of permit conditions that are different or absent in the existing permit.'' These provisions can inform Directors about the potential need to reinstate sampling and grant them sufficient authority to reinstate it. Thus, there is no need to add a new provision to 40 CFR 122.44.

(8) *Indicator Pollutants.* A commenter noted that certain guideline-listed pollutants are indicator pollutants and that by waiving monitoring for an indicator pollutant it would make sense to waive the secondary pollutant as well. EPA believes it is rare to encounter a permitting situation where monitoring is required for both indicator and secondary pollutants. However, EPA agrees as a general matter that if a pollutant is regulated under an effluent guideline as an indicator for other pollutants, then monitoring can be waived to the same extent of other pollutants at the permit-issuing authority's discretion, if that indicator pollutant and the secondary pollutant are not present.

(9) *Antibacksliding.* A commenter raised a concern that the proposed revision constitutes ''backsliding''. (Backsliding is a term of art used to describe an impermissible relaxation of permit limits or conditions upon permit reissuance, see CWA § 402(o) and 40 CFR 122.44(l)). EPA notes that a reduction in monitoring might in some cases, constitute backsliding of a permit ''condition'' as countenanced under 40 CFR 122.44(l)(1). However, § 122.44(l)(1) would operate to allow such backsliding on the basis that the circumstances upon which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute a cause for permit modification under § 122.62(a)(2) (new information) or § 122.62(a)(3) (new regulations).

Another commenter noted that the antibacksliding provisions could apply if a discharger wished to modify or renew their permit to allow for the discharge of a guideline-listed pollutant which had been subject to a no-discharge limit under a waiver. As noted above, EPA is retaining the requirement that limits be placed in permits for all guideline-listed pollutants and the backsliding situation envisioned by the commenter should not occur as a result of this rulemaking.

(10) *Section 122.4(a)(2) Does not Supersede any Monitoring Waivers in the Effluent Guidelines.* EPA notes that there are at least two guidelines with certification processes relating the waiving or reducing monitoring.[2] This provision does not supersede certification processes and requirements already established in existing effluent limitations guidelines and standards because such processes may be better tailored to situations that are specific to the guideline and pollutant.

c. *Final Rule.* In response to comments on the proposed rule, EPA has adopted a modified version of the proposed regulation which retains the requirement that permits have limits for all applicable guideline-listed pollutants but allows for the waiver of sampling requirements for guideline-listed pollutants on a case-by-case basis if the discharger can certify that the pollutant is not present in the discharge or

[2] *See* 40 CFR 413.03 (Monitoring Requirements for Total Toxic Organics under the Electroplating Point Source Category) and 40 CFR 421.3(b) (Periodic Monitoring for Cyanide under the Primary Beryllium Subcategory of the Nonferrous Metals Manufacturing Point Source Category).

present only at background levels from intake water with no increase due the activities of the discharger. The waiver must be applied for each permit reissuance and is not available for the first permit issued to the discharger.

(11) Reopener Clauses (40 CFR 122.44(c))

a. *Summary of the Proposed Rule.* Section 122.44(c) provided for reopener clauses in permits. For reasons described in more detail in the proposal (see 61 FR 65273–74), EPA proposed removing paragraphs (c)(1), (c)(2), and (c)(3) of § 122.44. Paragraphs (c)(1) and (c)(3) apply only to permits issued on or before June 30, 1981, and are obsolete. EPA also proposed removing paragraph (c)(2) which is redundant with the requirements of § 122.44(a). EPA proposed consolidating the §§ 122.44(a) and 122.44(c)(2) requirements in a new paragraph at § 122.44(a)(1). EPA proposed retaining the provision for reopeners of sludge conditions in NPDES permits (originally found in 40 CFR 122.44(c)(4)) and redesignating it, § 122.44(c). By proposing to remove these provisions, EPA did not intend to limit the ability of permitting authorities to place reopener clauses in permits on a case-by-case basis, particularly where reopeners may result in more environmentally protective permit limits, standards, or conditions.

b. *Significant Comments and EPA Response.* In response to EPA's proposal, a commenter noted that, with paragraphs (c)(1), (c)(2) and (c)(3) gone, the only reopener left, (c)(4), would apply to treatment works treating domestic sewage. The commenter thought that this was too narrow an application of reopeners. EPA disagrees and notes that § 122.62 provides EPA with broad authority to modify permits regardless of the presence of a reopener clause and the removal of paragraphs (c)(1), (c)(2), and (c)(3) will not impinge on EPA's or a permittee's ability to revise permits.

Another commenter disagreed with the preamble language which implied that permit writers could insert reopeners other than those enumerated at § 122.44(c). They noted that section 122.62 establishes appropriate scope of permit modifications. As noted in its response to the preceding comment, EPA agrees that the authority provided to it under § 122.62 is adequate to allow for any necessary revisions of permits.

c. Final Rule. EPA has adopted the final rule as proposed.

(12) Best Management Practices (40 CFR 122.44(k))

a. Summary of Proposed Rule. Section 40 CFR 122.44(k), authorizes EPA to require BMPs in NPDES permits to control or abate the discharge of pollutants where: (1) authorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances, (2) authorized under section 402(p) of the CWA for the control of storm water discharges; (3) numeric effluent limitations are infeasible, or (4) the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

To assist the regulated community in developing and implementing BMPs, EPA proposed to provide a note to § 122.44(k) which would provide references to available agency guidance on developing and implementing BMPs. The inclusion of these references was not intended to change the substantive requirements of § 122.44(k). BMPs are often best tailored for specific industries and the EPA guidance furthers that goal. Therefore, EPA believes it is important that regulated community know about the existence of these documents.

b. Significant Comments and EPA Response. One commenter objected to EPA's assertion that there is any authority under the CWA for the imposition of BMPs that have not been promulgated under section 304(e). Since EPA did not propose any revisions to the regulatory requirements of § 122.44(k), this comment is beyond the scope of the proposal, and EPA therefore declines to respond.

One commenter suggested EPA clarify whether or not the proposed note in 40 CFR 122.44(k) is a regulation published under section 304(e) of the Clean Water Act, insofar as information in that note pertains to control of toxic or hazardous pollutants from activities within the scope of section 304(e). EPA intends for the note to be informational and does not intend for it to impose regulatory requirements. The Office of the Federal Register does not allow notes to impose regulatory requirements.

One commenter stated that it is inappropriate to include references to specific guidance documents in a regulation, because such guidance is frequently updated and has no regulatory force. The commenter recommends that the regulation discuss that EPA BMP guidance documents are available and identify the EPA office or offices, including addresses and phone numbers, from which current lists of BMP guidance documents can be obtained. EPA could also put the current BMP guidance reference list on its Internet web site and identify the web site as a source of the BMP guidance reference list. The regulations should state that the BMP documents identified in the rule are for guidance only, and have no regulatory force. EPA declines to remove references to specific guidances in the ''note'' to § 122.44(k) since such references will assist readers in complying with regulatory requirements. However, EPA will also include a list of BMP guidance on the Office of Wastewater Management (OWM) Internet web site and include a reference to the web site in the ''note''. EPA has also added language to the note to clarify that the EPA guidance documents are listed only for informational purposes, and they are not bindiing.

One commenter recommended that the note to § 122.44(k) should state that additional BMP documents may also be available from the States. EPA will include this statement.

c. Final Rule. EPA has adopted the regulation as proposed except that the Agency will also provide a statement in the note to § 122.44(k) to indicate that additional BMP documents may also be available from the States and to provide a reference to the Office of Wastewater Management's Internet home page.

(13) Termination of NPDES Permits (40 CFR 122.64) and RCRA Permits

a. Summary of Proposed Rule. In the proposal to today's rule, EPA proposed to revise § 122.64 to allow the Director to terminate a NPDES permit by giving notice to the permittee, without following part 22 or 124 procedures where the permittee has permanently terminated its entire discharge by elimination of its process flow or other discharge components or by redirecting its discharge into a POTW. Currently, the NPDES regulations require that part 124 public participation procedures be followed for terminating permits.

These expedited permit termination procedures would not be available when a permittee is subject to pending State and/or Federal enforcement actions, including citizen suits brought under State or Federal law. In such situations, the public has a strong interest in participating in any permit termination proceeding and permittees should not use expedited permit termination procedures as a way to avoid enforcement liability. EPA would also require that permittees who request expedited permit termination procedures must certify that they are not subject to any pending State and/or Federal enforcement actions. This exclusion includes citizen suits brought under State or Federal law.

EPA did not propose to eliminate the requirement to follow part 124 termination procedures if the pollutants were to be disposed in wells or by land

application of effluent, even if the permittee requests termination. In such cases, it is important that the public be notified and able to pursue any concerns about such disposal methods under other appropriate Federal, State or local regulatory programs. EPA noted that there were situations where permits are appropriate for no discharge facilities, particularly where there is the possibility of an inadvertent discharge into waters of the United States. Additionally, EPA noted that a permittee terminating its discharge due to connection to a POTW would be subject to applicable pretreatment requirements, including those in parts 403 and 405–471, along with any local requirements. An existing categorical industrial user initiating a discharge to a POTW must notify the POTW in accord with § 403.12.

Finally, EPA noted that permittees should be very sure that they have, in fact, eliminated their discharge when requesting expedited permit termination procedures. This is because any pollutants discharged by the facility subsequent to permit termination could violate section 301 of the CWA (prohibition against unpermitted discharges). EPA also proposed conforming changes to § 124.5 procedures to reflect these proposed expedited permit termination procedures.

To effectuate these changes and do away with administrative hearings, EPA proposed to eliminate Subpart E of 40 CFR Part 124, as described above. The Subpart E procedures also applied to certain RCRA permit terminations, but EPA found it was appropriate to eliminate Subpart E as to RCRA permit terminations as well, for the reasons described in the proposal.

b. Response to Comments. Some commenters were concerned about loss of standing to sue where a violator's permit is terminated before the 60 day notice of intent to sue period has ended. Because they may commence an action only after the 60 day notice period has ended, they requested that this procedure be prohibited at the point where a permittee, State or the Administrator has received a notice of intent to sue. However, EPA notes that in most cases, citizens lose the authority under CWA § 505 to file suit for past violations when a permittee has permanently terminated its discharge, not at the point when the permit is terminated. (*See, Gwaltney of Smithfield Ltd.* v. *Chesapeake Bay Foundation, Inc.,* 484 U.S. 49 (1987)) Under *Gwaltney,* citizens may not file suit under the CWA solely to enforce against alleged violations which occurred in the past. They may, however, file suit to enforce against violations which are alleged to be continuous or intermittent. In other words, if the violation is not ongoing, there must at least be the potential for a violation to occur in the future. At the point the permittee permanently ceases to discharge or has redirected its flow, there is no longer a potential for a violation to occur and suits filed after that time would be barred under *Gwaltney*, but not suits filed before the discharge terminates. In addition, *Gwaltney* states that ''the purpose of notice to the alleged violator is to give it an opportunity to bring itself into complete compliance with the Act and thus likewise render unnecessary a citizen suit.'' *Id.* Hence, if the permittee receives notice and then terminates its discharge, the permittee is now essentially in complete compliance with the Act.

Furthermore, under non-expedited permit termination procedures, it is possible that the notice and comment period could be completed and the permit thereafter terminated within the 60 day notice-of-intent-to-sue period. As a result, citizens would be barred from bringing a suit under *Gwaltney* under the existing regulations. Thus, the availability of expedited permit terminations is likely to make little difference with respect to the ability of citizens to enforce against permit violations under section 505. It is also important to note that under the expedited system, citizens could still appeal EPA's decision to terminate a permit, which if the challenge were successful, would result in the permit remaining in place.

Considering the foregoing, it is also necessary to discuss the cost involved in the non-expedited termination procedure. The transaction cost for the government to undergo notice and comment is high. This high cost seems unjustified where a permittee has terminated its discharge and, thereafter, its permit thus eliminating any future threat to the environment. Given that there would be no direct discharge and the given rarity of a situation that would meaningfully affect citizens' ability to bring suit under section 505, EPA believes it can use its resources better elsewhere. EPA also notes that under section 505 of the Act, an enforcement action is not pending during a 60 day notice-of intent-to-sue period. It is also important to note that the revised rule would still allow the Director to deny expedited permit terminations in cases where a notice of intent to bring a citizen suit has been filed.

Some commenters questioned why the expedited permit termination procedures would not be available for permittees subject to a pending enforcement proceeding. EPA notes that the public has a strong interest in participating in permit termination proceedings where there is a pending enforcement action and, therefore, expedited procedures should not be used in those situations. This is particularly true in situations where third parties may want to intervene in enforcement actions. Moreover, EPA regulations require that the public be allowed to participate in State or Federal Enforcement actions (see, 40 CFR 123.27(d)), and expedited permit termination procedures could hamper such intervention.

There were two comments questioning why this procedure would not be available if pollutants will be disposed of either in wells or by land application of effluent. Both comments raised the issue that public notice and comment under Federal law is not necessary in this situation because there are State and Federal laws which regulate land application of effluent and discharges into wells which will provide for public notice and comment and there is no need for repetition. In EPA's view, however, these notice and comment provisions may not be wholly redundant because every existing applicable State law and all other Federal laws which would regulate these actions may not have a public notice and comment requirement. This, together with the fact that it is extremely important for the public to be notified that pollutants will be disposed of either in wells or by land application of effluent, created a need to prohibit this expedited permit termination procedure in such situations. Preventing the use of this procedure in such situations and therefore, requiring public notice and comment at this level, will best protect the public's interest in this area.

c. Final Rule. The final rule adopts the same approach that EPA proposed, although the language of 124.5(d) has been modified from the proposal in order to more accurately reflect this approach as it affects RCRA permit terminations.

The preamble to the proposal stated that RCRA permit terminations are first subject to an informal process (notice and opportunity for comment and an informal hearing), after which a party may request an evidentiary hearing under Subpart E and subsequently may appeal a permit to the Environmental Appeals Board. The proposal failed to distinguish, however, between permit terminations that EPA initiates for cause under 40 CFR 270.43 and permit termination proceedings that occur in

conjunction with RCRA § 3008 enforcement orders. Only the latter types of permit terminations were subject to the formal hearing procedures in Subpart E. EPA's intent in the proposal was to make only those types of RCRA permit terminations subject to Part 22 instead of Subpart E. EPA did not intend to affect the procedures for initiating a permit termination for cause under 270.43. Those types of permit terminations have always been subject to the same process that applies to issuing RCRA permits, i.e, notice and opportunity for comment and an informal hearing before a final decision. An evidentiary hearing to review the final decision is not available. Instead, these types of RCRA permit terminations, like permit issuances, are appealed directly to the EAB.

Accordingly, EPA has revised the final rule to reflect that, for RCRA permits, the elimination of Subpart E in favor of Part 22 procedures applies only to permit termination proceedings that occur in conjunction with section 3008 enforcement orders.

Similarly, EPA did not intend to change, and the final rule does not affect, the procedures for RCRA permit terminations that are at the request of the permittee. (For example, the permittee may have ceased operations and have no remaining closure or corrective action concerns.) EPA processes this type of RCRA permit termination under 40 CFR 270.42 as a ''Class 1'' modification (allowing a change in the expiration date to cause early permit termination, with prior approval of the Director—see Appendix 1 to § 270.42, item A.6).

B. Revisions to Part 123

1. Requirements for Permitting (40 CFR 123.25)

a. Summary of Proposed Rule. EPA had proposed revisions to 40 CFR 123.25(a) to clarify that certain provisions which detail penalty amounts in 40 CFR 122.41(a)(2), (a)(3), and (j)(5) are not required of State NPDES programs. Instead, the applicable penalty provisions for State NPDES programs are found at 40 CFR 123.27. This is consistent with EPA's long standing interpretation of the Clean Water Act and its regulations. See EPA's Office of General Counsel Opinion, dated May 31, 1973.

b. Significant Comments and EPA Response. EPA received no comments regarding this section.

c. Final Rule. EPA is adopting this section as proposed.

2. Transmission of Information to EPA (40 CFR 123.44)

a. Summary of Proposed Rule. In an effort to streamline Federal oversight of State NPDES permit programs, EPA proposed to revise 40 CFR 123.44 to remove references to the Office of Water Enforcement and Permits (OWEP) and its role in commenting on and objecting to State-issued general permits. At one time, OWEP (now known as the Office of Wastewater Management) was expected to play an active role in reviewing, commenting, and objecting to State-issued general permits. Section 123.44(i) made the role of the Director of OWEP coextensive with that of the Regional Administrator for the purposes of objecting to proposed State-issued general permits (other than those for separate storm sewers).

Specifically, EPA proposed to revise § 123.44 (a)(2) and (b)(2) to remove those references to OWEP and its role in reviewing State-issued general permits. EPA would also remove and reserve 40 CFR 123.44(i).

b. Significant Comments and EPA Response. In response to this revision, a commenter replied that § 123.44 provides 90 days of comments on general permits, which eliminates the potential flexibility of negotiating such time frames in State/EPA Region Memoranda of Agreement (MOAs). EPA believes that the comment is beyond the scope of this rule since it does not change, or hamper the flexibility of, the review period of § 123.44(a)(2), which can be up to 90 days.

c. Final Rule. EPA has decided to promulgate the proposal without change

C. Revisions to Public Hearing Requirements for NPDES Permit Actions and RCRA Permit Terminations

1. Summary of Proposed Rule

EPA proposed to eliminate as unnecessary the existing procedures for conducting formal evidentiary hearing on NPDES permit conditions contained in 40 CFR part 124, subpart E, and further proposed to eliminate the alternative ''Non-Adversary Panel Procedures'' in part 124, subpart F. EPA has also proposed to eliminate appendix A to part 124 (Guide to Decision making under Part 124) because its role in explaining subpart E and subpart F procedures would no longer be meaningful in the absence of those subparts. EPA also proposed to modify the procedures for terminating NPDES and RCRA permits. These revisions do not apply to authorized State NPDES programs.

2. Comments and EPA Responses

EPA received comments on the proposal to eliminate evidentiary hearings from ten commenters. All of these comments came from members of industry and none of them supported the proposal to eliminate evidentiary hearings. One commenter supported the elimination of the subpart F procedures. No comments were received on the elimination of appendix A.

(i). Legal Basis. In the proposal, EPA explained its tentative conclusion that, due to the progress of the law in the Courts of Appeals, the *Seacoast* v. *Anti-Pollution League* v. *Costle,* 572 F.2d 872 (1st Cir. 1978)(''Seacoast''), and *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253 (9th Cir. 1977) (''Marathon'') decisions are no longer good law. To briefly restate its position, EPA has revisited the hearing requirements of section 402(a), employing the two-step analysis of *Chevron, U.S.A.* v. *NRDC,* 467 U.S. 837 (1984), which provides that, where Congress has failed to express a clear intent to the contrary, an agency charged with administering the statute may adopt an interpretation which is reasonable in light of the goals and purposes of the statute. In the first step of its Chevron analysis, the Agency has examined the text, legislative history, and judicial interpretations of the Act, finding no evidence that Congress intended to require formal evidentiary hearings or that the text precludes informal adjudication of permit review petitions. Using modern due process analysis, the Agency, in the second step of its Chevron analysis, carefully weighed the risks and benefits of informal hearing procedures for NPDES permit review, determining that these procedures would not violate the Due Process Clause of the Constitution. Accordingly, the Agency has concluded that informal hearing procedures satisfy the hearing requirement of section 402(a).

(ii) Chevron Step One. (a) Text and Legislative History. As EPA noted in the proposal, section 402(a) does not explicitly state that public hearings on NPDES permits must be conducted ''on the record,'' the phrase normally associated with a requirement that hearings be conducted under section 554 of the APA. 61 FR 65268, 65276 (Dec. 11, 1996). One commenter asserted that EPA placed undue emphasis in its due process analysis on the fact that section 402 of the Clean Water Act does not expressly require that the public hearings for the review of NPDES permits be ''on the record''. EPA acknowledges that the absence of a record requirement in section 402 does

not necessarily mean that Congress intended to supply only informal adjudication of NPDES permit review petitions. Still, as explained in the proposal, the absence of an explicit requirement in section 402(a) that formal APA procedures be used is significant in light of certain judicial decisions that followed the promulgation of the part 124 regulations and which have abandoned the presumption that trial-type hearings are required by the APA where a statute calls for an adjudicatory hearing without explicitly requiring formal procedures. The Agency argues nothing more than that the absence of the phrase ''on the record'' requires a more involved analysis of due process requirements.

Furthermore, while EPA agrees that the absence of a record requirement does not automatically permit the Agency to conclude that Congress intended informal hearing procedures for NPDES permit review, had Congress intended to foreclose Agency discretion on the matter, it would likely have included the ''on the record'' language that unmistakably triggers section 554 of the Administrative Procedure Act. Though it is possible that failure to include a record requirement in section 402 resulted from drafting oversight, it is clear from *Buttrey* v. *United States,* 690 F.2d 1170 (5th Cir. 1982)(''Buttrey''), that, at least with respect to section 404, the absence of a record requirement was deliberate. In Buttrey, the court, analyzing identical hearing language in section 404 of the Act, concluded that Congress had not intended to preclude informal hearing procedures for permit review proceedings. In the Agency's opinion, it is not reasonable to believe that the same words that permit informal hearings in section 404 preclude informal hearings when used in section 402. Instead, the Agency believes that Congress wrote these provisions without specifying the type of hearing required in order to allow the Agency as much discretion in defining the required hearing procedures as the Due Process Clause allows.

EPA also believes that section 509 of the Act further demonstrates that Congress intended to reserve for the Agency the discretion to determine what type of hearing to hold, and also to ensure that the statute satisfied due process. Subsection 509(b) provides for judicial review of determinations that are made under the sections of the Act listed in subsection (b)(1). Subsection (c) provides that the court may order that additional evidence be taken before the Administrator for judicial proceedings brought under subsection (b) ''in which review is sought of a determination under this chapter required to be made on the record after notice and opportunity for hearing * * *.'' Thus, taken together, subsections 509(b) and (c) suggest that some of the proceedings under 509(b) must be ''on the record'', without specifying which ones. Of those sections of the Act listed in subsection (b), only section 307 contains an express record requirement. As noted by a few of the commenters, however, the absence of an express record requirement does not end our analysis.

Congress apparently preferred, for purposes of mandating judicial procedures under section 509(c), that EPA would determine in most cases whether formal hearings would be required. Section 509(c) also demonstrates that, as if there was any doubt, Congress knew how to draft a provision that expressly referred to formal adjudicatory procedure by using the exact language of section 554 of the APA. More importantly, however, this drafting leaves the statute flexible enough to accommodate the exercise of Agency discretion and judicial review thereof. The very structure of the provision strongly suggests that Congress intended the language of sections 402, 404, and others to permit the Agency as much discretion as Constitutionally permissible in deciding whether or not informal hearing procedures would meet the requirements of the Due Process Clause for each of the listed sections in section 509(b).

Despite the absence of legislative history to suggest that Congress intended to require formal hearing procedures, one commenter suggests that Congress ratified Seacoast and Marathon when it later amended section 402 without changing the language of the hearing requirement in subsection (a). The theory of ''reenactment'' upon which the commenter relies has long been a matter of controversy and confusion in the courts. Indeed, the Supreme Court has observed that the reenactment rule ''has been stated in various and not entirely consistent terms.'' *Helvering* v.*Griffiths,* 318 U.S. 371, 396 (1943). Despite this inconsistency, it is clear that mere reenactment does not necessarily constitute ratification ''because the committees or subcommittees of Congress may or may not know of outstanding interpretations when they are considering reenactment; they do not in fact approve what they know nothing about.'' K. Davis, Administrative Law, § 7.14, at 67 (2d ed.). Even where the Congress has knowledge of an existing interpretation at the time of reenactment, its silence on the interpretation ''is as likely an indication of lack of interest or preoccupation with more pressing matters, or a belief that the matter would be better left to the courts or agencies for resolution.'' John C. Grabow, Congressional Silence and the Search for Legislative Intent: A Venture Into ''Speculative Unrealities'', 64 B.U.L. Rev. 737, 759.

EPA believes that, although Congress might have been aware that EPA had construed section 402(a) of the Clean Water Act to require formal adjudication of petitions for NPDES permit review, the Agency has no direct evidence that Congress was aware, and certainly no evidence to suggest that Congress recognized that Seacoast compelled this construction. Moreover, even had Congress been aware of Seacoast when section 402 of the Act was subsequently amended, its silence only reinforces our contention that Congress intended to leave the form of NPDES hearing procedures to the discretion of the Agency.

As already noted, the legislative history of the Clean Water Act is devoid of language that would explain whether or not to employ formal hearing procedures in the review of NPDES permits. The failure of Congress to expressly require formal hearing procedures, combined with the structure of section 509 of the Act, suggests that Congress intended EPA to exercise its judgment in deciding whether or not to require formal administrative hearings for NPDES permit review.

(b) Judicial Interpretations. EPA understands the decisions in *Chemical Waste Management* v. *EPA,* 873 F.2d 1477 (D.C. Cir. 1989) (''CWM''), and Buttrey, to have seriously questioned the continuing validity of Seacoast, Marathon, and *United States Steel Corp.* v. *Train,* 556 F.2d 822 (7th Cir. 1977) (''United States Steel''). Both CWM and Buttrey, interpreting language similar or identical to that in section 402(a), have concluded that Congress had not intended to require formal hearing procedures. In addition, CWM expressly rejected the presumption that trial-type hearings are required by the APA where a statute calls for an adjudicatory hearing. Instead, the court employs Chevron's two-step analysis, concluding that it must properly defer to the Agency's permissible interpretation of the statute.

One commenter suggested that the advent of Chevron does not undermine the decisions of Seacoast, Marathon,

and United States Steel because these early decisions were based on an interpretation of the Administrative Procedure Act, not the Clean Water Act. This argument is flawed in two respects. First, the decisions in Seacoast, Marathon, and United States Steel were all based almost exclusively upon interpretations of the Clean Water Act, not the Administrative Procedure Act. Second, to the extent that Seacoast interpreted the Administrative Procedure Act, its interpretation has now been expressly rejected by CWM. CWM, 873 F.2d at 1481.

In determining whether or not EPA had to provide formal adjudicatory procedures for review of NPDES permits, the Seacoast court expressly stated that ''the resolution of this issue turns on the substantive nature of the hearing Congress intended to provide.'' Seacoast, 572 F.2d at 876. See also Marathon, 564 F.2d at 1264 (''The focus of our inquiry should be on the nature of the administrative determination before us.'') In attempting to discern Congressional intent, the Court looked first to the text and legislative history of the Federal Water Pollution Control Act, not the Administrative Procedure Act. Id., at 876, n.6. Finding no guiding text or legislative history in the Federal Water Pollution Control Act, the court had no choice but to rely on a presumption of formality that the court inferred from legislative history of the Administrative Procedure Act and its treatment in the courts. It is precisely this presumption of formality that CWM expressly rejects. CWM, 873 F.2d at 1481. With the advent of Chevron and CWM EPA believes that it has not only an opportunity, but an obligation, to update its regulations to reflect the jurisprudence of modern courts and the needs of the environment.

Still, a commenter has suggested that, in distinguishing section 404 from 402, the Buttrey court endorsed the conclusion reached by the Seacoast, Marathon, and United States Steel courts. Buttrey predates both Chevron and CWM, so there is some reason to doubt that, if Buttrey were decided today, the court would have found need to distinguish it from the earlier cases. Moreover, Buttrey does not endorse the decision reached in these cases; instead, Buttrey merely notes that there exists legislative history regarding section 404 to overcome the, now-defunct, presumption of formality that led the Seacoast, Marathon, and United States Steel courts to require formal hearings. Buttrey, 690 F.2d at 1175. As a matter of logic, now that the presumption of formality has been dissolved, the mere absence of legislative history similar to that of section 404 does not require or support a finding that section 402(a) requires formal hearings.

The same commenter also suggested that *Consolidated Coal* v. *EPA,* 537 F.2d 1236 (4th Cir. 1976), compels the same result as reached in Seacoast. In Consolidated Coal, the court concluded that, before final agency action on an NPDES permit, the Administrator must provide the permittee with an opportunity for a hearing. The Administrator had denied petitioner's request for a hearing on the faulty assumption that the petitioner was entitled to a hearing before the State agency that had issued the permit or a State court. The court concluded that, ''[s]ince a hearing at the state level is presently foreclosed, due process requires that the Administrator grant a hearing in this case.'' Id., at 1239.

In reaching this conclusion, the court never squarely addressed the issue of what type of hearing due process requires for review of NPDES permits. Although the court quotes language from *Appalachian Power Co.* v. *EPA,* 477 F.2d 495, 501 (4th Cir. 1973), that would require that a hearing be granted where the issues cannot be resolved ''on the basis of pleadings and argument,'' it is not clear whether the court quotes this language for the proposition that the Administrator must hold a hearing before taking final agency action on an NPDES permit, or that hearings on NPDES permits must allow the submission of evidence, or both. Consolidated Coal, 537 F.2d at 1239. Even if one were to assume that the court quotes this language for both propositions, the proposed procedures meet both requirements. Moreover, it is doubtful that this case purports to resolve the question of what type of hearing due process requires for NPDES permits while addressing the matter, if at all, only in passing.

Furthermore, Consolidated Coal, predates both Chevron and CWM, and, more importantly, *Mathews* v. *Eldridge,* 424 U.S. 319 (1976) (''Mathews''), which sets forth the rubric for modern due process analysis. The case has been cited only twice, only once favorably, and on neither occasion for the proposition for which the commenter claims that the decisions stands. See *Shoreline Associates* v. *Marsh,* 555 F.Supp. 169, 177 (D. Md. 1983), United States Steel, 556 F.2d 822, 836 (7th Cir. 1977). Accordingly, EPA concludes that, for whatever proposition Consolidated Coal may stand, there is much more recent and reliable due process jurisprudence upon which to base the Agency's analysis.

(iii) Chevron Step Two. Reasonableness of Interpretation. EPA believes that providing for informal hearings prior to issuance of NPDES permits is a reasonable interpretation of section 402(a) because formal hearings are not necessary to protect the due process rights of permittees or other interested parties. The leading Supreme Court case discussing due process requirements is Mathews. Mathews establishes a three-element balancing test by which the decision-maker must consider: (1) The private interests at stake, (2) the risk of erroneous decision-making, and (3) the nature of the government interest, before deciding what procedures are required by the Due Process Clause.

(a) Private Interest. In an NPDES permit proceeding, the private interests at stake are generally those of a potential discharger in obtaining a permit to conduct its economic activities in a lawful manner. One commenter contended, however, that EPA's due process analysis fails to adequately assess the private interests at stake because EPA has refused to recognize a private property interest in NPDES permits. EPA disagrees. Although the NPDES regulations expressly disavow any property interest that might accrue in an NPDES permit, the due process analysis discussed herein proceeds as if a sufficient economic interest exists to warrant a due process analysis under the Mathews rubric. See 40 CFR 122.5(b).

Three commenters asserted that EPA has failed to adequately assess the magnitude of the potential impact of erroneous permit provisions. These commenters argued that an erroneous permit provision could have a catastrophic effect on the affordability of sewer service or financial well-being of a municipality (for issuance of NPDES permits to POTWs). None of these commenters has offered any evidence to suggest that, in the typical case, erroneous permit provisions have had or would have such catastrophic effects. Moreover, even if the magnitude of error were as great as these commenters suggest, it would be the same under both the existing and proposed hearing procedures. As discussed below, EPA's analysis suggests that the risk of error is actually less under the proposed hearing procedures; accordingly, the overall risk to the private interests at stake would be less under the procedures proposed.

(b) Risk of Error. EPA believes that transition to informal adjudicatory procedures will not significantly affect the risk of error in NPDES permit review determinations. As explained in the proposal, NPDES permit review

determinations, unlike penalty hearings, are less apt to raise the kind of factual issues regarding the conduct of the discharger, which case law identifies as being uniquely susceptible to resolution in a formal evidentiary hearing. 61 FR 65268, 65277 (Dec. 11, 1996). Nonetheless, one commenter asserts that the risk of an erroneous decision on a petition for review of an NPDES permit would be greatly increased in the absence of a right to oral testimony and cross-examination. EPA believes these concerns to be unwarranted. Even under the existing subpart E regulations, parties have no right to oral presentation of direct or rebuttal evidence except as allowed by the Presiding Officer upon motion and good cause shown. 40 CFR 124.85(c). Any incremental risk of error associated with the use of informal hearing procedures would, thus, be attributable only to the absence of a right to oral cross-examination.

EPA does not believe that the absence of a right to oral cross-examination under the proposed hearing procedures will significantly increase the risk of an erroneous decision on a petition for review. The issues that typically arise in the review of a draft NPDES permit do not call for the type of credibility determinations for which cross-examination is justified. Instead, the typical issues that arise are: (1) Has EPA set effluent limits appropriately (e.g., will a discharge cause, have the reasonable potential to cause, or contribute to an excursion above applicable water quality criteria such that EPA may set a water quality-based effluent limitation?), and (2) has EPA correctly calculated the effluent limitations that it has set? These questions of fact hinge on technical considerations for which cross-examination is not particularly useful. Under the hearing procedures that EPA proposes to adopt, should a party wish to challenge the testimony of an opposing expert witness, it may present written evidence to contradict the assumptions, data, and analysis of the opposing expert. This sort of challenge would more efficiently and reliably reveal any error or bias in the expert's analysis or conclusion than would an analysis of the expert's courtroom demeanor. Accordingly, EPA perceives little or no increase in the risk of error under the hearing procedures that EPA is adopting.

EPA also received two comments arguing that the hearing procedures EPA proposed to adopt would substantially increase the risk of error by affording the parties inadequate opportunity to develop the evidence necessary to support a petition for review to be filed with the Environmental Appeals Board. Because EPA today employs the same hearing procedures for NPDES permit review as those currently used for RCRA and UIC permits, the Agency believes that the success of the existing RCRA/UIC hearing procedures demonstrates that these concerns lack foundation. RCRA and UIC permits raise questions of fact no less complicated than those that arise in the review of NPDES permits, yet the Agency has no suggestion from its experience or from the courts that the time allowed to develop supporting evidence under RCRA/UIC procedures is so short as to violate the Due Process Clause or adversely affect the accuracy of review.

(c) Public Interest. There is significant public interest in an expedited process for issuing NPDES permits. EPA's experience since 1979 has been that the opportunity to request a formal evidentiary hearing has led to significant delays in permit issuance. EPA's statistics suggest that the procedures proposed to resolve administrative petitions are at least twice as fast as the formal hearing procedures now in place. The procedures will, thus, allow needed permit improvements to take effect sooner, make public participation more affordable, and reduce the burden on government resources.

One commenter suggests, however, that EPA incorrectly estimates the public interest in adopting informal hearing procedures as the reduction of time during which unpermitted discharges continue while a permit is reviewed. EPA acknowledges that new dischargers may not begin to discharge until the process of review is complete. 40 CFR 124.16(a)(1). EPA also acknowledges that the expired permit of an existing discharger will be administratively continued during the process of review if the discharger makes a timely application for renewal. 40 CFR 124.16(a)(2). The public interest in expediting the process of permit review, thus, lies, in part, in minimizing the time during which inadequate expired permits remain in effect. This interest is especially significant because, under current procedures, permit renewal often takes in excess of five years.

Other commenters suggest that EPA overestimates the public interest in adopting the proposed hearing procedures by failing to account for the delay that the backlog of NPDES permit review petitions would cause at the EAB. Again, the Agency disagrees. The Agency has polled the Regions for an approximate number of review petitions pending before the Regional Administrators. These cases, plus the petitions for which an evidentiary hearing has been granted but not yet held, constitute the backlog of cases that the EAB would assume under the proposed hearing procedures. 61 FR 65268, 65281 (Dec. 11, 1996). Although the number of cases backlogged is not insignificant in terms of the EAB's total annual caseload, the comment fails to consider that the total time it will take to process an individual NPDES case will no longer be encumbered by the decisional process associated with the evidentiary hearing procedures. Those procedures included the right to appeal a denial of an evidentiary hearing request to the EAB, the possibility of a reversal of the denial, a remand by the EAB to hold an evidentiary hearing, and at the conclusion of the hearing, an opportunity to again file an appeal on the merits with the EAB. Accordingly, although the number of cases under the new procedures that will make their way to the EAB will initially result in a backlog at the EAB, there is no basis for concluding that delays in processing cases will result compared to the old procedures. In addition, we expect that, once the EAB has cleared the backlog of cases, the long-term benefits of the informal adjudicatory procedures will become more apparent.

One commenter suggested that the success with which public citizen groups have challenged NPDES permits demonstrates that the existing hearing procedures provide adequate opportunity for public participation. Of course, the fact that citizens groups successfully challenge NPDES permits on occasion does not somehow diminish their interest in more affordable participation. Instead, their success highlights the importance of public participation in the permit review process. Indeed, the Senate observed, in reporting the Water Pollution Control Act Amendments of 1972, that the implementation of water pollution control measures would depend considerably ''upon the pressures and persistence which an interested public can exert upon the governmental process.'' S. Rep. 414, 92d Cong., 2d Sess. 12 (1972), reprinted in A Legislative History of the Water Pollution Control Act Amendments of 1972, Cong. Research Service, Comm. Print No.1, 93d Cong., 1st Sess. (1973) at 1430 (emphasis added). EPA believes that a transition to informal adjudicatory procedures for review of NPDES permits will promote sustainable public participation by, amongst other things, minimizing the activities for which legal counsel is

required and expediting the permit review process such that citizens groups need commit fewer resources for shorter duration.

Another commenter challenged the assertion that the proposed hearing procedures would reduce the need for legal representation. EPA stands by its conclusion. Even if it were true that parties would avail themselves of counsel under the proposed hearing procedures with frequency equal to that with which they avail themselves of counsel under the existing procedures, EPA believes that the shorter period of review and the higher rate of settlement expected under the proposed procedures will minimize the quantity of legal services required.

Three commenters contend that, however they might otherwise reduce the burden on citizens group participation, the proposed hearing procedures would more than offset those reductions by compelling public citizens groups to maintain a presence in Washington, DC or bear the expense of frequent travel. EPA disagrees. Unlike the existing NPDES permit review procedures, the proposed procedures do not provide for oral presentation of direct testimony, rebuttal, or cross-examination, and oral argument before the Environmental Appeals Board occurs very infrequently; thus, parties need not maintain a Washington, DC presence and would gain no advantage by doing so.

The government also has an interest in minimizing Agency resources consumed in NPDES permit review. Several commenters argued that, for various reasons, EPA will not realize the resource savings that EPA expects under the proposed permit review procedures. These commenters contend that the number of petitions for administrative review will increase while the rate of settlement and the EAB's rate of review will decline. EPA believes these concerns generally unfounded.

One of these commenters argued that switching to informal hearing procedures will result in an increased number of requests for permit review because the permit review process would no longer prove sufficiently onerous to discourage frivolous objections to NPDES permits. Although EPA anticipates that informal hearing procedures will reduce the resource burden upon all parties to the administrative review, the commenter has provided no factual basis to conclude that less onerous process will correlate to more ''frivolous'' petitions for review. While one might speculate that such a correlation exists, there is no basis to believe that this dynamic would have any discernible impact on the number of review petitions at the levels of resource commitment required under either the existing NPDES permit review procedures or those proposed. To the extent that any such dynamic might be observable, one would expect a significantly higher rate of petitions denied by the EAB under the RCRA/UIC procedures than under the existing procedures for NPDES review. No such effect is observable, however. Moreover, even if the Agency observes such an effect under the proposed hearing procedures, the Agency would properly respond by initiating rulemaking to sanction frivolous permit review petitions, not by maintaining unnecessarily burdensome hearing procedures.

This same commenter argued that EPA overestimates the need for informal hearing procedures by failing to account for a projected reduction in the rate of petitions as the number of unpermitted facilities declines. Even if it were true that petitions for review of new permits would decline appreciably in the reasonably near future, EPA would expect a countervailing increase in the rate of petition for review of permit renewals. EPA has no basis to believe that the net effect of these hypothesized trends will yield a significantly lower overall rate of petition; accordingly, EPA cannot at this time discount the need for informal hearing procedures.

Other commenters asserted, by contrast, that the number of petitions for review requiring resolution by the Agency will increase because the number of settlements will decrease under the proposed hearing procedures which will overburden the Environmental Appeals Board. Again, were it true that the proposed hearing procedures would somehow remove the incentive for parties to reach settlement, EPA would expect a much lower settlement rate for cases currently reviewed under the RCRA/UIC procedures than for cases reviewed under the existing NPDES procedures. No such difference appears in EPA's post-petition statistics. While EPA does not track pre-petition resolution of permit disputes, EPA has no basis to believe that fewer disputes are resolved before petition for review of Regional permit decisions are filed in the RCRA/UIC program than in the NPDES program.

Finally, one commenter warns that a switch to informal hearing procedures will result in more frequent requests for public hearings on draft NPDES permits. Even if it were true that EPA should expect more frequent public hearing requests, EPA believes that the net conservation of resources under informal hearing procedures would still justify the transition. Public hearings on NPDES permits are more in the nature of a legislative hearing because they do not require representation by counsel or formal written submissions (unless required by the Presiding Officer) and the Presiding Officer may set reasonable limits on the time allowed for oral statements. 40 CFR 124.12. These hearings must be requested in a timely fashion, are required only where there is a significant degree of public interest in the draft permit, and occur within the comment period. *Id.* All of these limiting factors render the public hearing process substantially less burdensome to all parties involved than the evidentiary hearings that they would replace.

3. Final Rule

None of the comments received suggest that retaining formal adjudicatory proceedings is required under section 402(a) or due process or consistent with the public interest. Therefore, EPA is today adopting the proposed rule, eliminating evidentiary hearing procedures, subpart F procedures, and appendix A to part 124.

D. Removal and Reservation of Part 125, Subpart K—Criteria and Standards for Best Management Authorized Under Section 304(e) of the Act

a. *Summary of Proposed Rule.* EPA proposed to remove and reserve part 125, subpart K (40 CFR 125.100–125.104) titled ''Criteria and Standards for Best Management Practices Authorized Under Section 304(e) of the Act'' along with its reference at 40 CFR 123.25(a)(36). This provision was originally promulgated on June 7, 1979 (44 FR 32954) and would have established criteria and standards for imposing best management practices (BMPs) in NPDES permits under the authority provided in sections 304(e) and 402(a)(1) of the CWA. However, for reasons set forth in more detail in the proposed rule (see 61 FR 65282–65283), Subpart K was never activated and its original purpose is now better served by EPA's existing BMP provisions at 40 CFR 122.44(k) and accompanying guidance for developing and implementing BMPs.

b. *Significant Comment and EPA Response.* Two commenters believed the subpart K regulation should not be removed, stating that the regulatory framework provided by subpart K was needed to guide the imposition of BMPs and that § 122.44(k) was overly broad. The commenter believed there should be some basis in the regulations for

guiding permit writers and applicants as to when BMPs are appropriate and how they are to be implemented. EPA does not believe that § 122.44(k) is overly broad. BMPs and BMP plans are intended to be flexible so that they can be tailored to particular industries and sites. EPA believes this flexibility is better served by § 122.44(k) and guidance documents which can be tailored to specific industries or activities.

A commenter stated that the proposal represents a significant policy decision that is not appropriate for inclusion in a rulemaking designed simply to streamline permit issuance, and that if Subpart K is removed, there are absolutely no limits on EPA's discretion in imposing the BMPs based on 40 CFR 122.44. EPA disagrees and notes that removing subpart K is not a significant policy decision because subpart K has never been activated. Because subpart K has no regulatory effect, its removal does not affect EPA's ability to impose BMPs in permits. Finally, EPA notes that the Clean Water Act and § 122.44(k) place limits on EPA's discretion to include BMPs and other conditions in NPDES permits.

c. *Final Rule.* Today's final rule adopts this revision as proposed.

E. Provisions Without Comments

Provisions in parts 22, 122, 124, and 125 in the proposed rule which were not commented upon and not discussed above are adopted for the reasons set forth in the proposal.

F. Miscellaneous Corrections

a. Summary of Proposed Rule

EPA proposed a number of minor non-substantive revisions to its regulations that would correct typographical or drafting errors, and misplaced or obsolete references. EPA wishes to be clear that these are corrections and are not intended in anyway to result in substantive changes to its programs. In proposing these corrections, EPA did not solicit, and has not responded to, comments on the existing regulatory provisions which underlie those corrections. Furthermore, by including these corrections in the proposed and final rule, EPA is not conceding that any or all such changes required notice and comment. However, these errors were discovered while developing this proposed rule and EPA believes it is more cost effective to correct them in this rulemaking than in a separate **Federal Register** notice. In today's final rulemaking, EPA is incorporating those corrections as proposed.

b. Significant Comments and EPA Response

EPA received a number of comments recommending other typographical or drafting errors, and misplaced or obsolete references. EPA has made these suggested changes and some of its own where the EPA believes it made additional unintended errors. These changes are:

(1) A commenter has recommended that 40 CFR 122.26(b)(7)(iii) should refer to (b)(7)(i) or (b)(7)(ii). EPA agrees and has made this change.

(2) A commenter has pointed out that 40 CFR 122.26(d)(2)(iii) make an incorrect reference to (d)(a)(iii)(A)(3) and should read (d)(2)(iii)(A)(3). EPA agrees and has made this change.

(3) A commenter has pointed out that 40 CFR 123.44(d) makes an incorrect reference to § 123.44(b) and should read as § 123.44(c). EPA agrees and has made this change.

(4) A commenter has pointed out that 40 CFR 124.10(d)(1)(vii) has a repeated sentence that should be removed. EPA agrees and has made this change.

(5) A commenter has pointed out the proposed 40 CFR 122.21(a)(2)(i)(G)has a misplaced ''that'' in the second line which should be deleted. EPA agrees and has made this change.

(6) A commenter has pointed out that proposed 40 CFR 122.21(g)(7)(i) should have reference to (g)(7)(iii) and (iv) changed to (g)(7)(vi) and (vii). EPA agrees and has made this change.

(7) A commenter has pointed out that 40 CFR 122.2's definition of sludge only facility should refer to section 122.2(b)(2) and (3) instead of section 122.1(b)(3) as it currently does. EPA disagrees with this correction and has not made this change.

(8) A commenter has pointed out that 40 CFR 122.21(g)(7)(v)(B) and (vi)(B) use the term ''is discharged'', when ''are discharged is'' more appropriate. EPA agrees with the commenter for (vi)(B) in the proposed rule but does not find this applicable in (v)(B) of the proposed rule.

(9) In eliminating Subparts E and F, EPA did not propose and does not intend to create a right to seek administrative review before the EAB for NPDES general permits. Accordingly, EPA has revised proposed section 124.19(a) to include language from the removed section 124.71(a) that clarifies that there exists no right to seek review of NPDES general permits before the EAB. The addition of this NPDES-specific language should not be interpreted to create or limit a right to seek review of general permits under any other program for which appeal to the EAB is provided in section 124.19. Conforming changes have also been made to the proposed sections 124.19(b) and 124.6(e). Finally, a reference to the petition process in section 122.28(b)(3) has been added to section 124.19(a) for completeness and clarity.

III. Regulatory Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct

compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. 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 does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Today's rule is basically deregulatory in nature and is expected to reduce administrative and resource burdens on affected State, local, and tribal governments and the private sector. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

Although section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with representatives of State and local government in developing this rule. The concerns of these entities have been addressed in the final rule.

C. Executive Order 13045

Executive Order 13045, ''Protection of Children From Environmental Health Risks and Safety Risks,'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not an economically significant rule as defined under Executive Order 12866 and, therefore, is not subject to Executive Order 13045.

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 these 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 the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

This rule does not significantly or uniquely affect the communities of Indian tribal governments, nor does it impose substantial direct compliance costs on them. This rule will eliminate redundant requirements, remove superfluous language, provide clarification, and remove or streamline unnecessary procedures which do not provide any environmental benefits, and thus reduce the administrative burden of the NPDES program on permit issuing authorities, and the regulated community. Accordingly, the requirements of section 3 (b) of Executive Order 13084 do not apply to this rule.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule is basically ''deregulatory'' in nature and is expected to reduce administrative and resource burdens on affected State, local, and tribal governments and the private sector. It does not contain any Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more by State, local, and tribal governments in the aggregate or by the private sector in any one year. As previously discussed, this rule reduces the administrative burden of the NPDES program on issuing authorities and the regulated community. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, this rule is not subject to the requirements of section 203 of UMRA.

F. Regulatory Flexibility Act

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that meets RFA default definitions

based on SBA size standards found in 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. Sections 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. Today's final adds no increased burden to permittees.

Most of the changes in today's rule are purely technical and will have no effect on compliance costs for NPDES permittees. Also, to the extent these technical changes clarify and simplify the regulations, they will make them easier to understand and comply with, reducing the burden on small entities. The other changes will reduce the costs of obtaining and complying with NPDES permits. For instances, the rule will make it easier for facilities to obtain coverage under general permits, rather than go through the more complicated and expensive individual permit procedure. It will also reduce monitoring and record keeping for permitees subject to effluent limitation guidelines, and streamline permit application requirements for storm water dischargers and new source/ new dischargers. Today's rule will also streamline the permit appeals and permit termination processes, which should further reduce the costs of obtaining (or modifying) or terminating an individual permit. None of these changes are expected to increase, and most of the changes will actually decrease, the costs of compliance for NPDES discharges, including small entities (if any). We have therefore concluded that today's final rule will relieve regulatory burden for all entities.

G. Paperwork Reduction Act

This rule will streamline the regulatory process and will not impose any additional information collection, reporting, or record keeping requirements on either the regulated community or permit issuing authorities. Therefore, EPA did not prepare an Information Request document for approval by the Office of Management and Budget. There were no comments on the proposal to this rule regarding information collection requests or other aspects of the Paperwork Reduction Act. This rule streamlines existing information collection requirements previously approved by OMB under ICR #2040–0004, by reducing the burden hours associated with that ICR by 9000 hours. An Information Correction Worksheet will be submitted to OMB to reduce the burden hours associated with ICR 2040–0004.

H. National Technology Transfer and Advancement Act—Voluntary Standards

Section 12(d) of the National Technology Transfer and Advancement Act (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards. This rule does not involve any technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective June 14, 2000.

List of Subjects

40 CFR Part 22

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Hazardous waste, Penalties, Pesticides and pests, Poison prevention, Water pollution control.

40 CFR Part 117

Environmental Protection Agency, Hazardous substances, Penalties, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 122

Administrative practice and procedure, Confidential business information, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 123

Administrative practice and procedure, Confidential business information, Hazardous substances, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 124

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous waste, Indians—lands, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 125

Environmental protection, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

40 CFR Part 144

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Indians—lands, Reporting and recordkeeping requirements, Surety bonds, Water supply.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: March 10, 2000.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, EPA amends 40 CFR parts 22, 117, 122, 123, 124, and 125, 144, 270, and 271 as follows:

PART 22—[AMENDED]

1. The title of part 22 is revised to read as follows:

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS

2. The authority citation for part 22 is revised to read as follows:

Authority: 7 U.S.C. 136(l); 15 U.S.C. 2615; 33 U.S.C. 1319, 1342, 1361, 1415 and 1418; 42 U.S.C. 300g–3(g), 6912, 6925, 6928, 6991e and 6992d; 42 U.S.C. 7413(d), 7524(c), 7545(d), 7547, 7601 and 7607(a), 9609, and 11045.

3. Section 22.1 is amended by revising paragraphs (a)(4) and (a)(6) to read as follows:

§ 22.1 Scope of this part.

(a) * * *

(4) The issuance of a compliance order or the issuance of a corrective action order, the termination of a permit pursuant to section 3008(a)(3), the suspension or revocation of authority to operate pursuant to section 3005(e), or the assessment of any civil penalty under sections 3008, 9006, and 11005 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6925(d), 6925(e), 6928, 6991e, and 6992d)), except as provided in part 24 of this chapter;

* * * * *

(6) The assessment of any Class II penalty under sections 309(g) and 311(b)(6), or termination of any permit issued pursuant to section 402(a) of the Clean Water Act, as amended (33 U.S.C. 1319(g), 1321(b)(6), and 1342(a));

* * * * *

4. Section 22.3 is amended in paragraph (a) by revising the definition for ''Permit action'' in alphabetical order to read as follows:

§ 22.3 Definitions.

(a) * * *

Permit action means the revocation, suspension or termination of all or part of a permit issued under section 102 of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1412) or termination under section 402(a) of the Clean Water Act (33 U.S.C. 1342(a)) or section 3005(d) of the Solid Waste Disposal Act (42 U.S.C. 6925(d)).

* * * * *

5. Section 22.44 is added to read as follows:

§ 22.44 Supplemental rules of practice governing the termination of permits under section 402(a) of the Clean Water Act or under section 3008(a)(3) of the Resource Conservation and Recovery Act.

(a) *Scope of this subpart.* The supplemental rules of practice in this subpart shall also apply in conjunction with the Consolidated Rules of Practice in this part and with the administrative proceedings for the termination of permits under section 402(a) of the Clean Water Act or under section 3008(a)(3) of the Resource Conservation and Recovery Act. Notwithstanding the Consolidated Rules of Practice, these supplemental rules shall govern with respect to the termination of such permits.

(b) In any proceeding to terminate a permit for cause under § 122.64 or § 270.43 of this chapter during the term of the permit:

(1) The complaint shall, in addition to the requirements of § 22.14(b), contain any additional information specified in § 124.8 of this chapter;

(2) The Director (as defined in § 124.2 of this chapter) shall provide public notice of the complaint in accordance with § 124.10 of this chapter, and allow for public comment in accordance with § 124.11 of this chapter; and

(3) The Presiding Officer shall admit into evidence the contents of the Administrative Record described in § 124.9 of this chapter, and any public comments received.

PART 117—DETERMINATION OF REPORTABLE QUANTITIES FOR HAZARDOUS SUBSTANCES

1. The authority citation for part 117 continues to read as follows:

Authority: Secs. 311 and 501(a), Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.), (''the Act'') and Executive Order 11735, superseded by Executive Order 12777, 56 FR 54757.

2. Section 117.1(d) is revised to read as follows:

§ 117.1 Definitions.

* * * * *

(d) *Public record* means the NPDES permit application or the NPDES permit itself and the materials comprising the administrative record for the permit decision specified in § 124.18 of this chapter.

* * * * *

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 122.1 is revised to read as follows:

§ 122.1 Purpose and scope.

(a) *Coverage.* (1) The regulatory provisions contained in this part and parts 123, and 124 of this chapter implement the National Pollutant Discharge Elimination System (NPDES) Program under sections 318, 402, and 405 of the Clean Water Act (CWA) (Public Law 92–500, as amended, 33 U.S.C. 1251 *et seq.*)

(2) These provisions cover basic EPA permitting requirements (this part 122), what a State must do to obtain approval to operate its program in lieu of a Federal program and minimum requirements for administering the approved State program (part 123 of this chapter), and procedures for EPA processing of permit applications and appeals (part 124 of this chapter).

(3) These provisions also establish the requirements for public participation in EPA and State permit issuance and enforcement and related variance proceedings, and in the approval of State NPDES programs. These provisions carry out the purposes of the public participation requirements of part 25 of this chapter, and supersede the requirements of that part as they apply to actions covered under this part and parts 123, and 124 of this chapter.

(4) The NPDES permit program has separate additional provisions that are used by permit issuing authorities to determine what requirements must be placed in permits if issued. These provisions are located at parts 125, 129, 133, 136 of this chapter and 40 CFR subchapter N (parts 400 through 471), and part 503 of this chapter.

(5) Certain requirements set forth in parts 122 and 124 of this chapter are made applicable to approved State programs by reference in part 123 of this chapter. These references are set forth in

§ 123.25 of this chapter. If a section or paragraph of part 122 or 124 of this chapter is applicable to States, through reference in § 123.25 of this chapter, that fact is signaled by the following words at the end of the section or paragraph heading: (Applicable to State programs, see § 123.25 of this chapter). If these words are absent, the section (or paragraph) applies only to EPA administered permits. Nothing in this part and parts 123, or 124 of this chapter precludes more stringent State regulation of any activity covered by the regulations in 40 CFR parts 122, 123, and 124, whether or not under an approved State program.

(b) *Scope of the NPDES permit requirement.* (1) The NPDES program requires permits for the discharge of ''pollutants'' from any ''point source'' into ''waters of the United States.'' The terms ''pollutant'', ''point source'' and ''waters of the United States'' are defined at § 122.2.

(2) The permit program established under this part also applies to owners or operators of any treatment works treating domestic sewage, whether or not the treatment works is otherwise required to obtain an NPDES permit, unless all requirements implementing section 405(d) of the CWA applicable to the treatment works treating domestic sewage are included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, Part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Administrator as adequate to assure compliance with section 405 of the CWA.

(3) The Regional Administrator may designate any person subject to the standards for sewage sludge use and disposal as a ''treatment works treating domestic sewage'' as defined in § 122.2, where the Regional Administrator finds that a permit is necessary to protect public health and the environment from the adverse effects of sewage sludge or to ensure compliance with the technical standards for sludge use and disposal developed under CWA section 405(d). Any person designated as a ''treatment works treating domestic sewage'' shall submit an application for a permit under § 122.21 within 180 days of being notified by the Regional Administrator that a permit is required. The Regional Administrator's decision to designate a person as a ''treatment works treating domestic sewage'' under this paragraph shall be stated in the fact sheet or statement of basis for the permit.

[**Note to § 122.1:** Information concerning the NPDES program and its regulations can be obtained by contacting the Water Permits Division(4203), Office of Wastewater Management, U.S.E.P.A., Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 at (202) 260–9545 and by visiting the homepage at http://www.epa.gov/owm/]

3. Section 122.2 is amended by adding new definitions in alphabetical order, and by revising the definitions of ''POTW,'' ''Publicly owned treatment works'' and ''Sludge-only facility'' to read as follows:

§ 122.2 Definitions.

* * * * *

Animal feeding operation is defined at § 122.23.

* * * * *

Aquaculture project is defined at § 122.25.

* * * * *

Bypass is defined at § 122.41(m).

* * * * *

Concentrated animal feeding operation is defined at § 122.23.

Concentrated aquatic animal feeding operation is defined at § 122.24.

* * * * *

Individual control strategy is defined at 40 CFR 123.46(c).

* * * * *

Municipal separate storm sewer system is defined at § 122.26 (b)(4) and (b)(7).

* * * * *

POTW is defined at § 403.3 of this chapter.

* * * * *

Publicly owned treatment works is defined at 40 CFR 403.3.

* * * * *

Silvicultural point source is defined at § 122.27.

* * * * *

Sludge-only facility means any ''treatment works treating domestic sewage'' whose methods of sewage sludge use or disposal are subject to regulations promulgated pursuant to section 405(d) of the CWA and is required to obtain a permit under § 122.1(b)(2).

* * * * *

Storm water is defined at § 122.26(b)(13).

Storm water discharge associated with industrial activity is defined at § 122.26(b)(14).

* * * * *

Upset is defined at § 122.41(n).

* * * * *

4. Section 122.4 is amended by revising paragraph (i)(2) to read as follows:

§ 122.4 Prohibitions (applicable to State NPDES programs, see § 123.25).

* * * * *

(i) * * *

(2) The existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards. The Director may waive the submission of information by the new source or new discharger required by paragraph (i) of this section if the Director determines that the Director already has adequate information to evaluate the request. An explanation of the development of limitations to meet the criteria of this paragraph (i)(2) is to be included in the fact sheet to the permit under § 124.56(b)(1) of this chapter.

5. Section 122.21 is amended by revising paragraphs (g)(7), (g)(8), (l)(1), (l)(2)(ii), (l)(3), (l)(4), and revising Notes 1, 2 introductory text, and 3 introductory text to read as follows:

§ 122.21 Application for a permit (applicable to State programs, see § 123.25).

* * * * *

(g) * * *

(7) *Effluent characteristics.* (i) Information on the discharge of pollutants specified in this paragraph (g)(7) (except information on storm water discharges which is to be provided as specified in § 122.26). When ''quantitative data'' for a pollutant are required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under part 136 of this chapter. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. When an applicant has two or more outfalls with substantially identical effluents, the Director may allow the applicant to test only one outfall and report that the quantitative data also apply to the substantially identical outfall. The requirements in paragraphs (g)(7) (vi) and (vii) of this section that an applicant must provide quantitative data for certain pollutants known or believed to be present do not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform and fecal streptococcus. For all other pollutants, 24-hour composite samples must be used. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention

period greater than 24 hours. In addition, for discharges other than storm water discharges, the Director may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that the minimum of four (4) grab samples will be a representative sample of the effluent being discharged.

(ii) *Storm water discharges.* For storm water discharges, all samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area. For all applicants, a flow-weighted composite shall be taken for either the entire discharge or for the first three hours of the discharge. The flow-weighted composite sample for a storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen minutes (applicants submitting permit applications for storm water discharges under § 122.26(d) may collect flow-weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots, subject to the approval of the Director). However, a minimum of one grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than 24 hours. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required. For storm water discharge samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first thirty minutes (or as soon thereafter as practicable) of the discharge for all pollutants specified in § 122.26(c)(1). For all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants specified in § 122.26 except pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. The Director may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples under part 136 of this chapter, and additional time for submitting data on a case-by-case basis. An applicant is expected to ''know or have reason to believe'' that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility.)

(iii) *Reporting requirements.* Every applicant must report quantitative data for every outfall for the following pollutants:

Biochemical Oxygen Demand (BOD5)
Chemical Oxygen Demand
Total Organic Carbon
Total Suspended Solids
Ammonia (as N)
Temperature (both winter and summer)
pH

(iv) The Director may waive the reporting requirements for individual point sources or for a particular industry category for one or more of the pollutants listed in paragraph (g)(7)(iii) of this section if the applicant has demonstrated that such a waiver is appropriate because information adequate to support issuance of a permit can be obtained with less stringent requirements.

(v) Each applicant with processes in one or more primary industry category (see appendix A of this part) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

(A) The organic toxic pollutants in the fractions designated in table I of appendix D of this part for the applicant's industrial category or categories unless the applicant qualifies as a small business under paragraph (g)(8) of this section. Table II of appendix D of this part lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes. See Notes 2, 3, and 4 of this section.

(B) The pollutants listed in table III of appendix D of this part (the toxic metals, cyanide, and total phenols).

(vi)(A) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in table IV of appendix D of this part (certain conventional and nonconventional pollutants) is discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged which is not so limited in an effluent limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

(B) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants listed in table II or table III of appendix D of this part (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under paragraph (g)(7)(v) of this section are discharged from each outfall. For every pollutant expected to be discharged in concentrations of 10 ppb or greater the applicant must report quantitative data. For acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4, 6 dinitrophenol, where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or greater the applicant must report quantitative data. For every pollutant expected to be discharged in concentrations less than 10 ppb, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4, 6 dinitrophenol, in concentrations less than 100 ppb, the applicant must either submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged. An applicant qualifying as a small business under paragraph (g)(8) of this section is not required to analyze for pollutants listed in table II of appendix D of this part (the organic toxic pollutants).

(vii) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in table V of appendix D of this part (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.

(viii) Each applicant must report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

(A) Uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

(B) Knows or has reason to believe that TCDD is or may be present in an effluent.

(8) *Small business exemption.* An application which qualifies as a small business under one of the following criteria is exempt from the requirements in paragraph (g)(7)(v)(A) or (g)(7)(vi)(A) of this section to submit quantitative data for the pollutants listed in table II of appendix D of this part (the organic toxic pollutants):

(i) For coal mines, a probable total annual production of less than 100,000 tons per year.

(ii) For all other applicants, gross total annual sales averaging less than $100,000 per year (in second quarter 1980 dollars).

* * * * *

(l) * * * (1) The owner or operator of any facility which may be a new source (as defined in § 122.2) and which is located in a State without an approved NPDES program must comply with the provisions of this paragraph (l)(1).

(2) * * *

(ii) The Regional Administrator shall make an initial determination whether the facility is a new source within 30 days of receiving all necessary information under paragraph (l)(2)(i) of this section.

(3) The Regional Administrator shall issue a public notice in accordance with § 124.10 of this chapter of the new source determination under paragraph (l)(2) of this section. If the Regional Administrator has determined that the facility is a new source, the notice shall state that the applicant must comply with the environmental review requirements of 40 CFR 6.600 through 6.607.

(4) Any interested party may challenge the Regional Administrator's initial new source determination by requesting review of the determination under § 124.19 of this chapter within 30 days of the public notice of the initial determination. If all interested parties agree, the Environmental Appeals Board may defer review until after a final permit decision is made, and consolidate review of the determination with any review of the permit decision.

* * * * *

[**Note 1:** At 46 FR 2046, Jan. 8, 1981, the Environmental Protection Agency suspended until further notice § 122.21(g)(7)(v)(A) and the corresponding portions of Item V–C of the NPDES application Form 2C as they apply to coal mines. This suspension continues in effect.]

[**Note 2:** At 46 FR 22585, Apr. 20, 1981, the Environmental Protection Agency suspended until further notice § 122.21(g)(7)(v)(A) and the corresponding portions of Item V–C of the NPDES application Form 2C as they apply to:

* * * * *

[**Note 3:** At 46 FR 35090, July 1, 1981, the Environmental Protection Agency suspended until further notice § 122.21(g)(7)(v)(A) and the corresponding portions of Item V–C of the NPDES application Form 2C as they apply to:

* * * * *

6. Section 122.22 is amended by revising paragraph (a)(1)(ii) (the note remains unchanged) to read as follows:

§ 122.22 Signatories to permit applications and reports (applicable to State programs, see § 123.25).

(a) * * *

(1) * * *

(ii) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

* * * * *

§ 122.24 [Amended]

7. The paragraph heading for § 122.24(b), ''Defintion'' is revised to read ''Definition''.

8. Section 122.26 is amended by revising paragraphs (b)(7)(iii) introductory text, (b)(20), (c)(1) introductory text, (c)(1)(i)(E)(*4*), (c)(1)(i)(F), (d)(1)(iii)(D)(*1*), (d)(2)(iii) introductory text, and (d)(2)(iv)(C)(*2*), and by removing and reserving paragraph (c)(2), to read as follows:

§ 122.26 Storm water discharges (applicable to State NPDES programs, see § 123.25).

* * * * *

(b) * * *

(*7*) * * *

(iii) Owned or operated by a municipality other than those described in paragraph (b)(7)(i) or (ii) of this section and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph (b)(7)(i) or (ii) of this section. In making this determination the Director may consider the following factors:

* * * * *

(20) *Uncontrolled sanitary landfill* means a landfill or open dump, whether in operation or closed, that does not meet the requirements for runon or runoff controls established pursuant to subtitle D of the Solid Waste Disposal Act.

* * * * *

(c) * * *

(1) *Individual application.* Dischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit, or any discharge of storm water which the Director is evaluating for designation (see 124.52(c) of this chapter) under paragraph (a)(1)(v) of this section and is not a municipal storm sewer, shall submit an NPDES application in accordance with the requirements of § 122.21 as modified and supplemented by the provisions of this paragraph.

(i) * * *

(E) * * *

(*4*) Any information on the discharge required under § 122.21(g)(7) (vi) and (vii);

* * * * *

(F) Operators of a discharge which is composed entirely of storm water are exempt from the requirements of § 122.21 (g)(2), (g)(3), (g)(4), (g)(5), (g)(7)(iii), (g)(7)(iv), (g)(7)(v), and (g)(7)(viii); and * * *

* * * * *

(d) * * *

(1) * * *

(iii) * * *

(D) * * *

(*1*) A grid system consisting of perpendicular north-south and east-west lines spaced ¼ mile apart shall be

overlaid on a map of the municipal storm sewer system, creating a series of cells;

* * * * *

(2) * * *

(iii) *Characterization data.* When ''quantitative data'' for a pollutant are required under paragraph (d)(2)(iii)(A)(*3*) of this section, the applicant must collect a sample of effluent in accordance with § 122.21(g)(7) and analyze it for the pollutant in accordance with analytical methods approved under part 136 of this chapter. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including:

* * * * *

(iv) * * *

(C) * * *

(*2*) Describe a monitoring program for storm water discharges associated with the industrial facilities identified in paragraph (d)(2)(iv)(C) of this section, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: Any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for a facility; oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under § 122.21(g)(7) (vi) and (vii).

* * * * *

9. Section 122.28 is amended by revising paragraphs (a)(1) introductory text and (a)(2), adding paragraphs (a)(3) and (a)(4), and revising paragraph (b)(1) to read as follows:

§ 122.28 General permits (applicable to State NPDES programs, see § 123.25).

(a) * * *

(1) *Area.* The general permit shall be written to cover one or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under paragraph (a)(2)(ii) of this section, except those covered by individual permits, within a geographic area. The area should correspond to existing geographic or political boundaries such as:

* * * * *

(2) *Sources.* The general permit may be written to regulate one or more categories or subcategories of discharges or sludge use or disposal practices or facilities, within the area described in paragraph (a)(1) of this section, where the sources within a covered subcategory of discharges are either:

(i) Storm water point sources; or (ii) One or more categories or subcategories of point sources other than storm water point sources, or one or more categories or subcategories of ''treatment works treating domestic sewage'', if the sources or ''treatment works treating domestic sewage'' within each category or subcategory all:

(A) Involve the same or substantially similar types of operations;

(B) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices;

(C) Require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal;

(D) Require the same or similar monitoring; and (E) In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

(3) *Water quality-based limits.* Where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed pursuant to § 122.44, the sources in that specific category or subcategory shall be subject to the same water quality-based effluent limitations.

(4) *Other requirements.* (i) The general permit must clearly identify the applicable conditions for each category or subcategory of dischargers or treatment works treating domestic sewage covered by the permit.

(ii) The general permit may exclude specified sources or areas from coverage.

(b) * * *(1) *In general.* General permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of part 124 of this chapter or corresponding State regulations. Special procedures for issuance are found at § 123.44 of this chapter for States.

* * * * *

10. Section 122.29(c)(1)(i) is amended by revising the reference ''§ 122.21(k)'' to read ''§ 122.21(l)''.

11. Section 122.41 is amended by revising the second sentence in paragraph (l)(6)(i) to read as follows:

§ 122.41 Conditions applicable to all permits (applicable to State programs, see § 123.25).

* * * * *

(l) * * *

(6) * * * (i) * * * Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. * * *

* * * * *

12. Section 122.43(b)(1) is amended by removing from the second sentence the words ''(except as provided in § 124.86(c) for NPDES permits being processed under subpart E or F of part 124 of this chapter)'' and by revising the word ''additonal'' in the third sentence to read ''additional''.

13. Section 122.44 is amended by revising paragraphs (a), (c), (e)(1), (k) and (q) to read as follows:

§ 122.44 Establishing limitations, standards, and other permit conditions (applicable to State NPDES programs, see § 123.25).

* * * * *

(a)(1) *Technology-based effluent limitations and standards* based on: effluent limitations and standards promulgated under section 301 of the CWA, or new source performance standards promulgated under section 306 of CWA, on case-by-case effluent limitations determined under section 402(a)(1) of CWA, or a combination of the three, in accordance with § 125.3 of this chapter. For new sources or new dischargers, these technology based limitations and standards are subject to the provisions of § 122.29(d) (protection period).

(2) *Monitoring waivers for certain guideline-listed pollutants.*

(i) The Director may authorize a discharger subject to technology-based effluent limitations guidelines and standards in an NPDES permit to forego sampling of a pollutant found at 40 CFR Subchapter N of this chapter if the discharger has demonstrated through sampling and other technical factors that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

(ii) This waiver is good only for the term of the permit and is not available during the term of the first permit issued to a discharger.

(iii) Any request for this waiver must be submitted when applying for a reissued permit or modification of a reissued permit. The request must demonstrate through sampling or other technical information, including information generated during an earlier permit term that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

(iv) Any grant of the monitoring waiver must be included in the permit as an express permit condition and the reasons supporting the grant must be

documented in the permit's fact sheet or statement of basis.

(v) This provision does not supersede certification processes and requirements already established in existing effluent limitations guidelines and standards.

* * * * *

(c) *Reopener clause:* For any permit issued to a treatment works treating domestic sewage (including ''sludge-only facilities''), the Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA. The Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

* * * * *

(e) * * *

(1) Limitations must control all toxic pollutants which the Director determines (based on information reported in a permit application under § 122.21(g)(7) or in a notification under § 122.42(a)(1) or on other information) are or may be discharged at a level greater than the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under § 125.3(c) of this chapter; or

* * * * *

(k) *Best management practices (BMPs)* to control or abate the discharge of pollutants when:

(1) Authorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances from ancillary industrial activities;

(2) Authorized under section 402(p) of the CWA for the control of storm water discharges;

(3) Numeric effluent limitations are infeasible; or

(4) The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

Note to paragraph (k)(4): Additional technical information on BMPs and the elements of BMPs is contained in the following documents: Guidance Manual for Developing Best Management Practices (BMPs), October 1993, EPA No. 833/B–93–004, NTIS No. PB 94–178324, ERIC No. W498); Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, September 1992, EPA No. 832/R–92–005, NTIS No. PB 92–235951, ERIC No. N482); Storm Water Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R–92–001, NTIS No. PB 93–223550; ERIC No. W139; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices, September 1992; EPA 832/R–92–006, NTIS No. PB 92–235969, ERIC No. N477; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA 833/R–92–002, NTIS No. PB 94–133782; ERIC No. W492. Copies of those documents (or directions on how to obtain them) can be obtained by contacting either the Office of Water Resource Center (using the EPA document number as a reference) at (202) 260–7786; or the Educational Resources Information Center (ERIC) (using the ERIC number as a reference) at (800) 276–0462. Updates of these documents or additional BMP documents may also be available. A list of EPA BMP guidance documents is available on the OWM Home Page at http://www.epa.gov/owm. In addition, States may have BMP guidance documents.

These EPA guidance documents are listed here only for informational purposes; they are not binding and EPA does not intend that these guidance documents have any mandatory, regulatory effect by virtue of their listing in this note.

* * * * *

(q) *Navigation.* Any conditions that the Secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired, in accordance with § 124.59 of this chapter.

* * * * *

14. Section 122.45 is amended by revising paragraph (h)(1) to read as follows:

§ 122.45 Calculating NPDES permit conditions (applicable to State NPDES programs, see § 123.25)

* * * * *

(h) *Internal waste streams.* (1) When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by § 122.48 shall also be applied to the internal waste streams.

* * * * *

§ 122.47 Schedules of Compliance

15. Section 122.47(b) introductory text is amended by revising the word ''requriements'' to read ''requirements''.

16. Section 122.62 is amended by revising paragraph (a)(8) to read as follows:

§ 122.62 Modification or revocation and reissuance of permits (applicable to State programs, see § 123.25).

* * * * *

(a) * * *

(8)(i) *Net limits.* Upon request of a permittee who qualifies for effluent limitations on a net basis under § 122.45(g).

(ii) When a discharger is no longer eligible for net limitations, as provided in § 122.45(g)(1)(ii).

* * * * *

17. Section 122.64 is amended by revising paragraph (b) to read as follows:

§ 122.64 Termination of permits (applicable to State programs, see § 123.25).

* * * * *

(b) The Director shall follow the applicable procedures in part 124 or part 22 of this chapter, as appropriate (or State procedures equivalent to part 124) in terminating any NPDES permit under this section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the Director may terminate the permit by notice to the permittee. Termination by notice shall be effective 30 days after notice is sent, unless the permittee objects within that time. If the permittee objects during that period, the Director shall follow part 124 of this chapter or applicable State procedures for termination. Expedited permit termination procedures are not available to permittees that are subject to pending State and/or Federal enforcement actions including citizen suits brought under State or Federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. State-authorized NPDES programs are not required to use part 22 of this chapter procedures for NPDES permit terminations.

PART 123—STATE PROGRAM REQUIREMENTS

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

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 123.25 is amended by revising paragraphs (a)(12), (a)(36) and paragraph (b) to read as follows:

§ 123.25 Requirements for permitting.

(a) * * *

(12) Section 122.41 (a)(1) and (b) through (n)—(Applicable permit conditions) (Indian Tribes can satisfy

enforcement authority requirements under § 123.34);

* * * * *

(36) Subparts A, B, D, and H of part 125 of this chapter;

* * * * *

(b) State NPDES programs shall have an approved continuing planning process under 40 CFR 130.5 and shall assure that the approved planning process is at all times consistent with the CWA.

* * * * *

3. Section 123.44 is amended by revising paragraph (a)(2), introductory text of paragraph (b)(2), the introductory text of paragraph (d), and by removing and reserving paragraph (i) to read as follows:

§ 123.44 EPA review of and objections to State permits.

(a) * * *

(2) In the case of general permits, EPA shall have 90 days from the date of receipt of the proposed general permit to comment upon, object to or make recommendations with respect to the proposed general permit, and is not bound by any shorter time limits set by the Memorandum of Agreement for general comments, objections or recommendations.

(b) * * *

(2) Within 90 days following receipt of a proposed permit to which he or she has objected under paragraph (b)(1) of this section, or in the case of general permits within 90 days after receipt of the proposed general permit, the Regional Administrator shall set forth in writing and transmit to the State Director:

* * * * *

(d) Prior to notifying the State Director of an objection based upon any of the grounds set forth in paragraph (c) of this section, the Regional Administrator:

* * * * *

PART 124—PROCEDURES FOR DECISION MAKING

1. The authority citation for part 124 is revised to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; Clean Water Act, 33 U.S.C. 1251 *et seq.*; Clean Air Act, 42 U.S.C. 7401 *et seq.*

2. Section 124.1 is amended by revising the first sentence of paragraph (a) and revising paragraphs (b) and (c), by removing the table entitled ''Hearings Available Under This Part'' following paragraph (c), and by revising the fourth sentence of paragraph (d) to read as follows:

§ 124.1 Purpose and scope.

(a) This part contains EPA procedures for issuing, modifying, revoking and reissuing, or terminating all RCRA, UIC, PSD and NPDES ''permits'' (including ''sludge-only'' permits issued pursuant to § 122.1(b)(2) of this chapter. * * *

(b) Part 124 is organized into four subparts. Subpart A contains general procedural requirements applicable to all permit programs covered by these provisions. Subparts B through D supplement these general provisions with requirements that apply to only one or more of the programs. Subpart A describes the steps EPA will follow in receiving permit applications, preparing draft permits, issuing public notices, inviting public comment and holding public hearings on draft permits. Subpart A also covers assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of final permit decisions. Subpart B contains specific procedural requirements for RCRA permits. Subpart C contains definitions and specific procedural requirements for PSD permits. Subpart D contains specific procedural requirements for NPDES permits.

(c) Part 124 offers an opportunity for public hearings (see § 124.12).

(d) * * * This part also allows consolidated permits to be subject to a single public hearing under § 124.12.

* * *

* * * * *

§ 124.2 [Amended]

3. Section 124.2 is amended by:

a. Removing the following definitions in paragraph (a): ''Applicable standards and limitations'', ''Consultation with the Regional Administrator'', ''NPDES'', and ''Variance''; and

b. Removing paragraph (c).

§ 124.3 [Amended]

4. Section 124.3 is amended by adding the word ''and'' at the end of paragraph (g)(3), by removing ''; and'' and inserting in its place a period in paragraph (g)(4) and by removing paragraph (g)(5).

§ 124.4 [Amended]

5. Section 124.4 is amended by removing and reserving paragraph (d) and by removing the phrase ''or process a PSD permit under subpart F as provided in paragraph (d) of this section'' in paragraph (e).

6. Section 124.5 is amended by revising paragraph (d) to read as follows:

§ 124.5 Modification, revocation and reissuance, or termination of permits.

* * * * *

(d) *(Applicable to State programs, see §§ 123.25 (NPDES) of this chapter, 145.11 (UIC) of this chapter, and 271.14 (RCRA) of this chapter).* (1) If the Director tentatively decides to terminate: A permit under § 144.40 (UIC) of this chapter, a permit under §§ 122.64(a) (NPDES) of this chapter or 270.43 (RCRA) of this chapter (for EPA-issued NPDES permits, only at the request of the permittee), or a permit under § 122.64(b) (NPDES) of this chapter where the permittee objects, he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under § 124.6 of this chapter.

(2) For EPA-issued NPDES or RCRA permits, if the Director tentatively decides to terminate a permit under § 122.64(a) (NPDES) of this chapter, other than at the request of the permittee, or decides to conduct a hearing under section 3008 of RCRA in connection with the termination of a RCRA permit, he or she shall prepare a complaint under 40 CFR 22.13 and 22.44 of this chapter. Such termination of NPDES and RCRA permits shall be subject to the procedures of part 22 of this chapter.

(3) In the case of EPA-issued permits, a notice of intent to terminate or a complaint shall not be issued if the Regional Administrator and the permittee agree to termination in the course of transferring permit responsibility to an approved State under §§ 123.24(b)(1) (NPDES) of this chapter, 145.25(b)(1) (UIC) of this chapter, 271.8(b)(6) (RCRA) of this chapter, or 501.14(b)(1) (sludge) of this chapter. In addition, termination of an NPDES permit for cause pursuant to § 122.64 of this chapter may be accomplished by providing written notice to the permittee, unless the permittee objects.

* * * * *

7. Section 124.6 is amended by revising the third sentence of paragraph (e) to read as follows:

§ 124.6 Draft permits.

* * * * *

(e) * * * The Regional Administrator shall give notice of opportunity for a public hearing (§ 124.12), issue a final decision (§ 124.15) and respond to comments (§ 124.17). * * *

8. Section 124.10 is amended by removing the words '', subpart E or subpart F'' in paragraphs (a)(1)(iii) and (d)(2) introductory text, and by removing the second sentence in paragraph (d)(1)(vii).

§ 124.12 [Amended]

9. Section 124.12(e) is removed.

§ 124.14 [Amended]

10. Section 124.14(d) is removed and reserved.

11. Section 124.15 is amended by revising the third sentence of paragraph (a) and by revising paragraph (b)(2) to read as follows:

§ 124.15 Issuance and effective date of permit.

(a) * * * This notice shall include reference to the procedures for appealing a decision on a RCRA, UIC, PSD, or NPDES permit under § 124.19 of this part. * * *

(b) * * *

(2) Review is requested on the permit under § 124.19

* * * * *

12. Section 124.16 is amended by revising paragraph (a) to read as follows:

§ 124.16 Stays of contested permit conditions.

(a) *Stays.* (1) If a request for review of a RCRA, UIC, or NPDES permit under § 124.19 of this part is filed, the effect of the contested permit conditions shall be stayed and shall not be subject to judicial review pending final agency action. Uncontested permit conditions shall be stayed only until the date specified in paragraph (a)(2)(i) of this section. (No stay of a PSD permit is available under this section.) If the permit involves a new facility or new injection well, new source, new discharger or a recommencing discharger, the applicant shall be without a permit for the proposed new facility, injection well, source or discharger pending final agency action. See also § 124.60.

(2)(i) Uncontested conditions which are not severable from those contested shall be stayed together with the contested conditions. The Regional Administrator shall identify the stayed provisions of permits for existing facilities, injection wells, and sources. All other provisions of the permit for the existing facility, injection well, or source become fully effective and enforceable 30 days after the date of the notification required in paragraph (a)(2)(ii) of this section.

(ii) The Regional Administrator shall, as soon as possible after receiving notification from the EAB of the filing of a petition for review, notify the EAB, the applicant, and all other interested parties of the uncontested (and severable) conditions of the final permit that will become fully effective enforceable obligations of the permit as of the date specified in paragraph (a)(2)(i) of this section . For NPDES permits only, the notice shall comply with the requirements of § 124.60(b).

* * * * *

13. Section 124.19 is amended by revising the section heading, removing the first sentence of paragraph (a) introductory text and adding in its place 4 sentences, revising the first sentence of paragraph (b), revising paragraph (d), and revising the first sentence of paragraph (f)(1) introductory text to read as follows:

§ 124.19 Appeal of RCRA, UIC, NPDES, and PSD Permits.

(a) Within 30 days after a RCRA, UIC, NPDES, or PSD final permit decision (or a decision under 270.29 of this chapter to deny a permit for the active life of a RCRA hazardous waste management facility or unit) has been issued under § 124.15 of this part, any person who filed comments on that draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision. Persons affected by an NPDES general permit may not file a petition under this section or otherwise challenge the conditions of the general permit in further Agency proceedings. They may, instead, either challenge the general permit in court, or apply for an individual NPDES permit under § 122.21 as authorized in § 122.28 and then petition the Board for review as provided by this section. As provided in § 122.28(b)(3), any interested person may also petition the Director to require an individual NPDES permit for any discharger eligible for authorization to discharge under an NPDES general permit. * * *

* * * * *

(b) The Environmental Appeals Board may also decide on its own initiative to review any condition of any RCRA, UIC, NPDES, or PSD permit decision issued under this part for which review is available under paragraph (a) of this section. * * *

* * * * *

(d) The Regional Administrator, at any time prior to the rendering of a decision under paragraph (c) of this section to grant or deny review of a permit decision, may, upon notification to the Board and any interested parties, withdraw the permit and prepare a new draft permit under § 124.6 addressing the portions so withdrawn. The new draft permit shall proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this part. Any portions of the permit which are not withdrawn and which are not stayed under § 124.16(a) continue to apply.

* * * * *

(f)(1) For purposes of judicial review under the appropriate Act, final agency action occurs when a final RCRA, UIC, NPDES, or PSD permit decision is issued by EPA and agency review procedures under this section are exhausted. * * *

* * * * *

14. Section 124.21 is revised to read as follows:

§ 124.21 Effective date of part 124.

(a) Part 124 of this chapter became effective for all permits except for RCRA permits on July 18, 1980. Part 124 of this chapter became effective for RCRA permits on November 19, 1980.

(b) EPA eliminated the previous requirement for NPDES permits to undergo an evidentiary hearing after permit issuance, and modified the procedures for termination of NPDES and RCRA permits, on June 14, 2000.

(c)(1) For any NPDES permit decision for which a request for evidentiary hearing was granted on or prior to June 13, 2000, the hearing and any subsequent proceedings (including any appeal to the Environmental Appeals Board) shall proceed pursuant to the procedures of this part as in effect on June 13, 2000.

(2) For any NPDES permit decision for which a request for evidentiary hearing was denied on or prior to June 13, 2000, but for which the Board has not yet completed proceedings under § 124.91, the appeal, and any hearing or other proceedings on remand if the Board so orders, shall proceed pursuant to the procedures of this part as in effect on June 13, 2000.

(3) For any NPDES permit decision for which a request for evidentiary hearing was filed on or prior to June 13, 2000 but was neither granted nor denied prior to that date, the Regional Administrator shall, no later than July 14, 2000, notify the requester that the request for evidentiary hearing is being returned without prejudice. Notwithstanding the time limit in § 124.19(a), the requester may file an appeal with the Board, in accordance with the other requirements of § 124.19(a), no later than August 13, 2000.

(4) A party to a proceeding otherwise subject to paragraph (c) (1) or (2) of this

section may, no later than June 14, 2000, request that the evidentiary hearing process be suspended. The Regional Administrator shall inquire of all other parties whether they desire the evidentiary hearing to continue. If no party desires the hearing to continue, the Regional Administrator shall return the request for evidentiary hearing in the manner specified in paragraph (c)(3) of this section.

(d) For any proceeding to terminate an NPDES or RCRA permit commenced on or prior to June 13, 2000, the Regional Administrator shall follow the procedures of § 124.5(d) as in effect on June 13, 2000, and any formal hearing shall follow the procedures of subpart E of this part as in effect on the same date.

§ 124.52 [Amended]

15. Section 124.52 is amended by removing the words ''or § 124.118'' in paragraphs (b) and (c).

§ 124.55 [Amended]

16. Section 124.55 is amended by revising the reference ''§ 124.53(d) (1) and (2)'' in paragraph (a)(2) to read ''§ 124.53(e)'' and by revising the reference ''§ 124.53(d)'' in paragraph (d) to read ''§ 124.53(e)''.

17. Section 124.56 is amended by revising (b)(1) to read as follows:

§ 124.56 Fact sheets (applicable to State programs, see § 123.25 (NPDES).).

* * * * *

(b)(1) When the draft permit contains any of the following conditions, an explanation of the reasons that such conditions are applicable:

(i) Limitations to control toxic pollutants under § 122.44(e) of this chapter;

(ii) Limitations on internal waste streams under § 122.45(i) of this chapter;

(iii) Limitations on indicator pollutants under § 125.3(g) of this chapter;

(iv) Limitations set on a case-by-case basis under § 125.3 (c)(2) or (c)(3) of this chapter, or pursuant to Section 405(d)(4) of the CWA;

(v) Limitations to meet the criteria for permit issuance under § 122.4(i) of this chapter, or

(vi) Waivers from monitoring requirements granted under § 122.44(a) of this chapter.

* * * * *

§ 124.57 [Amended]

18. Section 124.57 is amended by removing and reserving paragraph (b) and by removing paragraph (c).

19. Section 124.60 is revised to read as follows:

§ 124.60 Issuance and effective date and stays of NPDES permits.

In addition to the requirements of §§ 124.15, 124.16, and 124.19, the following provisions apply to NPDES permits:

(a) Notwithstanding the provisions of § 124.16(a)(1), if, for any offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig which has never received a final effective permit to discharge at a ''site,'' but which is not a ''new discharger'' or a ''new source,'' the Regional Administrator finds that compliance with certain permit conditions may be necessary to avoid irreparable environmental harm during the administrative review, he or she may specify in the statement of basis or fact sheet that those conditions, even if contested, shall remain enforceable obligations of the discharger during administrative review.

(b)(1) As provided in § 124.16(a), if an appeal of an initial permit decision is filed under § 124.19, the force and effect of the contested conditions of the final permit shall be stayed until final agency action under § 124.19(f). The Regional Administrator shall notify, in accordance with § 124.16(a)(2)(ii), the discharger and all interested parties of the uncontested conditions of the final permit that are enforceable obligations of the discharger.

(2) When effluent limitations are contested, but the underlying control technology is not, the notice shall identify the installation of the technology in accordance with the permit compliance schedules (if uncontested) as an uncontested, enforceable obligation of the permit.

(3) When a combination of technologies is contested, but a portion of the combination is not contested, that portion shall be identified as uncontested if compatible with the combination of technologies proposed by the requester.

(4) Uncontested conditions, if inseverable from a contested condition, shall be considered contested.

(5) Uncontested conditions shall become enforceable 30 days after the date of notice under paragraph (b)(1) of this section.

(6) Uncontested conditions shall include:

(i) Preliminary design and engineering studies or other requirements necessary to achieve the final permit conditions which do not entail substantial expenditures;

(ii) Permit conditions which will have to be met regardless of the outcome of the appeal under § 124.19;

(iii) When the discharger proposed a less stringent level of treatment than that contained in the final permit, any permit conditions appropriate to meet the levels proposed by the discharger, if the measures required to attain that less stringent level of treatment are consistent with the measures required to attain the limits proposed by any other party; and

(iv) Construction activities, such as segregation of waste streams or installation of equipment, which would partially meet the final permit conditions and could also be used to achieve the discharger's proposed alternative conditions.

(c) In addition to the requirements of § 124.16(c)(2), when an appeal is filed under § 124.19 on an application for a renewal of an existing permit and upon written request from the applicant, the Regional Administrator may delete requirements from the existing permit which unnecessarily duplicate uncontested provisions of the new permit.

20. Section 124.64 is amended by revising paragraph (b), paragraph (c) introductory text, and paragraph (d) to read as follows:

§ 124.64 Appeals of variances.

* * * * *

(b) Variance decisions made by EPA may be appealed under the provisions of § 124.19.

(c) *Stays for section 301(g) variances.* If an appeal is filed under § 124.19 of a variance requested under CWA section 301(g), any otherwise applicable standards and limitations under CWA section 301 shall not be stayed unless:

* * * * *

(d) Stays for variances other than section 301(g) variances are governed by §§ 124.16 and 124.60.

§ 124.66 [Amended]

21. Section 124.66(a) is amended by removing the words ''Except as provided in § 124.65,'' from the first sentence, and by revising the words ''evidentiary or panel hearing under subpart E or F.'' in the fourth sentence to read ''appeal under § 124.19.''

Subpart E to Part 124 [Removed]

22. Subpart E is removed.

Subpart F to Part 124 [Removed]

23. Subpart F is removed.

Appendix A to Part 124 [Removed]

24. Appendix A to Part 124 is removed.

PART 125—CRITERIA AND STANDARDS FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for part 125 is revised to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*, unless otherwise noted.

2. Section 125.32(a) is revised to read as follows:

§ 125.32 Method of application.

(a) A written request for a variance under this subpart D shall be submitted in duplicate to the Director in accordance with §§ 122.21(m)(1) and 124.3 of this chapter.

* * * * *

§ 125.72 [Amended]

3. Section 125.72(c) is amended by removing the words ''and § 124.73(c)(1)''.

Subpart K to Part 125 [Removed and Reserved]

4. Subpart K is removed and reserved.

PART 144—UNDERGROUND INJECTION CONTROL PROGRAM

1. The authority citation for part 144 continues to read as follows:

Authority: Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

§ 144.52 [Amended]

2. Section 144.52(b)(2) is amended by removing from the second sentence the parenthetical phrase ''(except as provided in § 124.86(c) for UIC permits being processed under subpart E or F of part 124)''.

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

1. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

§ 270.32 [Amended]

2. Section 270.32(c) is amended by removing from the second sentence the parenthetical phrase ''(except as provided in § 124.86(c) for RCRA permits being processed under subpart E or F of part 124)''.

§ 270.43 [Amended]

3. Section 270.43(b) is amended by revising the words ''part 124'' to read ''part 124 or part 22, as appropriate''.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

1. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, and 6926.

§ 271.19 [Amended]

2. Section 271.19(e) introductory text is amended by removing the words ''in accordance with the procedures of part 124, subpart E,''.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50637A; FRL–6555–8]

RIN 2070–AB27

Revocation of Significant New Use Rules for Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking significant new use rules (SNURs) for 2 substances promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) based on new data. Based on the new data the Agency no longer finds that activities not described in the corresponding TSCA section 5(e) consent order or premanufacture notice (PMN) for these chemical substances may result in significant changes in human or environmental exposure.

DATES: This rule is effective June 14, 2000.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: James Alwood, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–1857; e-mail address: alwood.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substances contained in this rule. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Chemical manufacturers	325	Manufacturers, importers, processors, and users of chemicals
Petroleum and coal product industries	324	Manufacturers, importers, processors, and users of chemicals

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in 40 CFR 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical 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 related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**-Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–50637A. 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 for the Center is (202) 260–7099.

II. Background

A. What Action is the Agency Taking?

In the **Federal Register** referenced for each substance, OPPTS–50591C, July 22, 1992 (57 FR 32441) and OPPTS–50615, May 27, 1994 (59 FR 27474) establishing significant new uses for the substances, EPA issued a SNUR. The Agency proposed the revocation of these SNURs in the **Federal Register** of November 19, 1999 (64 FR 63275) (FRL–6385–8). The comment period closed on December 20, 1999. The Agency received no comments concerning the proposed revocations. Therefore, EPA is revoking these rules.

B. What is the Agency's Authority for Taking this Action?

During review of the PMNs submitted for the chemical substances that are the subject of this revocation, EPA concluded that regulation was warranted based on available information that indicated activities not described in the TSCA section 5(e) consent order or the PMN might result in significant changes in human or environmental exposure as described in section 5(a)(2) of TSCA. Based on these findings, SNURs were promulgated.

EPA has revoked the TSCA section 5(e) consent order that is the basis for one of the SNURs and no longer finds that activities other than those described in the TSCA section 5(e) consent order or the PMN may result in significant changes in human or environmental exposure. The revocation of SNUR provisions for these substances is consistent with the findings set forth in the preamble to the proposed revocation of each individual SNUR.

Therefore, EPA is revoking the SNUR provisions for these chemical substances. When this revocation is effective, EPA will no longer require notice of intent to manufacture, import, or process these substances. In addition, export notification under section 12(b) of TSCA will no longer be required.

III. Regulatory Assessment Requirements

This rule revokes or eliminates an existing regulatory requirement and does not contain any new or amended requirements. As such, the Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993).

Since this rule does not impose any requirements, it does not contain any information collections subject to approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or require any other action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

Nor does it require any prior consultation as specified by Executive Order 12875, entitled ''Enhancing the Intergovernmental Partnership'' (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994) or require OMB review in accordance with Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997).

On August 4, 1999, President Clinton issued a new executive order on Federalism, Executive Order 13132 (64 FR 43255, August 10, 1999), which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 (52 FR 41685, October 30, 1987) on Federalism still applies. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612.

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has determined that SNUR revocations, which eliminate requirements without imposing any new ones, have no adverse economic impacts. The Agency's generic certification for SNUR revocations appears on June 2, 1997 (62 FR 29684) (FRL–5597–1) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

IV. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 2, 2000.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§§ 721.3180, 721.8654 [Removed]

2. By removing §§ 721.3180 and 721.8654.

[FR Doc. 00–12137 Filed 5–12–00; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 178

[Docket No. RSPA–97–2718 (HM–225A)]

RIN 2137–AD07

Hazardous Materials Safety: Technology Sharing Meeting

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of public meeting.

SUMMARY: RSPA is hosting a meeting to promote the exchange of information concerning emergency shutdown equipment on cargo tank motor vehicles used to transport liquefied compressed gases.

DATES: The meeting will be held on Tuesday, June 27, 2000, from 10:00 am to 5:00 pm (registration from 8:30 am to 10:00 am), and Wednesday, June 28, 2000, from 8:30 am to 12:30 pm.

ADDRESSES: The meeting will be held in the Michigan and Minnesota Rooms of the Federal Aviation Administration Building, 2300 East Devon Avenue, Des Plaines, Illinois. For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact Eloy Martinez at the address or phone number listed under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

FOR FURTHER INFORMATION CONTACT: Herbert Gould, Volpe Center, Research and Special Programs Administration, 617–494–2134; or Eloy Martinez, Volpe Center, Research and Special Programs Administration, 617–494–2599.

SUPPLEMENTARY INFORMATION:

I. Background

On May 24, 1999, the Research and Special Programs Administration (RSPA; ''we'') published a final rule under Docket No. RSPA–97–2718 (HM–225A) (64 FR 28030). The final rule revised regulations applicable to the transportation and unloading of liquefied compressed gases, including liquefied petroleum gases, anhydrous ammonia, and chlorine. The revisions included new inspection, maintenance, and testing requirements for cargo tank discharge systems and revised attendance requirements applicable to liquefied petroleum gas and anhydrous ammonia. The final rule was developed through a negotiated rulemaking. In addition to the Department of Transportation, the negotiated rulemaking committee consisted of persons representing businesses that transport and deliver liquefied petroleum gases, anhydrous ammonia and other liquefied compressed gases; manufacturers and operators of cargo tanks and vehicle components; and state and local public safety and emergency response agencies.

Among other requirements, the final rule revised requirements for cargo tank emergency discharge control equipment to provide a clear performance standard for passive emergency discharge control equipment that shuts down unloading operations without human intervention. The revised requirements also provided for a remote capability for certain cargo tanks to enable a person attending the unloading operation to shut off the flow of product when unloading duties require the person to be away from the motor vehicle during delivery.

The final rule allowed two years for development and testing of emergency discharge control technology. After July 1, 2001, newly manufactured MC 331 cargo tank motor vehicles must be equipped with emergency discharge control equipment that conforms to the performance standards. MC 330, MC 331, and certain nonspecification cargo tank motor vehicles already in service must be retrofitted over a five-year period beginning after July 1, 2001, on a schedule that coincides with the cargo tank's scheduled pressure test in accordance with 49 CFR part 180.407(c).

II. Public Meeting

In developing the HM–225A final rule, the negotiated rulemaking committee anticipated that periodic progress reviews would be needed during the two-year development and testing cycle for emergency discharge control technology. Such reviews help promote communication between industry and government and function as a catalyst for critical development and testing needs that may occur. Committee members planned to work in partnership to assure widespread dissemination of information related to development and testing of emergency discharge control technology.

Accordingly, we are hosting a public meeting to foster the exchange of information among interested parties concerned with the safe transportation of liquefied compressed gases in cargo tank motor vehicles. The meeting will focus specifically on emergency discharge control system technology, including both passive and off-truck remote shutdown equipment.

The meeting will be held in the Chicago, Illinois, area on June 27 and 28, 2000. To pre-register, please contact Eloy Martinez, telephone 617–494–2599, fax 617–494–3616, e-mail *martinez@volpe.dot.gov.*

A simple, flexible agenda is being prepared by industry representatives who participated in the development of the final rule. Any demonstrations of discharge control equipment or systems should be planned for the morning of June 27. Prospective demonstrators should contact Eloy Martinez as soon as possible.

This is an informal meeting to promote the free exchange of information concerning emergency discharge control systems on cargo tank motor vehicles, including recent technology developments, test results, operating experience, and the like. There will be no transcript of the meeting; however, we will prepare minutes of the meeting and written questions and answers developed in response to issues raised. This information will be made available on the HazMat Safety Website (http://hazmat.dot.gov).

Issued in Washington, DC on May 9, 2000.

Robert A. McGuire,

Acting Associate Administrator for Hazardous Materials Safety.

[FR Doc. 00–12073 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–00–7144]

RIN 2127–AG55

Federal Motor Vehicle Safety Standards; FMVSS 101—Technical Correction—Speedometer Display

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This technical amendment corrects an error in Table 2 of Federal Motor Vehicle Safety Standard 101 as a result of a final rule published September 24, 1998. In that notice the agency adopted language for the speedometer display as ''MPH and/or km/h''. The effect of this language is to allow speedometers labeled in miles per hour (MPH) alone, kilometers per hour (km/h) alone, or both miles and kilometers per hour. The intent was to require speedometer display in miles per hour, and to allow the addition of kilometers per hour at the option of the manufacturer. This amendment changes the language of Table 2 to ''MPH, or MPH and km/h''.

DATES: This final rule is effective February 15, 2001. Optional early compliance with the change made in this final rule is permitted beginning May 15, 2000.

ADDRESSES: Petitions for reconsideration of this final rule should refer to the docket number cited in the heading of this final rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St, SW, Washington, DC 20590. It is requested, but not required, that ten copies be submitted.

FOR FURTHER INFORMATION CONTACT: Gayle Dalrymple, NPS–23, Office of Safety Performance Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Ms. Dalrymple can be

reached by phone at (202) 366–5559 or by facsimile at (202) 366–4329.

SUPPLEMENTARY INFORMATION: On May 27, 1998, NHTSA published a final rule amending selected Federal Motor Vehicle Safety Standards (FMVSS) by converting English measurements specified in those standards to metric measurements. On September 24, 1998, the agency published a technical amendment and response to petition for reconsideration stemming from the May notice. In the September notice, the agency responded to a comment from Ford Motor Company stating that, in Ford's view, the label ''MPH km/h'' in Column 3 of Table 2 under ''Speedometer'' in FMVSS 101 required both English and metric units to be displayed on the speedometer. The intent of the standard is to require speedometer display in miles per hour (MPH), and to allow the addition of kilometers per hour (km/h) to MPH at the option of the manufacturer. Ford recommended that ''MPH km/h'' be changed to ''MPH and/or km/h''. The agency adopted this text for the Speedometer display in Table 2 of FMVSS 101 with the September 24, 1998, notice. We have become aware that the new language, ''MPH and/or km/h'', could be interpreted to mean that speedometers labeled in kilometers per hour alone are acceptable. It was obviously not our intent to allow speedometers graduated in km/h only, which would be useless for drivers in the U.S., where speed limits are communicated in MPH alone. We do not believe that Ford intended such an outcome either. Therefore, today's technical amendment changes the language of the Speedometer display required by FMVSS 101 to ''MPH, or MPH and km/h''. This provision is consistent with the requirements of FMVSS 101 which were in effect from 1982 to 1998.

Regulatory Impacts

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has examined the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be not ''significant'' under DOT's regulatory policies and procedures.

In converting the Federal Motor Vehicle Safety Standards from the English to the metric measurement system, the agency has made conversions in a way that does not substantively change the performance requirements of the FMVSSs. In this final rule, NHTSA makes corrections to an error that appeared in the September 24,1998, final rule. NHTSA does not believe motor vehicle manufacturers will incur any additional costs as a result of the final rule. The impacts of this action are so minor that a full regulatory evaluation has not been prepared.

B. Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that this final rule makes no substantive changes to any Federal Motor Vehicle Safety Standards, and is limited to correcting a typographical error in the September 24, 1998, final rule that amended the Federal Motor Vehicle Safety Standards.

C. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of this rulemaking action and determined that as a final rule, it would not have a significant impact on the quality of the human environment.

D. Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

E. Civil Justice Reform

This rule will not have a retroactive effect. Under Section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this final rule does not have a $100 million effect, no Unfunded Mandates assessment has been prepared.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, the Federal Motor Vehicle Safety Standards (49 CFR Part 571), are amended as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.101 is amended by revising S5 to read as follows:

§ 571.101 Standard No. 101, Controls and displays.

* * * * *

S5 Requirements. Each passenger car, multipurpose passenger vehicle, truck and bus manufactured with any control listed in S5.1 or in column 1 of Table 1, and each passenger car, multipurpose passenger vehicle and truck or bus less than 4,536 kg. GVWR with any display listed in S5.1 or in column 1 of Table 2, shall meet the requirements of this standard for the location, identification, and illumination of such control or display.

* * * * *

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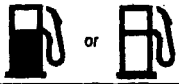
3. Section 571.101 is amended by revising Table 2 following S6. to read as follows:

Table 2
Identification and Illustration of Displays

Column 1	Column 2	Column 3	Column 4	Column 5
Display	*Telltale Color*	*Identifying Words or Abbreviation*	*Identifying Symbol*	*Illumination*
Turn Signal Telltale	Green	Also see FMVSS 108	1 6	—
Hazard Warning Telltale		Also see FMVSS 108	2 6	—
Seat Belt Telltale	— 7	Fasten Belts or Fasten Seat Belts Also see FMVSS 208		—
Fuel Level Telltale		Fuel		—
Gauge	—			Yes
Oil Pressure Telltale		Oil		—
Gauge	—			Yes
Coolant Temperature Telltale		Temp		—
Gauge	—			Yes
Electrical Charge Telltale		Volts, Charge or Amp		—
Gauge	—			Yes
Highbeam Telltale	Blue or Green 4	Also see FMVSS 108	6	—
Brake System 8	Red 4	Brake, Also see FMVSS 105 and 135	—	—
Malfunction in Anti-Lock or	Yellow	Antilock, Anti-lock, or ABS. Also see FMVSS 105 and 135	—	—
Variable Brake Proportioning System 8	Yellow	Brake Proportioning, Also see FMVSS 135	—	—
Parking Brake Applied 8	Red 4	Park or Parking Brake, Also see FMVSS 105 and 135	—	—
Malfunction in Anti-Lock	Yellow	ABS, or Antilock; Trailer ABS, or Trailer Antilock, Also see FMVSS 121	—	—
Brake Air Pressure Position Telltale	—	Brake Air, Also see FMVSS 121	—	—
Speedometer	—	MPH, or MPH and km/h 5	—	Yes
Odometer	—	— 3	—	—
Automatic Gear Position	—	Also see FMVSS 102	—	Yes

1 The pair of arrows is a single symbol. When the indicator for left and right turn operate independently, however, the two arrows will be considered separate symbols and may be spaced accordingly.

2 Not required when arrows of turn signal tell-tales that otherwise operate independently flash simultaneously as hazard warning tell-tale.

3 If the odometer indicates kilometers, then "KILOMETERS" or "km" shall appear, otherwise, no identification is required.

4 Red can be red-orange. Blue can be blue-green.

5 If the speedometer is graduated in miles per hour and in kilometers per hour, the identifying words or abbreviations shall be "MPH and km/h" in any combination of upper or lower case letters.

6 Framed areas may be filled.

7 The color of the telltale required by S4.5.3.3 of Standard No 208 is red; the color of the telltale required by S7.3 of Standard No. 208 is not specified.

8 In the case where a single telltale indicates more than one brake system condition, the word for Brake System shall be used.

BILLING CODE 4910–59–C

Issued on: May 2, 2000.

Stephen R. Kratzke,

Associate Administrator for Performance Safety Standards.

[FR Doc. 00–11493 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

Migratory Bird Permits; Notice of Amendment of Falconry, Raptor Propagation, and Certain Scientific Collecting Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of permit amendment.

SUMMARY: Just prior to removing the American peregrine falcon from the U.S. List of Endangered and Threatened Wildlife, we amended all Migratory Bird Treaty Act (MBTA) permits that authorized the take of wild raptors for falconry and raptor propagation purposes and scientific collecting permits that were not species-specific. The permit amendment continued the prohibition on removing peregrines from the wild until we can issue biological criteria to manage such take. We were unable to locate several permit holders. Therefore, this document serves as official notice to those holders of Federal falconry or raptor propagation permits, or scientific collecting permits that are not species-specific, who did not receive our amendment letter. This notice amends your permit.

EFFECTIVE DATE: May 15, 2000.

ADDRESSES: Comments or questions concerning this notice may be addressed to Jon Andrew, Chief, Migratory Bird Management Office, 4401 North Fairfax Drive, ARLSQ 634, Arlington, Virginia 22203 (703–358–1714). Questions or information concerning individual permits should be addressed to the Regional Migratory Bird Permit Office responsible for your State, as follows: (1) *Region 1* (CA, HI, ID, NV, OR, WA, Pacific Island Territories) 911 N.E. 11th Avenue, Portland, OR 97232–4181 (503/872–2715); (2) *Region 2* (AZ, NM, OK, TX) P.O. Box 709, Albuquerque, NM 87103 (505/248–7882); (3) *Region 3* (IL, IN, IA, MI, MN, MO, OH, WI) One Federal Drive, Ft. Snelling, MN 55111–0045 ((612) 713–5436); (4) *Region 4* (AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, PR, VI) P.O. Box 49208, Atlanta, GA 30359 (404/679–7070); (5) *Region 5* (CT, DE, D.C., ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV) P.O. Box 779, Hadley, MA 01035–0779 (413/253–8641); (6) *Region 6* (CO, KS, MT, NE, ND, SD, UT, WY) P.O. Box 25486, DFC(60130), Denver, CO 80225–0486 (303/236–8171); (7) *Region 7* (AK) 1011 East Tudor Road, Anchorage, AK 99503 (907/786–3693).

FOR FURTHER INFORMATION CONTACT: Susan Lawrence, National Migratory Bird Permit Coordinator, Migratory Bird Management Office, at the Arlington, Virginia address above.

Background

On August 25, 1999, we published a final rule in the **Federal Register** removing the American peregrine falcon (*Falco peregrinus anatum*) from the U.S. Endangered Species List (64 FR 46542). The rule also removed the ''similarity of appearance'' provision for all free-flying peregrine falcons (*F. peregrinus*) in the conterminous States. The arctic peregrine (*F. p. tundrius*) was removed from the list in 1994. As a result of these rules, native peregrine falcons no longer receive the protection of the U.S. Endangered Species Act (ESA). Conservation of native peregrine falcons now falls primarily to the MBTA and State regulations.

The MBTA regulations in 50 CFR part 21 allow for the issuance of permits to take migratory birds for certain purposes. Prior to the delisting, American peregrine falcons could not be taken from the wild under migratory bird permits because of their endangered status under the ESA, and no free-flying peregrines of any subspecies in the 48 contiguous States could be taken from the wild due to the similarity of appearance provision under the ESA. Other than the general prohibition on taking ESA-listed species, most MBTA falconry and raptor propagation permits and some scientific collecting permits were not species-specific.

In July and August of 1999, in anticipation of the delisting, we sent a letter to all falconry and raptor propagation permit holders and all non-species-specific scientific collecting permit holders amending their permits to prohibit take of wild peregrines once the ESA restrictions no longer apply. Because take of Peales (*Falco peregrinus pealei*) and arctic peregrine subspecies by residents of Alaska was legal, and because Alaska currently prohibits take of wild birds by nonresidents, permits for Alaska residents were amended to prohibit take of only the American peregrine falcon subspecies (*F. p. anatum*) in Alaska and all peregrine falcons (*F. peregrinus*) in the conterminous United States. The amendments do not affect activities with captive-bred peregrines.

The general permit regulations in 50 CFR 13.23(b) authorize us to amend a permit if we determine that it is necessary to do so. The removal of ESA protection for the species and the need to complete biological criteria for take of peregrines constitute our finding of necessity for modification of these permits. These amendments are necessary to protect this newly recovered species from potential unregulated take while we reach agreement with other government entities on managing take, both of nestlings born in the United States as well as migrants, many of which originate outside the United States.

We were unable to locate several permit holders through the U.S. mail. Therefore, this document serves as notice to any holder of a Federal falconry permit, Federal raptor propagation permit, or Federal scientific collecting permit that is not species-specific for raptors, who did not receive our amendment letter. In accordance with 50 CFR 13.23(b), this notice amends your permit as follows:

For permittees residing in the conterminous United States:

You may not take a peregrine falcon (*Falco peregrinus*) from the wild in the United States.

For Alaska residents:

You may not take an American peregrine falcon (*Falco peregrinus anatum*) from the wild anywhere in the United States. You may not take any peregrine falcon (*Falco peregrinus*) from the wild in the conterminous United States.

Please attach this notice to your current permit. We may amend your permit again when management plans for peregrines are complete.

We attempted to notify all permittees individually of this amendment by letter sent to the address listed in existing permits. Permittees we were unable to locate by the address listed in their permits are identified below. However, this amendment notice applies to any holder of a Federal falconry permit, Federal raptor propagation permit, or Federal scientific collecting permit that is not species-specific for raptors, who did not receive our amendment letter.

Region 1

Timothy Jason Walker, Las Vegas, NV (PRT# 005114)

Region 2

Ken Diehl, Boerne, TX (PRT# 003091)
John Manley Griffith, Tyler, TX (PRT# 834718)

Calvin E. Knock, Prescott, AZ (PRT# 679316)
Kimberly Lykins, Abilene, TX (PRT# 822616)
Kathryn McCallum, Richmond, TX (PRT# 834725)
Pamala J. Nichols, Dallas, TX (PRT# 744189)
Amenda D. Riddle, Seguin, TX (PRT# 797580)
Frank Sickles, Las Cruces, NM (PRT# 712647)
Rockwell Trent Summers, Glenrose, TX (PRT# 837019)
David R. Williamson, Ft. Worth, TX (PRT# 679707)
John A. Yezeguielian, Pryor, OK (PRT# 704425)

Region 4

John Thomas Williams, Clinton, MS (PRT# 784042)
Dennis Lee Hinojos, Alpharetta, GA (PRT3# 752597)

Region 5

Santos Rodriguez, Columbia, MD (PRT# 001157)
Paul R. Getzel, Baltimore, MD (PRT# 801992)

Region 6

Jonathan Albrand, Salt Lake City, UT (PRT# 001157)
Steven Buckner, Lake Point, UT (PRT# 708924)
Brent Grasmick, Torrington, WY (PRT# 005714)
Pat Hnilicka, Cheyenne, WY (PRT# 794982)
Forrest Moore, Casper, WY (PRT# 698983)
Kristine Newbold, Lake Point, UT (PRT# 813936)
Kent Reisdorph, Aberdeen, SD (PRT# 770103)
Rip Ripley, Salt Lake City, UT (PRT# 764383)
Ronald Rollins, Roy, UT (PRT# 792790; 802055)
Weston Winegar, Salt Lake City, UT (PRT# 785325)

If you are among the permittees named above, or if you are a falconry, raptor propagation, or nonspecific scientific collecting permit holder not named above but you did not receive our amendment letter, you should contact your regional migratory bird permit office (see **ADDRESSES** section) within 10 days of the date of this notice to clarify your address. Service regulations require that permittees notify the permit issuing office within 10 calendar days of an address change (50 CFR 13.23(c)).

If you have concerns about the amendment that you wish to address through the formal administrative process, please refer to the review procedures in 50 CFR 13.29, a subsection of the general permit regulations, which you received with your permit application.

Authority: The authority for this action is the Migratory Bird Treaty Act (16 U.S.C. 703–711).

Dated: May 1, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–12091 Filed 5–12–00; 8:45 am]

BILLING CODE 4310–55–U

Proposed Rules

Federal Register
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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

Agricultural Marketing Service

7 CFR Part 958

[Docket No. FV00–958–1 PR]

Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would decrease the assessment rate established for the Idaho-Eastern Oregon Onion Committee (Committee) under Marketing Order No. 958 for the 2000–2001 and subsequent fiscal periods from $0.09 to $0.08 per hundredweight of onions handled. The Committee is responsible for local administration of the marketing order which regulates the handling of onions grown in designated counties in Idaho, and Malheur County, Oregon. Authorization to assess Idaho-Eastern Oregon onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by June 14, 2000.

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

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 385, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 130 and Marketing Order No. 958, both as amended (7 CFR part 958), regulating the handling of onions grown in certain designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, Idaho-Eastern Oregon onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate proposed herein would be applicable to all assessable onions beginning on July 1, 2000, and continue until amended, suspended, or terminated. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule would decrease the assessment rate established for the Committee for the 2000–2001 and subsequent fiscal periods from $0.09 per hundredweight to $0.08 per hundredweight of onions handled.

The order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of six producer members, four handler members and one public member, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The budget and assessment rate were discussed at a public meeting and all directly affected persons had an opportunity to participate and provide input.

For the 1998–99 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $0.09 per hundredweight that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on April 6, 2000, and unanimously recommended 2000–2001 expenditures of $1,047,637 and an assessment rate of $0.08 per hundredweight of onions handled during the 2000–2001 and subsequent fiscal periods. The Committee estimated that the 2000–2001 onion crop will approximate 9,600,000 hundredweight of onions. In comparison, the 1999–

2000 fiscal period budget was established at $1,133,785 on an estimated assessable onion harvest of 9,200,000 hundredweight of onions. The Committee recommended the decreased assessment rate to help offset the negative effects of the currently depressed onion market.

The Committee anticipates that assessment income during the 2000–2001 fiscal period will be approximately $768,000, which is $60,000 less than the $828,000 assessment income estimated for its 1999–2000 budget. The Committee now projects a total income of approximately $944,372 and expenditures of about $1,025,098 by June 30, 2000. At the time the 1999–2000 fiscal period budget was recommended, the Committee had estimated that it would draw up to $260,785 from its operating reserve. However, since current assessment income is greater than anticipated and expenditures are less than budgeted, the operating reserve may actually be depleted by about $80,726. Thus, the Committee has estimated that its operating reserve will be approximately $859,793 on July 1, 2000, and, if it requires an estimated $234,637 from its monetary reserve as budgeted during the 2000–2001 fiscal period, approximately $625,156 on July 1, 2001. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the program with an adequate operating reserve.

The major expenditures recommended by the Committee for the 2000–2001 fiscal period include $235,105 for marketing order administration, which includes salary, office, travel and Committee expenses, $58,532 for production research, $675,000 for market promotion including paid advertising, $54,000 for export market development, and $25,000 for marketing order contingencies. Budgeted expenses for these items in the 1999–2000 fiscal period were $224,685, $69,100, $750,000, $60,000, and $30,000, respectively.

The Committee has based its recommended assessment rate decrease on the 2000–2001 crop estimate and fiscal period expenditures estimate, the current condition of the onion market, and the current and projected size of its monetary reserve. The decreased assessment rate should provide $768,000 in income, which, when combined with interest income of $45,000 and operating reserve funds of $234,637, would be adequate to cover budgeted expenses. As noted above, the Committee estimates it will have approximately $859,793 in its operating reserve at the end of the 1999–2000 fiscal period, which should be adequate to cover any income shortages. This amount is within the maximum permitted by the order of approximately one fiscal period's expenditures (§ 958.44).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department and are locally published. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact this rule would have on small entities. Accordingly, the AMS has prepared this initial regulatory flexibility analysis.

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

There are approximately 34 handlers of Idaho-Eastern Oregon onions who are subject to regulation under the order and approximately 270 onion producers in the regulated production area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of Idaho-Eastern Oregon onion handlers and producers may be classified as small entities.

This rule would decrease the assessment rate established for the Committee and collected from handlers for the 2000–2001 and subsequent fiscal periods from $0.09 per hundredweight to $0.08 per hundredweight of onions handled. Both the $0.08 assessment rate and the 2000–2001 budget of $1,047,637 were unanimously recommended by the Committee at its April 6, 2000, meeting. The proposed assessment rate is $0.01 lower than the rate currently in effect. The Committee recommended a decreased assessment rate to help offset the negative effects of the currently depressed onion market. The anticipated crop of 9,600,000 hundredweight is approximately 400,000 hundredweight larger than the crop estimate used to establish the 1999–2000 budget. The $0.08 rate should provide $768,000 in assessment income, which, when combined with interest income of $45,000 and $234,637 from the operating reserve, would be adequate to meet the 2000–2001 fiscal period's budgeted expenses.

The Committee reviewed and unanimously recommended 2000–2001 expenditures of $1,047,637 which include increases in administrative expenses, salaries, and committee expenses, and decreases in production research, market promotion, export market development, and contingency fund expenses. Prior to recommending this budget, the Committee considered information from various sources, including the Idaho-Eastern Oregon Onion Executive, Research, Promotion and Export Market Development Committees. Alternative expenditure levels were discussed and rejected by these subcommittees, and ultimately by the full Committee, based upon the relative value of various research and promotion projects to the Idaho-Eastern Oregon onion industry.

The major expenditures recommended by the Committee for the 2000–2001 fiscal period include $235,105 for marketing order administration, which includes salary, office, travel and Committee expenses, $58,532 for production research, $675,000 for market promotion including paid advertising, $54,000 for export market development, and $25,000 for marketing order contingencies. Budgeted expenses for these items in the 1999–2000 fiscal period were $224,685, $69,100, $750,000, $60,000, and $30,000, respectively.

A review of historical information and preliminary information pertaining to the upcoming season indicates that the F.O.B. price for the 2000–2001 onion season could average $5.50 per

hundredweight of onions. Therefore, the estimated assessment revenue for the 2000–2001 fiscal period ($768,000) as a percentage of the projected total F.O.B. revenue ($52,800,000) would be 0.0145 percent. This figure indicates that the $0.08 assessment rate recommended by the Committee would have a relatively insignificant impact on the Idaho-Eastern Oregon onion industry.

This action would decrease the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the Idaho-Eastern Oregon onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the April 6, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons the opportunity to respond to this request for information and comments. Thirty days is deemed appropriate because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 2000–2001 fiscal period begins on July 1, 2000, and the order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (3) this action decreases the assessment rate for assessable onions beginning with the 2000–2001 fiscal period; and (4) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 958

Onions, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 958 is proposed to be amended as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR part 958 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 958.240 is revised to read as follows:

§ 958.240 Assessment rate.

On and after July 1, 2000, an assessment rate of $0.08 per hundredweight is established for Idaho-Eastern Oregon onions.

Dated: May 9, 2000.

Eric M. Forman,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–12153 Filed 5–12–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1220

[No. LS–00–04]

Soybean Promotion and Research: Amend the Order to Adjust Representation on the United Soybean Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposed rule would adjust the number of members for certain States on the United Soybean Board (Board) to reflect changes in production levels that have occurred since the last time the Board was reapportioned in 1997. These adjustments are required by the Soybean Promotion and Research Order (Order). The results of the adjustments would be an additional member for Kansas and one less member for Maryland. As a result of these changes, the total Board membership will remain at 62 members. These changes to the Board would be effective with the Secretary's 2001 appointments.

DATES: Written comments must be received by July 14, 2000.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA, Room 2627–S; STOP 0251; 1400 Independence Avenue, SW., Washington, DC 20250–0251. Comments may also be sent by e-mail to Ralph.Tapp@usda.gov or by fax to 202/720–1125. State that your comment refers to Docket No. LS–00–04. Comments received may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720–1115, fax 202/270–1125, or e-mail Ralph.Tapp@usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12988, and Regulatory Flexibility Act and the Paperwork Reduction Act

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

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

The Soybean Promotion, Research, and Consumer Information Act (Act) provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1971 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with law and requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district courts of the United States in any district in which such person is an inhabitant, or has their principal place of business, has jurisdiction to review the Secretary's ruling on the petition, if a complaint for this purpose is filed

within 20 days after the date of the entry of the ruling.

Effect on Small Entities

AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because it only adjusts representation on the Board to reflect changes in production levels that have occurred since the Board was reapportioned in 1997. As such, these changes will not impact on persons subject to the program. There are an estimated 600,813 soybean producers who pay assessments and an estimated 10,000 first purchasers who collect assessments, most of whom would be considered small entities under the criteria established by the Small Business Administration (13 CFR 121.201).

Background and Proposed Changes

The Act (7 U.S.C. 6301–6311) provides for the establishment of a coordinated program of promotion and research designed to strengthen the soybean industry's position in the marketplace, and to maintain and expand domestic and foreign markets and uses for soybeans and soybean products. The program is financed by an assessment of 0.5 percent of the net market price of soybeans sold by producers. Pursuant to the Act, an Order was made effective July 9, 1991. The Order established a Board of 60 members. For purposes of establishing the Board, the United States was divided into 31 geographic units. Representation on the Board from each unit was determined by the level of production in each unit. The Secretary appointed the initial Board on July 11, 1991. The Board is composed of soybean producers.

Section 1220.201(c) of the Order provides that at the end of each 3-year period, the Board shall review soybean production levels in the geographic units throughout the United States. The Board may recommend to the Secretary modification in the levels of production necessary for Board membership for each unit. At its March 2000 meeting the Board voted to recommend to the Secretary that no modification be made.

Section 1220.201(d) of the Order provides that at the end of each 3-year period, the Secretary must review the volume of production of each unit and adjust the boundaries of any unit and the number of Board members from each such unit as necessary to conform with the criteria set forth in § 1220.201(e): (1) To the extent practicable, States with annual average soybean production of less than 3,000,000 bushels shall be grouped into geographically contiguous units, each of which has a combined production level equal to or greater than 3,000,000 bushels, and each such group shall be entitled to at least one member on the Board; (2) units with at least 3,000,000 bushels, but fewer than 15,000,000 bushels shall be entitled to one Board member; (3) units with 15,000,000 bushels or more but fewer than 70,000,000 bushels shall be entitled to two Board members; (4) units with 70,000,000 bushels or more but fewer than 200,000,000 bushels shall be entitled to three Board members; and (5) units with 200,000,000 bushels or more shall be entitled to four Board members.

Current representation on the Board (62), and the number of geographical units (30), have been based on average production levels for the years 1992–1996 (excluding crops in years that production was the highest and that production was the lowest) as reported by the National Agricultural Statistics Service (NASS) of the Department.

Proposed representation on the Board (62) is based on average production levels for the years 1995–1999 (excluding crops in years that production was the highest and that production was the lowest) as reported by NASS.

The number of geographical units would remain at 30. This proposed rule would adjust representation on the Board as follows:

State	1995–1999 Average production level (bushels)	Current representation	Proposed representation
Kansas	75,800,000	2	3
Maryland	14,753,000	2	1

There are no adjustments to the other States or regions.

Board adjustment as proposed by this rulemaking would be effective, if adopted, with the 2001 nominations and appointments.

List of Subjects in 7 CFR Part 1220

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Soybeans and soybean products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that Title 7, part 1220 be amended as follows:

PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR Part 1220 continues to read as follows:

Authority: 7 U.S.C. 6301–6311.

2. In § 1220.201, the table immediately following paragraph (a) is revised to read as follows:

§ 1220.201 Membership of board.

(a) * * *

Unit	Number of members
Illinois	4
Iowa	4
Minnesota	4
Indiana	4
Missouri	3
Ohio	3
Arkansas	3
Nebraska	3
South Dakota	3
Kansas	3
Mississippi	2
Louisiana	2
Tennessee	2
North Carolina	2
Kentucky	2
Michigan	2
North Dakota	2
Wisconsin	2
Maryland	1
Virginia	1
Georgia	1
South Carolina	1
Alabama	1
Delaware	1
Texas	1
Pennsylvania	1
Oklahoma	1
New Jersey	1
Eastern Region (New York, Massachusetts, Connecticut, Florida, Rhode Island, Vermont, New Hampshire, Maine, West Virginia, District of Columbia, and Puerto Rico)	1

Unit	Number of members
Western Region (Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California, Hawaii, and Alaska)	1

* * * * *

Dated: May 9, 2000.

Barry L. Carpenter,

Deputy Administrator, Livestock and Seed Program.

[FR Doc. 00–12154 Filed 5–12–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1240

[FV–00–702 PR]

Honey Research, Promotion, and Consumer Information Order; Procedure for the Conduct of Referenda in Connection With the Honey Research, Promotion, and Consumer Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The purpose of this proposed rule is to amend the procedures which the U.S. Department of Agriculture (USDA or the Department) would use in conducting a referendum to determine whether honey producers, producer-packers, importers, and handlers subject to the Honey Research, Promotion, and Consumer Information Act (Act) favor implementation of changes to the Honey Research, Promotion, and Consumer Information Order (Order) based on the 1998 amendments to the Act. These procedures, as amended, would also be used in any subsequent referenda under the Act.

DATES: Comments must be received by June 14, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning the proposed rule to the Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, Stop 0244, 1400 Independence Avenue, SW, Room 2535 South Building, Washington, DC 20250–0244. Comments should be submitted in triplicate and will be made available for public inspection at the above address during regular business hours, or on the internet at www.ams.usda.gov/fv/rpdocketlist.htm. Comments may also be submitted electronically to: malinda.farmer@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. A copy of this rule may be found at the above internet address. Pursuant to the Paperwork Reduction Act of 1995 (PRA), also send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information, to the above address. Comments concerning the information collection under the PRA should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Karen T. Comfort, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW, Room 2535 South Building, Washington, DC 20250–0244; telephone (202) 720–9915; facsimile (202) 205–2800.

SUPPLEMENTARY INFORMATION: The Honey Research, Promotion, and Consumer Information Act (Act) (Pub. L. 98–590; enacted October 30, 1984; 7 U.S.C. 4601-4613, as amended) was amended by Congress on June 23, 1998. The amendments to the Act were made by the Agricultural Research, Extension, and Education Reform Act of 1998 (Pub. L. 105–185, enacted June 23, 1998).

A proposed rule on amending the Honey Research, Promotion, and Consumer Information Order (Order) (7 CFR Part 1240) in conformance with the 1998 amendments to the Act was published in the **Federal Register** on February 28, 2000 (65 FR 10600). Before the amendments to the Order can be implemented, a referendum must be conducted among producers, producer-packers, importers, and handlers as provided in section 4613(d) of the Act.

Question and Answer Overview

Why Are Rules Being Proposed for a Referendum on the Amendments to the Honey Research, Promotion, and Consumer Information Order?

On June 23, 1998, the Act was amended by the Agricultural Research, Extension, and Education Reform Act of 1998 (Pub. L. 105–185, enacted June 23, 1998). The amendments to the Act authorize amendments to the Order. Before the Order can be amended, producers, producer-packers, handlers, and importers must be allowed to vote in a national referendum on whether they wish the amendments to become effective. This proposed rule would amend existing referendum procedures to allow handlers to vote in the referendum and make other changes related to the amendments to the Act. Under the current referendum procedures, only producers, producer-packers in their capacity as producers, and importers are eligible to vote. Publishing this proposed rule provides the opportunity for public input on the revised procedures before they are implemented.

How Long Do I Have To Comment on the Proposed Rule?

You have 30 days to comment on this proposed rule. Your written comments must be received by June 14, 2000. You can mail, fax, or e-mail your comments. Additionally, you have 60 days to provide written comments to OMB on the paperwork burden associated with this proposal. Those comments must be received by July 14, 2000.

Who Is Eligible To Vote in the Referendum?

Most honey producers, producer-packers, importers, and handlers who produced, handled, or imported honey or honey products during calendar years 1998 and 1999 would be eligible to vote in the referendum. However, certain producers, producer-packers, handlers, and importers would not be eligible to vote. If you produced, produced and handled, or imported less than 6,000 pounds of honey or honey products per year and you distributed that honey directly through local retail outlets such as roadside stands, farmers markets, or groceries, you would be ineligible to vote in the referendum unless you voluntarily paid assessments.

How Will the Vote in the Referendum Be Tabulated?

In order for the amendments to become effective, they must be approved by a majority of the voters in the referendum and those voters must represent 50 percent or more of the honey produced, handled, and imported by the voters in the referendum.

If I Am a Producer, How Will My Vote Be Counted?

If you are a producer, you will be entitled to one vote which includes the number of pounds of honey you produced in 1998 and 1999.

If I Am a Producer-Packer, How Will My Vote Be Counted?

One of the proposed amendments to the Order would implement a new assessments on handlers. Therefore, as a producer-packer, you would be entitled to one vote as a producer and one vote as a handler. Each vote would include the number of pounds of honey you produced or handled during 1998 and 1999.

If I Am a Handler, How Will My Vote Be Counted?

Since handlers were not covered under the program during 1998 and 1999, you would be entitled to one vote as a handler based on the number of pounds of honey you handled during 1998 and 1999, even though you did not pay assessments during 1998 and 1999.

If I Am an Importer, How Will My Vote Be Counted?

Under the proposed amendments, half of an importer's assessment would be considered the producer portion of the assessment and half of an importer's assessment would be considered the handler portion of the assessment. Therefore, importers would be entitled to cast two ballots, one for the handler portion of the assessment and one for the producer portion of the assessment. Each ballot would include the number of pounds of honey or honey products you imported during 1998 and 1999.

When Will the Referendum Be Held?

After we have analyzed the comments on this rule and the comments on the proposed rule on the amendments to the Order, we will issue final referendum rules and a second proposed rule on amendments to the Order. The second proposed rule on amendments to the Order will include a Referendum Order, which will announce the voting period for the referendum. The voting period will last 30 days and be announced 30 days in advance.

How Can I Vote in the Referendum?

Voting will take place by mail. All known eligible producers, producer-packers, importers, and handlers will receive a ballot and voting instructions in the mail from USDA. Producers, producer-packers, importers, and handlers who believe they are eligible to vote and who do not receive a ballot in the mail may request a ballot by calling a toll-free telephone number. The ballot must be received by USDA by close of business on the last day of the voting period.

How Will USDA Make Certain That Only Eligible Persons Vote in the Referendum?

USDA will use records from the National Honey Board on persons who have paid assessments or requested an exemption from assessments.

How Will USDA Make Certain That Every Eligible Person has the Opportunity to Vote?

USDA will have a toll-free telephone number for persons to call to request a ballot if they do not receive a ballot and they believe they are eligible to vote. These persons will be required to provide documentation of their eligibility to vote. Executive Orders 12866 and 12988 and the Regulatory Flexibility Act.

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

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

Under Section 10 of the Act, a person subject to the Order may file, within a period prescribed by the Secretary of Agriculture (Secretary), a written petition with the Secretary stating that the Order, or any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with the law, and request a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed not later than two years after: (1) The effective date of the Order, provision, or obligation challenged in the petition; or (2) the date on which the petitioner became subject to the Order, provision, or obligation challenged in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary will issue a ruling on a petition, which will be final if the petition is in accordance with the law.

The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency is required to examine the impact of this proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

There are approximately 3,285 producers, 400 producer-packers, and 348 importers who pay assessments under the Order. In addition, there are 121 handlers who would be subject to assessments if the amendments to the Order are implemented. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5 million and small agricultural producers are defined as those having annual receipts of not more than $500,000. The majority of honey producers, producer-packers, importers, and handlers may be classified as small entities.

This proposed rule would amend the procedures for the conduct of referenda (7 CFR 1240.200–1240.207) under the Order in accordance with 1998 changes to sections 4611 and 4613 of the Act. The procedures, as amended, would be used in conducting a referendum among producers, producer-packers, importers, and handlers to determine whether they favor implementation of the proposed amendments to the Order which are subject to prior approval in a referendum. The authority to conduct this referendum is provided in section 4613 of the Act, as amended. Other amendments to the Order based on the 1998 changes to the Act are not subject to referendum approval and will become part of the Order regardless of the outcome of the referendum. The procedures contained in this proposal would also be used for any subsequent referenda involving the continuation, suspension, termination, or amendment of the Order.

Section 4611(b) of the Act provides that those changes to the Order subject to a referendum vote must be approved by a majority of eligible voters who vote. The majority voting in the affirmative must also represent a majority of the quantity of honey and honey products produced, imported, and handled among all those voting. Section 4613(d)(1)(B) also directs that no individual provision of the proposed amendments to the Order shall be subject to a separate vote in the referendum.

Under section 4613(d)(2) of the Act, producers, producer-packers, importers, and handlers owing assessments on honey produced, or honey or honey

products imported or handled during the 2-calendar-year period preceding the referendum, which period shall be considered to be the representative period, would be eligible to vote. Although currently not subject to assessment, those persons who handled honey or honey products during the representative period would also be able to participate in the referendum since one of the proposed changes would assess handlers for the first time. Section 4613(d)(3)(A) of the Act directs that producer-packers, importers, and handlers will be allowed to vote as if the proposed amendments to the Order had been in place during the representative period, and they would have owed assessments as provided by the proposed amendments to the Order.

Each producer and producer-packer owing assessments as producers on honey produced during the representative period will be entitled to cast one ballot in the referendum as a producer. Each importer will be entitled to cast two ballots, one ballot for the producer portion of the importer assessment and one ballot for the handler portion of the importer assessment. Each handler will also be entitled to cast one ballot in the referendum if the handler would have been subject to assessment on honey or honey products handled during the representative period had the proposed amendments to the Order been in effect. Each producer-packer will be entitled to cast an additional ballot as a handler if they handled honey or honey products during the representative period and would have owed assessments as provided by the proposed amendments to the Order.

The amount of honey linked to a person's vote as an eligible producer shall be the quantity of honey produced during the representative period. The quantity of honey or honey products attributable to a person's vote as an importer shall be the amount of honey or honey products imported during the representative period. The quantity of honey attributable to a person's vote as a handler shall be the amount of honey or honey products handled during the representative period.

USDA will keep the honey industry informed throughout the referendum process to ensure that they are aware of and are able to participate in the referendum. USDA will also publicize information regarding the referendum process, so that trade associations and related industry media can be kept informed.

Voting in the referendum is optional. However, if producers, producer-packers, handlers, and importers choose to vote, the burden of casting a ballot would be offset by the benefits of having the opportunity to vote on whether they wish to have the Order amended.

The information collection requirements contained in this proposed rule (as described below) are designed to minimize the burden on producers, producer-packers, importers, and handlers voting in referenda.

The Secretary considered requiring eligible voters vote in person at various USDA offices across the country. The Secretary also considered electronic voting, but the use of computers is not universal. Conducting the referendum from one central location by mail ballot would be more cost-effective and reliable. The Department would provide easy access to information for potential voters through a toll-free telephone line.

There are no federal rules that duplicate, overlap, or conflict with this rule.

USDA's Agricultural Marketing Service has performed this initial Regulatory Flexibility Analysis regarding the impact of this proposed rule on small entities. However, in order to have additional data that may be helpful in evaluating the effects of this rule on small entities, we are inviting comments concerning potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from implementation of this proposed rule and information on the expected benefits and costs.

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulation (5 CFR part 1320) which implements the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the referendum ballot represents the information collection and recordkeeping requirements that may be imposed by this rule.

Approximately 3,285 producers and 400 producer-packers would be eligible to vote as producers, and 348 importers of record would be eligible to vote as importers. In addition, approximately 121 handlers, 400 producer-packers, and 20 importers of record who would be eligible to vote as handlers.

The basic referendum ballot has been previously approved by OMB. However, the ballot would be modified slightly to allow handlers to vote for the first time. The revised referendum ballot, which represents the information collection and recordkeeping requirements that may be imposed by this rule, has been submitted to OMB for approval.

The information collection burden associated with producers, producer-packers, and importers is already reflected in the information collection approved for use under OMB Number 0581–0093.

This proposed rule would add a new burden involving those eligible to vote as handlers. The following persons will be eligible to vote as handlers in the referendum: (1) Persons who handle honey or honey products without producing or importing honey or honey products that would have owed assessments as provided by the proposed amendments to the Order; (2) persons who both produce and handle honey or honey products (*i.e.,* producer-packers) that would have owed assessments as provided by the proposed amendments to the Order; and (3) persons who handle honey or honey products and also are importers of record (*i.e.,* handler-importers) that would have owed assessments as provided by the proposed amendments to the Order. If the proposed amendments to the Order are approved, handlers will also be able to vote in subsequent referenda.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0581–0093.

Expiration Date of Approval: November 30, 2000.

Type of Request: Revision of a currently approved information collection for advisory committees and boards and for research and promotion programs.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act. The increase in burden associated with the ballot is as follows:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Handlers, producer-packers, and importers voting as eligible handlers.

Estimated Number of Respondents: 550.

Estimated Number of Responses per Respondent: 1 every 5 years (0.2).

Estimated Total Annual Burden on Respondents: 28 hours (328 hours (requested)—300 hours (currently approved) = 28 hours (increase)).

The estimated additional annual cost of providing the information by 550 persons eligible to vote as handlers (based on approximately 121 handlers, 400 producer-packers, and 20 importers who are also handlers) would be $275.00 or $0.50 per voter. The increase of 28 total burden hours would be added to the previous burden total of 300 hours under OMB No. 0581–0093.

Comments are invited on: (a) Whether the proposed additional collection of information is necessary and whether it will have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed increase in the collection of information, including the validity of the methodology and assumption used; 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments concerning the information collection requirements contained in this action should reference OMB No. 0581–0093, the docket number, and the date and page number of this issue of the **Federal Register**. Comments should be sent to the USDA Docket Clerk and OMB Desk Officer for Agriculture at the addresses and within the time frames specified above. All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized and included in the request for OMB approval.

OMB is required to make a decision concerning the increase in the collection of information contained in this rule between 30 and 60 days after publication. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Background

On June 23, 1998, the Act was amended by the Agricultural Research, Extension, and Education Reform Act of 1998 (Pub. L. 105–185, enacted June 23, 1998). The 1998 amendments to section 4613 of the Act authorize the Secretary to make conforming changes to the Order after conducting a referendum among producers, producer-packers, handlers, and importers.

The following amendments to the Order must be approved by the voters in a referendum before becoming effective: (1) A requirement for the Board to reserve 8 percent of its funds annually for beekeeping and production research; (2) authority for the Board to develop recommendations for purity standards and an inspection and monitoring system in order to enhance the image of honey and honey products; (3) the addition of two handler members who are also importers to the Board; (4) a decrease in the producer assessment from 1 cent per pound to 0.75 cents per pound; (5) the addition of an assessment of 0.75 cents per pound on handlers; and (6) an increase in the assessment rate on imports from 1 cent per pound to 1.5 cents per pound.

Other proposed amendments to the Order are not subject to voter approval in a referendum and would be added to the Order regardless of the outcome of the referendum. These amendments include: (1) Changing the two importer/exporter positions to two importer positions on the Board; (2) eliminating the public member position; (3) revising nomination and eligibility requirements; (4) requiring that at least 50 percent of the Board members be honey producers; (5) providing authority for the Board to develop a voluntary quality assurance program with enforcement by USDA; (6) eliminating the requirement to file for an exemption under the program; and (7) removing obsolete language.

If the proposed amendments to the Order regarding assessments on handlers are approved, handlers would vote in subsequent referenda. If the proposed amendments to the Order regarding assessments on handlers are not approved in the referendum, handlers would not vote in future referenda.

Following the 1998 amendments to the Act, USDA issued a news release on July 31, 1998, inviting persons to submit proposals for implementing the amendments by September 30, 1998. Subsequently, on September 21, 1998, USDA extended the deadline to December 31, 1998, to provide the various segments of the honey industry ample opportunity to develop proposals. One proposal and eight comments were received. A complete proposal was submitted by the Board.

The proposed changes to referenda procedures would provide handlers, if subject to assessment under an order, the opportunity to vote in a referendum along with eligible producers, producer-packers, and importers. In addition, producers-packers would be entitled to cast an additional ballot as handlers if they handled honey or honey products during the representative period and would have owed assessments as provided by the proposed amendments to the Order. Importers would cast two ballots, one ballot for the producer portion of the importer assessment and one ballot for the handler portion of the importer assessment. Under the current referenda procedures, only producers, producer-packers in their capacity as producers, and importers are eligible to vote.

The amended referendum procedures in this proposed rule would replace Subpart—Procedure for the Conduct of Referenda in Connection With the Honey Research, Promotion, and Consumer Information Order (7 CFR 1240.200–1240.207). The revised subpart, to be redesignated as subpart C, would include sections covering definitions, voting, instructions, subagents, ballots, referendum report, and confidential information. While the definitions for producer, producer-packer, and handler in the existing Order would not change as a result of the February 28, 2000, proposed rule on the Order, the definition of importer would change. Therefore, the same proposed definition of importer would be added to these regulations.

In addition, this rule would redesignate Subpart—General Rules and Regulations (7 CFR 1240.100–1240.125) as subpart B.

All written comments received in response to this proposal by the date specified will be considered prior to finalizing this action. The industry is asked to pay particular attention to the definitions to be sure that they are appropriate for purposes of determining voter eligibility. The industry is also encouraged to comment on any other practical considerations with regard to conducting the referendum within the parameters set forth in this proposed rule and the Act, as amended.

The proposed amendments to the Order, which have been published separately and which would be the subject of the referendum conducted under these proposed procedures, have not received the approval of the Secretary.

List of Subjects in 7 CFR Part 1240

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Honey promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that part 1240 of Title 7, Chapter XI of the Code of Federal Regulations, be amended as follows:

PART 1240—HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION

1. Revise the authority citation for 7 CFR part 1240 to read as follows:

Authority: 7 U.S.C. 4601–4613 and 7 U.S.C. 7401.

2. In part 1240, the heading for subpart B is revised to read ''Subpart B—Rules and Regulations''.

3. Revise subpart C to read as follows:

Subpart C—Procedure for the Conduct of Referenda in Connection With the Honey Research, Promotion, and Consumer Information Order

Sec.
1240.200 General.
1240.201 Definitions.
1240.202 Voting.
1240.203 Instructions.
1240.204 Subagents.
1240.205 Ballots.
1240.206 Referendum report.
1240.207 Confidential information.

Subpart C—Procedure for the Conduct of Referenda in Connection With the Honey Research, Promotion, and Consumer Information Order

§ 1240.200 General.

Referenda to determine whether eligible producers, importers, and, in the case of an order assessing handlers, handlers favor the continuation, suspension, termination, or amendment of the Honey Research, Promotion, and Consumer Information Order shall be conducted in accordance with this subpart.

§ 1240.201 Definitions.

(a) *Act* means the Honey Research, Promotion, and Consumer Information Act (Pub. L. 98–590; 98 Stat. 3115; enacted October 30, 1984; 7 U.S.C. 4601–4613, as amended) and any amendments thereto.

(b) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(c) *Board* or *National Honey Board* means the Honey Board, the administrative body provided for under section 7(c) of the Act and established under § 1240.30.

(d) *Department* means the United States Department of Agriculture.

(e) *Eligible handler* means any person defined as a handler or producer-packer in this part, or importer in this subpart, who handles honey or honey products, and is covered by an order and subject to assessment on honey handled during the representative period.

(f) *Eligible importer* means any person defined as an importer in this subpart, who is engaged in the importation of honey or honey products, and is subject to pay assessments to the Board on honey or honey products imported during the representative period.

(g) *Eligible producer* means any person defined as a producer or producer-packer in the Order who produces honey and is subject to pay assessments to the Board on such honey produced during the representative period and who:

(1) Owns or shares in the ownership of honey bee colonies or beekeeping equipment resulting in the ownership of the honey produced;

(2) Rents honey bee colonies or beekeeping equipment resulting in the ownership of all or a portion of the honey produced;

(3) Owns honey bee colonies or beekeeping equipment but does not manage them and, as compensation, obtains the ownership of a portion of the honey produced; or

(4) Is a party in a lessor-lessee relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce honey who share the risk of loss and receive a share of the honey produced. No other acquisition of legal title to honey shall be deemed to result in persons becoming eligible producers.

(h) *Importer* means any person who imports honey or honey products into the United States as principal or as an agent, broker, or consignee for any person who produces honey or honey products outside of the United States for sale in the United States, and who is listed as the importer of record for such honey or honey products.

(i) *Order* means the Honey Research, Promotion, and Consumer Information Order.

(j) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity. For the purpose of this definition, the term partnership includes, but is not limited to:

(1) A husband and wife who have title to, or leasehold interest in, honey bee colonies or beekeeping equipment as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property, and

(2) So-called *joint ventures* wherein one or more parties to the agreement, informal or otherwise, contributed land and others contributed capital, labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the production, handling, or importation of honey or honey products for market and the authority to transfer title to the honey or honey products so produced, handled or imported.

(k) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(*l*) *Representative period* means the period designated by the Secretary pursuant to the Act.

(m) *Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1240.202 Voting.

(a) *Eligibility.* (1) Each person who is, as defined in this subpart, an eligible producer; an eligible importer; or, in the case of an order assessing handlers, an eligible handler shall be entitled to vote in the referendum.

(2) In conducting a referendum for the sole purpose of determining whether persons favor the implementation of amendments to the Order in accordance with changes to the Act made by the Agricultural Research, Extension, and Education Reform Act of 1998 (Pub. L. 105–185, enacted June 23, 1998), producer-packers, importers, and handlers shall be allowed to vote as if:

(i) The proposed amendments to the Order were in place during the representative period; and

(ii) They were subject to assessment based on the quantity of honey or honey products handled during the representative period.

(b) *Number of ballots cast.* (1) Each person who is an eligible producer, as defined in this subpart, at the time of the referendum and during the representative period, shall be entitled to cast one ballot in the referendum: *Provided,* That each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce honey and/or honey products, in which more than one of the parties is a producer, shall be entitled to cast one ballot covering only such producer's share of the ownership.

(2) In the case of an order assessing handlers, each person who is an eligible handler, as defined in this subpart, at the time of the referendum and during the representative period, shall be entitled to cast one ballot in the referendum.

(3) Each person who is a producer-packer, as defined in the Order, at the time of the referendum and during the representative period, shall be entitled to cast one ballot as an eligible producer and, in the case of an order assessing handlers, one ballot as an eligible handler.

(4) Each importer, as defined in the Order, at the time of the referendum and during the representative period, shall be entitled to cast in the referendum one

ballot as an importer and, in the case of an order assessing handlers, one ballot as an eligible handler.

(c) *Proxy voting.* Proxy voting is not authorized, but an officer or employee of an eligible corporate producer; importer; and, in the case of an order assessing handlers, handler; or an administrator, executor, or trustee of an eligible entity may cast a ballot on behalf of such entity. Any individual so voting in a referendum shall certify that they are an officer or employee of the eligible entity, or an administrator, executor, or trustee of an eligible entity and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(d) *Casting of ballots.* All ballots are to be cast by mail as instructed by the Secretary.

§ 1240.203 Instructions.

The referendum agent shall conduct the referendum, in the manner herein provided, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the period during which ballots may be cast.

(b) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining:

(1) Whether the person voting, or on whose behalf the vote is cast, is an eligible voter; and

(2) The quantity of honey or honey products produced; imported; and, in the case of an order assessing handlers, handled.

(c) Give reasonable public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the voting period, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as said agent may deem advisable.

(d) Mail to eligible producers; importers; and in the case of an order assessing handlers, handlers whose names and addresses are known to the referendum agent; the instructions on voting; a ballot; and a summary of the terms and conditions to be voted upon. No person who claims to be eligible to vote shall be refused a ballot.

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process.

(f) Prepare a report on the referendum.

(g) Announce the results to the public.

§ 1240.204 Subagents.

The referendum agent may appoint any individual or individuals necessary to assist the agent in performing such agent's functions hereunder. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

§ 1240.205 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be questioned for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was questioned, by whom questioned, why the ballot was questioned, the results of any investigation made with respect to the questionable ballot, and the disposition of the questionable ballot. Ballots invalid under this subpart shall not be counted.

§ 1240.206 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to analysis of the referendum and its results.

§ 1240.207 Confidential information.

All ballots cast and their contents and all other information or reports furnished to, compiled by, or in possession of, the referendum agent or subagents that reveal, or tend to reveal, the identity or vote of any producer, handler, or importer of honey or honey products shall be held strictly confidential and shall not be disclosed.

Dated: May 9, 2000.

Eric M. Forman,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–12152 Filed 5–12–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 431

[Docket No. EE–RM/STD–00–100]

RIN 1904–AB06

Energy Efficiency Program for Commercial and Industrial Equipment: Efficiency Standards for Commercial Heating, Air Conditioning and Water Heating Equipment

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of document availability and public workshop.

SUMMARY: The Energy Policy and Conservation Act, as amended, establishes energy efficiency standards for certain commercial heating, air conditioning and water heating equipment and requires the Department (DOE, Department or we) to administer an energy conservation program for these products. On October 29, 1999, the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE) and Illuminating Engineering Society of North America (IES) revised ASHRAE/IES Standard 90.1, which contains efficiency standards for these products. This notice announces availability of the report of the Screening Analysis the Department has undertaken to assess what action it should take with respect to the efficiency levels now contained in ASHRAE/IES Standard 90.1. The Department invites comments and is convening a public workshop on its preliminary conclusions, on the analysis, and on any additional considerations that might affect the Department's decisions on which standards to adopt or reject without further analysis, and which to consider further.

DATES: The Department must receive written comments on or before July 31, 2000. The Department requests ten (10) copies of the written comments and, if possible, an electronic copy (3½'' diskette) in a form accessible to WordPerfect™ 8. Oral views, data and arguments may be presented at the public workshop to be held in Washington, DC, beginning at 9:30 a.m. on July 11, 2000.

The Department must receive (1) requests to speak at the workshop no later than 4:00 p.m., June 23, 2000, and (2) copies of statements to be given at the public workshop no later than 4:00

p.m., June 30, 2000. The length of each oral presentation is limited to 15 minutes.

ADDRESSES: The workshop will be held at the U.S. Department of Energy, Forrestal Building, Room 1E–245, 1000 Independence Avenue, SW, Washington, DC. Written comments, statements, and requests to speak at the workshop are to be submitted to Ms. Brenda Edwards-Jones, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–41, 1000 Independence Avenue, SW, Washington, DC 20585. You should identify all such documents both on the envelope and on the documents as ''Energy Conservation Program for Commercial Equipment: Screening Analysis for Commercial HVAC Standards, Docket No. EE–RM/STD–00–100.''

You can read the Screening Analysis report and public comments received in the Freedom of Information Reading Room (Room No. 1E–190) at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. You can also obtain the Screening Analysis report electronically from the Office of Building Research and Standards world wide web site at the following URL address: [http://www.eren.doe.gov/buildings/codes_standards/index.htm].

The Screening Analysis report and this notice both refer to certain industry standards established by ASHRAE and IES. These industry standards are referenced hereafter by the single comprehensive title ''ASHRAE/IES Standard 90.1–1999.'' You can view this standard at the Department of Energy's Freedom of Information Reading Room at the address stated above. You can also obtain copies from the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., 1971 Tullie Circle, NE, Atlanta, GA 30329, and you can obtain them electronically at ASHRAE's web site, [http://www.ashrae.org/book/bookshop.htm].

FOR FURTHER INFORMATION CONTACT: Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station, EE–41, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9138, FAX (202) 586–4617, e-mail: Cyrus.Nasseri@ee.doe.gov, or Edward Levy, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station, GC–72, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9507, e-mail: Edward.Levy@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

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A. Screening Analysis Results
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I. Introduction

A. Authority

Part B of Title III of the Energy Policy and Conservation Act (EPCA) of 1975, Public Law 94–163, as amended, by the National Energy Conservation Policy Act of 1978 (NECPA), Pub. L. 95–619, the National Appliance Energy Conservation Act of 1987 (NAECA), Pub. L. 100–12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Pub. L. 100–357, and the Energy Policy Act of 1992 (EPACT), Pub. L. 102–486, established the Energy Conservation Program for Consumer Products other than Automobiles. Part 3 of Title IV of NECPA amended EPCA to add ''Energy Efficiency of Industrial Equipment,'' which included air conditioners, furnaces, and other types of equipment.

EPACT also amended EPCA with respect to industrial equipment, providing definitions, test procedures, labeling provisions, energy conservation standards, and authority to require information and reports from manufacturers. 42 U.S.C. 6311–6316. For example, EPCA specifies explicit minimum energy efficiency levels for certain commercial packaged air conditioning and heating equipment, packaged terminal air conditioners and heat pumps, warm air furnaces, packaged boilers, water heaters and unfired hot water storage tanks. 42 U.S.C. 6313(a)(1)–(5). The efficiency requirements in the statute correspond to the levels in ASHRAE/IES Standard 90.1 as in effect on October 24, 1992. The statute further provides that if the efficiency levels in ASHRAE/IES Standard 90.1 are amended after that date for any of the covered equipment, the Secretary of Energy must establish an amended uniform national standard at the new minimum level for each effective date specified in ASHRAE/IES Standard 90.1, unless (s)he determines, through a rulemaking supported by clear and convincing evidence, that a more stringent standard is technologically feasible and economically justified and would result in significant additional energy conservation. 42 U.S.C. 6313(a)(6)(A).

If the Secretary elects to publish such a rule, it must contain the amended standard, and the determination must consider, to the greatest extent practicable: the economic impact on the manufacturers and consumers of the affected products; savings in operating cost throughout the life of the product, compared to any increases in initial cost or maintenance expense; the total projected amount of energy savings likely to result directly from the imposition of the standard; any lessening of the utility or performance of the affected products; the impact of any lessening of competition; the need for national energy conservation; and other factors the Secretary considers relevant. The Secretary may not prescribe such an amended standard if (s)he finds (and publishes the finding) that interested persons have established by a preponderance of evidence that the amended standard is likely to result in unavailability in the United States of products with performance characteristics (including reliability), features, sizes, capacities and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. 42 U.S.C. 6313(a)(6)(B).

Finally, the Secretary may not prescribe any amended standard which increases maximum allowable energy use or decreases minimum required energy efficiency. 42 U.S.C. 6313(a)(6)(B)(ii).

B. Background

1. General

As directed by Part B of Title III of EPCA, the Department of Energy has established an energy conservation program for consumer products, and certain commercial lighting products. 42 U.S.C. 6291–6309. This program consists of four principal parts: test procedures, Federal energy conservation standards, labeling, and certification and enforcement procedures. The Federal Trade Commission (FTC) is responsible for labeling, and the Department implements the remainder of the program as codified in Title 10 of the Code of Federal Regulations (CFR), Part 430—Energy Conservation Program for Consumer Products.

Pursuant to the EPACT amendments to EPCA in 1992, DOE extended its program to cover commercial and industrial equipment and created a new Part 431 in Title 10 of the Code of Federal Regulations, entitled, ''Energy Conservation Program for Commercial and Industrial Equipment.'' This part includes commercial heating, air conditioning and water heating equipment. The new program consists of: test procedures, Federal energy conservation standards, labeling, certification and enforcement procedures. EPCA directs the Department, rather than the FTC, to administer the statute's efficiency labeling provisions under the new program.

2. ASHRAE Action

On June 24, 1999, ASHRAE's Board of Directors provisionally approved revisions to ASHRAE/IES Standard 90.1, subject to a formal appeal process. Four appeals were filed, and an Appeals Hearing was held on October 9, 1999. The Appeals Panel recommended that the appeals be dismissed, and the ASHRAE Board approved the Appeals Panel report in a special meeting on October 29, 1999, thus concluding ASHRAE's process for amending the Standard. The Standard indicates that its commercial HVAC and water heater equipment efficiencies will become effective as part of the Standard two years after final ASHRAE approval (*i.e.*, on October 29, 2001).

ASHRAE changed the efficiency standards for some products but not for all. Of those products for which standards did not change, some levels were considered by ASHRAE in the course of revising ASHRAE/IES Standard 90.1 but left at their preexisting values, while consideration of other products was deferred. The deferred products include standards for commercial (3-phase) small air conditioners and heat pumps (under 65 thousand Btu per hour), which are closely related to consumer products for which the Department is developing standards under NAECA. The standard levels in EPCA and ASHRAE/IES Standard 90.1–1999 appear in Tables 1 and 2.

TABLE 1.—EPCA AND ASHRAE 90.1–1999 STANDARD LEVELS FOR AIR CONDITIONERS AND HEAT PUMPS

Equipment category	Equipment subcategory	EPCA section	Efficiency levels	
			EPCA	ASHRAE 90.1–1999
Small Commercial Packaged Air Conditioning and Heating Equipment.	AC/HP <65 kBtu/h Air Cooled 3 Phase, Central Split System.	Cooling Eff. 342(a)(1)(A) Heating Eff. 342(a)(1)(D)	SEER 10.0 HSPF 6.8	SEER 10.0 HSPF 6.8
	AC/HP <65 kBtu/h Air Cooled 3 Phase, Central Single Package.	Cooling Eff. 342(a)(1)(B) Heating Eff. 342(a)(1)(E)	SEER 9.7 HSPF 6.6	SEER 9.7 HSPF 6.6
	AC/HP 65–135 kBtu/h Air Cooled Central.	Cooling Eff. 342(a)(1)(C) Heating Eff. 342(a)(1)(F)	EER 8.9 COP 3.0	EER 10.3 COP 3.2
	AC/HP <65 kBtu/h Water Cooled Evap. Cooled Water-Source Central.	Cooling Eff. 342(a)(1)(G) Heating Eff. Water-Source *only* 342(a)(1)(I).	EER 9.3 COP 3.8	EER 12.1 COP 4.2
	AC/HP 65–135 kBtu/h Water Cooled Evap. Cooled Water-Source Central.	Cooling Eff. 342(a)(1)(H) Heating Eff. Water-Source *only* 342(a)(1)(I).	EER 10.5 COP 3.8	EER 11.5 COP 4.2
Large Commercial Packaged Air Conditioning and Heating Equipment.	AC/HP 135–240 kBtu/h Air Cooled Central.	Cooling Eff. 342(a)(2)(A) Heating Eff. 342(a)(2)(B)	EER 8.5 COP 2.9	EER 9.7 COP 3.1
	AC/HP 135–240 kBtu/h Water Cooled Evap. Cooled Central.	Cooling Eff. 342(a)(2)(A) *No Heating Eff. Requirement*	EER 9.6	EER 11.0
Packaged Terminal Air Conditioners and Heat Pumps.	PTAC/PTHP (Air Cooled)	Cooling Eff. 342(a)(3)(A) Heating Eff. 342(a)(3)(B)	EER varies by capacity COP varies by capacity	EER and COP vary by capacity (different formulas)

Notes: SEER—Seasonal Energy Efficiency Ratio
HSPF—Heating Seasonal Performance Factor
EER—Energy Efficiency Ratio
COP—Coefficient Of Performance
AC—Air Conditioner
HP—Heat Pump

PTAC—Package Terminal Air Conditioner
PTHP—Package Terminal Heat Pump

TABLE 2.—EPCA AND ASHRAE 90.1–1999 STANDARD LEVELS FOR FURNACES, BOILERS, AND STORAGE WATER HEATERS

Equipment category	Equipment subcategory	EPCA section	Efficiency levels	
			EPCA	ASHRAE 90.1–1999
Warm Air Furnaces	≥225,000 Btu/h	342(a)(4)(A)	Thermal Efficiency	Thermal Efficiency
			80% Gas 81% Oil	80% Gas 81% Oil.
Package Boilers	≥300,000 Btu/h	Gas-fired Eff. 342(a)(4)(C)	Combustion Efficiency	Combustion Efficiency.
	Gas Fired	Oil Fired Eff. 342(a)(4)(D)	80% Gas	80% Gas
	Oil Fired		83% Oil	83% Oil.
Storage Water Heaters	Electric	Standby Loss 342(a)(5)(A)	0.3 + 27/Va	20 + 35 √V.
	≤155,000 Btu/h and V≤ 40 gal.	Thermal Eff. and Standby Loss 342(a)(5)(B).	Thermal Eff. 78% Standby Loss Varies by Volume.	Thermal Eff. 80% Standby Loss Varies by Volume.
	>155,000 Btu/h and V>140 gal.	Thermal Eff. and Standby Loss 342(a)(5)(C).	Thermal Eff. 78% Standby Loss Varies by Volume.	Thermal Eff. 80% Standby Loss Varies by Volume.
Instantaneous Water ..... Heaters	V<10 gal Instantaneous	Thermal Eff. 342(a)(5)(D)	Thermal Eff. 80%	Thermal Eff. 80%.
	10 gal < V < 140 gal Instantaneous.	Thermal Eff. and Standby Loss 342(a)(5)(E).	Thermal Eff. 77% Standby Loss Varies by Volume.	Thermal Eff. 80% Standby Loss Varies by Volume.
Storage Tanks	V ≤140 gal Unfired	Heat Loss 342(a)(5)(F)	Heat Loss 6.5 Btu/hr/ft^2	Heat Loss 6.5 Btu/hr/ft^2.
	Storage Water Heaters and Storage Tanks >140 gal.	Prescriptive 342(a)(5)(G) ..	R–12.5, IID	R–12.5, IID.

3. Department of Energy Response

In response to ASHRAE's action, the Department initiated a Screening Analysis to aid the Department in deciding what action it should take at this point with respect to the efficiency levels in ASHRAE/IES Standard 90.1–1999. The Screening Analysis report is available as discussed above. See ''Addresses.''

After receiving comments in response to this Announcement, the Department expects to pursue, for each product category, one of four courses of action:

- Adopt the ASHRAE/IES Standard 90.1–1999 efficiency level as a uniform national standard;
- Reject the ASHRAE/IES Standard 90.1–1999 efficiency level if it increases maximum allowable energy use or decreases minimum required efficiency;
- Propose consideration of an addendum to ASHRAE/IES Standard 90.1–1999 if ASHRAE did not consider a more efficient level, and a more efficient level appears warranted; or
- Propose consideration of an addendum to ASHRAE/IES Standard 90.1–1999 and undertake a more thorough evaluation to determine whether a rulemaking is justified, if ASHRAE considered amending or amended the standard, and a more efficient level appears warranted than is contained in ASHRAE/IES Standard 90.1–1999.

After consideration of comments received on the notice and analysis, we expect to issue a final rule adopting as minimum national standards the updated ASHRAE 90.1–1999 standards for some or all of the commercial product categories listed in Sections II–B and C of this notice as candidates for immediate adoption. We intend to issue another notice for comment if, based on the comments received or further analysis, we conclude that ASHRAE 90.1–1999 standards should be adopted for any additional products.

II. Discussion

A. Screening Analysis Results

In conducting the Screening Analysis, the Department used existing data from industry and other sources, including, among others, analysis performed for ASHRAE in support of its deliberations over the new ASHRAE/IES Standard 90.1–1999 efficiency levels. For each product category, the Department estimated the likely cost of achieving several higher technologically feasible efficiency levels and then calculated for each such level the corresponding rate of energy consumption required to fulfill the product's function. Applying appropriate climate data, typical building design characteristics, inventories of buildings in different regions of the country, equipment sales volumes, and economic discount rates and energy prices, DOE computed cost/benefit measures corresponding to the hypothetical efficiency levels and also estimated the nationwide energy and net cost savings, if any, that would result from more stringent standards than the levels in ASHRAE/IES Standard 90.1–1999.

For the products analyzed, the Department examined the range of efficiency levels specified in EPCA and ASHRAE/IES Standard 90.1–1999, as well as more efficient levels, including those associated with the most efficient product now available in the market and with the lowest life-cycle cost. For each level above the EPCA standard, DOE estimated: (1) The incremental national energy and carbon emission savings that would result from a standard set at that level, and (2) the net nationwide direct economic benefit, represented by the net present value (NPV), that would result from a standard set at that level, as compared to the corresponding ASHRAE/IES Standard 90.1–1999 and EPCA standards.

Table 3 lists the products studied in the Screening Analysis, and shows for each the efficiency level that corresponds to the product's lowest average life-cycle cost, taking into account both the costs of efficiency improvements and the savings from reduced energy consumption. In addition, where that efficiency level is

above the level specified for the product in ASHRAE/IES Standard 90.1–1999, Table 3 shows the following potential benefits that would result over the period from 2004 to 2030 from setting a standard at the higher level:

- The estimated nationwide energy savings, measured in trillions of Btu (TBtu);
- The estimated net nationwide direct economic benefit, represented by the net present value (NPV); and
- The estimated reductions in atmospheric carbon emissions, in millions of tons.

TABLE 3.—ENERGY SAVINGS, NET PRESENT VALUE AND CARBON EMISSIONS REDUCTIONS AT THE ENERGY EFFICIENCY LEVELS WITH THE LOWEST LIFE-CYCLE-COST

Product category	Efficiency level at minimum life-cycle cost	Relative to ASHRAE 90.1–1999		
		National energy savings (TBtu)	National total NPV (millions of 1998 $'s)	National carbon emission reductions (million tons)
3-Phase Single Package Air Source AC <65 kBtu/h	12.0	1,412.7	897.7	21
Central Air Source AC 135–240 kBtu/h	10.4	428.8	417.9	6
Packaged Terminal Air Conditioners	10.5	311.7	274.7	5
3-Phase Split Air Source AC <65 kBtu/h	11.0	278.6	109.1	4
Packaged Terminal Heat Pumps	9.9	249.0	241.9	4
Small Gas-Fired Boilers ≤2.5 mmBtu	78.7%	200.0	146.0	3
3-Phase Single Package Air Source HP <65 kBtu/h	12.0	183.6	91.3	3
Tankless Gas Instantaneous Water Heaters	81.5%	102.0	45.3	2
Large Gas-Fired Boilers 2.5 mmBtu	*85.3%	79.0	86.6	1
3-Phase Split Air Source HP <65 kBtu/h	12.0	66.4	47.0	1
Central, Water Source HP 17–65 kBtu/h	12.5	65.0	23.0	1
Central Air Source HP 135–240 kBtu/h	10.4	31.4	3.2	1
Electric Water Heater (120 gal)	1.0	6.6	1.1	0
Central Water Cooled AC 65–135 kBtu/h	12.4	2.7	0.8	0
Central Water Cooled AC 135–240 kBtu/h	11.5	2.5	3.0	0
Central Air Source AC 65–135 kBtu/h	10.3	0.0	0.0	0
Central Air Source HP 65–135 kBtu/h	10.1	0.0	0.0	0
Central Water Cooled AC <65 kBtu/h	12.1	0.0	0.0	0
Central Water Source HP <17 kBtu/h	11.2	0.0	0.0	0
Central Water Source HP 65–135 kBtu/h	12.0	0.0	0.0	0
Gas-Fired Warm Air Furnaces ≥225 kBtu/h	77.5%	0.0	0.0	0
Gas Storage Water Heaters ≤155 kBtu/h	80.0%	0.0	0.0	0
Gas Storage Water Heaters >155 kBtu/h	80.4%	0.0	0.0	0
Instantaneous Gas Water Heaters with Tanks	80.0%	0.0	0.0	0

*Efficiency shown is shipment-averaged value of Large Steam Boilers (76%–81%), and Large Hot Water Boilers (78%–88%)

When Table 3 shows a zero for a product in all three of these categories, the efficiency level that corresponds with the product's lowest average life cycle cost is the same as the level specified in ASHRAE/IES Standard 90.1–1999.

B. DOE Interpretation

Of the products included in the Screening Analysis, DOE believes the following appear not to warrant standards that are more stringent than those in ASHRAE/IES Standard 90.1–1999. DOE considers the ASHRAE/IES Standard 90.1–1999 efficiency levels for these products to be appropriate candidates for immediate adoption as uniform national standards.

- Central Water Source Heat Pumps, 17 kBtu/h—65 kBtu/h
- Central Water Cooled Air Conditioners, 65 kBtu/h—135 kBtu/h
- Central Water Cooled Air Conditioners, 135 kBtu/h—240 kBtu/h
- Central Air Source Air Conditioners, 65 kBtu/h—135 kBtu/h
- Central Air Source Heat Pumps, 65 kBtu/h—135 kBtu/h
- Central Water Cooled Air Conditioners, <65 kBtu/h
- Central Water Source Heat Pumps, <17 kBtu/h
- Central Water Source Heat Pumps, 65 kBtu/h—135 kBtu/h
- Gas-Fired Warm Air Furnaces, ≥225 kBtu/h
- Gas Storage Water Heaters, ≤155 kBtu/h
- Gas Storage Water Heaters, >155 kBtu/h
- Gas Instantaneous Water Heaters with Tanks

In all except the first three of the above product categories, the ASHRAE/IES Standard 90.1–1999 efficiency levels are the same as the levels identified in the Screening Analysis as achieving the lowest life-cycle costs. For the central water-source heat pumps between 17 and 65 thousand Btu/hour, and the two sizes of central water-cooled air conditioners between 65 and 240 thousand Btu/hour, the efficiency levels corresponding to minimum life-cycle cost are slightly higher than ASHRAE's, but the total estimated cumulative energy savings that would be achieved cost-effectively by adopting the three higher levels would amount to only 70 trillion Btu between 2004 and 2030. This compares with 2.4 quadrillion Btu in nationwide savings over that period that DOE expects as a result of the changes from the standards embodied in EPACT for the twelve product categories listed above to those contained in ASHRAE/IES Standard 90.1–1999.

Of the remainder, for four categories of 3-phase air conditioners and heat pumps with capacities under 65,000 Btu per hour, the Screening Analysis indicates that efficiency standards higher than those in ASHRAE/IES Standard 90.1–1999 might well have significant energy savings potential and economic benefits. Adopting the

efficiency levels corresponding to the lowest average life-cycle cost for all four of these product categories would result in estimated cost-effective nationwide cumulative energy savings of 1.9 quadrillion Btu between 2004 and 2030. However, these products were not addressed by ASHRAE in revising Standard 90.1, and DOE has tentatively decided not to take action to adopt a standard at this time with respect to these products. Based on the Screening Analysis, DOE is inclined to encourage ASHRAE to consider adoption of an addendum to ASHRAE Standard 90.1–1999 and will support ASHRAE in its future deliberations concerning these products in conjunction with ongoing development of NAECA standards for similar, but single phase, residential equipment. Should ASHRAE amend the efficiency standards for these air conditioners or heat pumps in the future, DOE will then act on such amendments as required by EPCA. The four categories of 3-phase air conditioners and heat pumps with capacities under 65,000 Btu per hour are:

- 3-phase Single Package Air Source Air Conditioners, <65 kBtu/h;
- 3-phase Split Air Source Air Conditioners, <65 kBtu/h;
- 3-phase Single Package Air Source Heat Pumps, <65 kBtu/h; and
- 3-phase Split System Air Source Heat Pumps, <65 kBtu/h.

For seven of the eight remaining product categories analyzed in the Screening Analysis, ASHRAE amended the efficiency standards contained in ASHRAE/IES Standard 90.1, but there appear to be significant, cost-effective energy savings that might result from standards that are even more stringent. Adopting efficiency levels corresponding to minimum average product life-cycle cost for all seven of these categories would cost-effectively produce estimated cumulative energy savings amounting to 1.4 quadrillion Btu over the period from 2004 to 2030. These savings would more than double the 1.1 quadrillion Btu over the same period that DOE anticipates as a result of the corresponding amendments already contained in ASHRAE/IES Standard 90.1–1999. For each of these products, DOE is inclined to propose consideration of an addendum to ASHRAE/IES Standard 90.1–1999, based on the Screening Analysis, and to undertake a more thorough evaluation to determine whether a rulemaking is justified under the terms of EPCA. These products are the following:

- Central air-source air conditioners, 135 kBtu/h—240 kBtu/h;
- Central air-source heat pumps, 135 kBtu/h—240 kBtu/h;
- Packaged terminal air conditioners;
- Packaged terminal heat pumps;
- Small gas-fired steam and hot water boilers, 0.3 MMBtu/h—2.5 MMBtu/h; and
- Large gas-fired steam and hot water boilers, > 2.5 MMBtu/h.
- Tankless Gas Instantaneous Water Heaters

For one product category, electric water heaters, the new efficiency level in ASHRAE/IES Standard 90.1–1999 appears to increase energy consumption relative to the standard in EPCA. If this is true, the original standard should remain in force, since EPCA stipulates that the standards it contains cannot be relaxed. Therefore, DOE is inclined not to adopt the requirement in ASHRAE/IES Standard 90.1–1999 for this product.

C. Products Not Included in the Screening Analysis

Several commercial products were not analyzed in the Screening Analysis:

- Central Air Source Heat Pumps, 135 kBtu/h—240 kBtu/h (heating performance)
- Central Air Source Heat Pumps, 65 kBtu/h—135 kBtu/h (heating performance)
- 3-Phase Single Package Air Source Heat Pumps, <65 kBtu/h (heating performance)
- 3-Phase Split Air Source Heat Pumps, <65 kBtu/h (heating performance)
- Packaged Terminal Heat Pumps (heating performance)
- Central Water Source Heat Pumps, <135 kBtu/h (heating performance)
- Water Source Heat Pumps, 135 kBtu/h—240 kBtu/h
- Evaporatively Cooled Air Conditioning Products
- Oil-Fired Warm Air Furnaces, ≥225 kBtu/h
- Oil-Fired Storage Water Heaters, ≤155 kBtu/h
- Oil-Fired Storage Water Heaters, >155 kBtu/h
- Tankless Oil-Fired Instantaneous Water Heaters
- Oil-Fired Instantaneous Water Heaters with Tanks
- Small Oil-Fired Steam and Hot Water Boilers, 0.3 MMBtu/h–2.5 MMBtu/h
- Large Oil-Fired Steam and Hot Water Boilers, >2.5 MMBtu/h
- Unfired hot water storage tanks

DOE did not include these products in the Screening Analysis because of insufficient data describing baseline energy consumption and cost-efficiency relationships, small markets for the products in question or lack of product shipment data, or in the case of the heating performance of heat pumps, the absence of a suitable methodology to discriminate their heating function from that of supplemental heat sources with which they are often used.

The products and performance characteristics that were not analyzed in detail fall into groups as follows:

- Heating coefficients of performance (COP) and heating seasonal performance factors (HSPF) for all heat pump product categories;
- Efficiencies of water-cooled air conditioners and heat pumps with capacities between 65 kBtu/h and 135 kBtu/h;
- Evaporatively cooled air-conditioning products;
- Oil-fired warm air furnaces, storage and instantaneous water heaters, and packaged boilers; and
- Unfired hot water storage tanks

DOE believes that the water-cooled and evaporatively cooled air conditioning products, oil-fired warm air furnaces and water heaters, and unfired hot water storage tanks have small markets and are unlikely to represent significant potential energy savings, so the Department plans to adopt ASHRAE/IES Standard 90.1–1999 standards for these products. Since the heating COP is closely related to cooling efficiency for heat pumps, DOE does not plan to adopt yet the heating COP levels contained in ASHRAE/IES Standard 90.1–1999 for: (1) three-phase heat pumps with capacities under 65 thousand Btu per hour, which ASHRAE did not address in formulating Standard 90.1–1999; (2) central air-source heat pumps with capacities between 135 thousand and 240 thousand Btu per hour, which would be the subject of further analysis with respect to cooling as a result of the Screening Analysis; and (3) packaged terminal heat pumps, which also would be the subject of further analysis of their cooling performance. For all other heat pumps covered by EPCA, DOE considers the amended ASHRAE/IES Standard 90.1–1999 COP levels to be appropriate candidates for immediate adoption as uniform national standards. Finally, DOE recognizes that ASHRAE did not evaluate the efficiency levels for packaged oil-fired boilers explicitly, and the published values in ASHRAE/IES Standard 90.1–1999 were tied to the corresponding efficiencies for gas-fired boilers. Since DOE is inclined to evaluate the gas-fired boilers as a result of the Screening Analysis, the Department also anticipates waiting for that evaluation to be complete before

adopting efficiency standards for the equivalent oil-fired products.

D. Summary

Table 4 summarizes the actions DOE is inclined to take for all of the product categories in light of the Screening Analysis.

TABLE 4.—PLANNED DOE ACTIONS

Product category	Action
3-Phase Single Package Air Source AC <65 kBtu/h	Encourage ASHRAE/IES Addendum
Central Air Source AC 135–240 kBtu/h	Evaluate Further/Encourage ASHRAE/IES Addendum
Packaged Terminal Air Conditioners	Evaluate Further/Encourage ASHRAE/IES Addendum
3-Phase Split Air Source AC <65 kBtu/h	Encourage ASHRAE/IES Addendum
Packaged Terminal Heat Pumps	Evaluate Further/Encourage ASHRAE/IES Addendum
Small Gas-Fired Boilers 0.3–2.5 MMBtu/h	Evaluate Further/Encourage ASHRAE/IES Addendum
3-Phase Single Package Air Source HP <65 kBtu/h	Encourage ASHRAE/IES Addendum
Tankless Gas-Fired Instantaneous Water Heaters	Evaluate Further/Encourage ASHRAE/IES Addendum
Large Gas-Fired Boilers >2.5MMBtu	Evaluate Further/Encourage ASHRAE/IES Addendum
3-Phase Split Air Source HP <65 kBtu/h	Encourage ASHRAE/IES Addendum
Central, Water Source HP 17–65 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Central Air Source HP 135–240 kBtu/h	Evaluate Further/Encourage ASHRAE/IES Addendum
Electric Water Heater	Leave EPCA Standard in Force
Central Water Cooled AC 65–135 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Central Water Cooled AC 135–240 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Central Air Source AC 65–135 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Central Air Source HP 65–135 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Central Water Cooled AC <65 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Central Water Source HP <17 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Central Water Source HP 65–135 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Gas-Fired Warm Air Furnaces ≥225 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Gas Storage Water Heaters ≤155 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Gas Storage Water Heaters >155 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Gas-Fired Instantaneous Water Heaters with Tank	Adopt ASHRAE/IES Standard 90.1–1999
Water Source HP, 135–240 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Evaporatively Cooled AC Products	Adopt ASHRAE/IES Standard 90.1–1999
Oil-Fired Warm Air Furnaces, ≥225 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Oil-Fired Storage Water Heaters, ≤155 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Oil-Fired Storage Water Heaters, >155 kBtu/h	Adopt ASHRAE/IES Standard 90.1–1999
Tankless Oil-Fired Instantaneous Water Heaters	Adopt ASHRAE/IES Standard 90.1–1999
Oil-Fired Instantaneous Water Heaters with Tanks	Adopt ASHRAE/IES Standard 90.1–1999
Small Oil-Fired Boilers, 0.3–2.5 MMBtu/h	Evaluate Further (with Gas-Fired Boilers)
Large Oil-Fired Boilers, >2.5 MMBtu/h	Evaluate Further (with Gas-Fired Boilers)
Unfired Hot Water Storage Tanks	Adopt ASHRAE/IES Standard 90.1–1999

Nationwide, the effect of replacing EPCA efficiency levels for the product categories included in the Screening Analysis with those contained in ASHRAE/IES Standard 90.1–1999 would be to save an estimated 3.5 quadrillion Btu between 2004 and 2030 and to reduce carbon emissions into the atmosphere by approximately 51 million tons over the same period. DOE plans not to adopt the ASHRAE/IES Standard 90.1–1999 efficiency levels for twelve of these product categories. If DOE were to adopt standards corresponding to minimum life-cycle costs for the twelve categories, the additional energy savings would amount to 3.4 quadrillion Btu, and carbon emissions would further decrease by 49 million tons. The present value of the associated net cost savings would be $2.4 billion.

III. Public Comment

A. Written Comment Procedures

The Department invites interested persons to submit data, comments, or information with respect to the subjects addressed in this notice to Ms. Brenda Edwards-Jones, at the address indicated at the beginning of the notice. The Department will consider all submissions received by the date specified at the beginning of this notice in deciding on the disposition of amended standards.

Under the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document and ten (10) copies, if possible, from which the information believed to be confidential has been deleted. The Department of Energy will make its own determination with regard to the confidential status of the information and treat it according to its determination.

Factors of interest to the Department when evaluating requests to treat as confidential information that has been submitted include: (1) A description of the items; (2) an indication as to whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) an indication as to when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

B. Issues on Which Comments Are Requested

The Department is particularly interested in receiving comments and views of interested parties concerning: (1) The analysis contained in the Screening Analysis report announced in this notice, (2) DOE's interpretation of the results, (3) DOE's planned treatment

of product categories not included in the Analysis, and (4) information or evidence that bears on the adoption of ASHRAE/IES Standard 90.1–1999 efficiency levels as uniform national standards under the terms of EPCA. The Department encourages those who wish to offer comments to obtain the Screening Analysis report and to address its contents. However, respondents need not limit their statements to the topics covered in the study, as the Department is interested in receiving views concerning any other issues that participants believe would affect the suitability of ASHRAE/IES Standard 90.1–1999 efficiency standards for commercial water heaters, boilers, furnaces, air conditioners and heat pumps. For example, comments might include additional evidence, not uncovered in the Screening Analysis, bearing on the technological feasibility and economic justification of more stringent uniform national standards than those in ASHRAE/IES Standard 90.1–1999 and on the significance of the energy conservation that would result from adopting them. Comments might also include evidence as to whether any standards more stringent than the ones specified in ASHRAE/IES Standard 90.1–1999 are likely to result in unavailability in the United States of products with performance characteristics (including reliability), features, sizes, capacities and volumes that are substantially the same as those generally available in the United States now.

After the period for written comments, the Department will consider the views submitted in formulating rules regarding uniform energy efficiency standards for commercial water heaters, boilers, furnaces, air conditioners and heat pumps.

C. Public Workshop

1. Procedure for Submitting Requests To Speak

You will find the time and place of the public workshop listed at the beginning of this notice. We invite any person who has an interest in today's notice, or who is a representative of a group or class of persons that has an interest in these issues, to request an opportunity to make an oral presentation. If you would like to attend the public workshop, please notify Ms. Brenda Edwards-Jones at (202) 586–2945. You may hand deliver requests to speak to the address indicated at the beginning of this notice between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays, or you may send them by mail.

The person making the request should state why he or she, either individually or as a representative of a group or class of persons, is an appropriate spokesperson; briefly describe the nature of the interest in the proceeding; and provide a telephone number for contact. We request each person selected to be heard to submit an advance copy of his or her statement at least one week prior to the date of this workshop as indicated at the beginning of this notice. We, at our discretion, may permit any person wishing to speak who cannot meet this requirement to participate if that person has made alternative arrangements with the Office of Building Research and Standards in advance. The letter making a request to give an oral presentation must ask for such alternative arrangements.

2. Conduct of Workshop

We will conduct the workshop in an informal, conference style. We may use a professional facilitator to facilitate discussion, and a court reporter will record the transcript of the meeting. We will present summaries of comments received before the workshop, allow time for presentations by workshop participants, and encourage all interested parties to share their views on issues affecting this proceeding. The comment period closes on July 31, 2000 in order to allow interested parties an opportunity to comment on the matters raised at the workshop, as well as on any other aspect of the proceeding. The public workshop agenda is expected to cover the topics listed in the preceding Section III. B., Issues on Which Comments Are Requested.

We will arrange for a transcript of the workshop and will make the entire record of this proceeding, including the transcript, available for inspection in the Department's Freedom of Information Reading Room. Any person may purchase a copy of the transcript from the transcribing reporter.

Issued in Washington, DC, on May 8, 2000.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 00–12112 Filed 5–12–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE161; Notice No. 23–00–02–SC]

Special Conditions: Installation of Full Authority Digital Engine Control (FADEC) System on Morrow Aircraft Corporation Model MB–300 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Morrow Aircraft Corporation Model MB–300, which will use a FADEC System. This airplane will have a novel or unusual design feature associated with the installation of an engine that uses an electronic engine control system in place of the engine's mechanical system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before June 14, 2000.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket, Docket No. CE161, DOT Building, 901 Locust, Kansas City, Missouri 64106, or delivered in duplicate to the Regional Counsel at the above address. Comments must be marked: Docket No. CE161. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Randy Griffith, Aerospace Engineer, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 901 Locust, Room 301, Kansas City, Missouri, 816–329–4126, fax 816–329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the

regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. CE161.'' The postcard will be date stamped and returned to the commenter.

Background

On March 5, 1999, Morrow Aircraft Corporation applied for a type certificate for the Model MB–300 airplane. The Model MB–300 is a small, normal category airplane. The airplane is powered by two reciprocating engines equipped with an electronic engine control system with full authority capability in place of the hydromechanical control system.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Morrow Aircraft Corporation must show that the Model MB–300 meets the applicable provisions of 14 CFR part 23, as amended by Amendments 23–1 through 23–53 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 23) do not contain adequate or appropriate safety standards for the Model MB–300 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model MB–300 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Morrow Model MB–300 will incorporate the following novel or unusual design features:

The Morrow Model MB–300 airplane will use engines that include an electronic control system with full engine authority capability.

Many advanced electronic systems are prone to either upsets or damage, or both, at energy levels lower than analog systems. The increasing use of high power radio frequency emitters mandates requirements for improved high intensity radiated fields (HIRF) protection for electrical and electronic equipment. Since the electronic engine control system used on the Morrow Model MB–300 will perform critical functions, provisions for protection from the effects of HIRF fields should be considered and, if necessary, incorporated into the airplane design data. The FAA policy contained in Notice 8110.71, dated April 2, 1998, establishes the HIRF energy levels that airplanes will be exposed to in service. The guidelines set forth in this Notice are the result of an Aircraft Certification Service review of existing policy on HIRF, in light of the ongoing work of the ARAC Electromagnetic Effects Harmonization Working Group (EEHWG). The EEHWG adopted a set of HIRF environment levels in November 1997 that were agreed upon by the FAA, JAA, and industry participants. As a result, the HIRF environments in this notice reflect the environment levels recommended by this working group. This notice states that a full authority digital engine control is an example of a system that should address the HIRF environments.

Even though the control system will be certificated as part of the engine, the installation of an engine with an electronic control system requires evaluation due to the possible effects on or by other airplane systems (*e.g.,* radio interference with other airplane electronic systems, shared engine and airplane power sources). The regulatory requirements in 14 CFR part 23 for evaluating the installation of complex systems, including electronic systems, are contained in § 23.1309. However, when § 23.1309 was developed, the use of electronic control systems for engines was not envisioned; therefore, the § 23.1309 requirements were not applicable to systems certificated as part of the engine (reference § 23.1309(f)(1)). Also, electronic control systems often require inputs from airplane data and power sources and outputs to other airplane systems (*e.g.,* automated cockpit powerplant controls such as mixture setting). Although the parts of the system that are not certificated with the engine could be evaluated using the criteria of § 23.1309, the integral nature of systems such as these makes it unfeasible to evaluate the airplane portion of the system without including the engine portion of the system. However, § 23.1309(f)(1) again prevents complete evaluation of the installed airplane system since evaluation of the engine system's effects is not required.

Therefore, special conditions are proposed for the Morrow Model MB–300 to provide HIRF protection and to evaluate the installation of the electronic engine control system for compliance with the requirements of § 23.1309(a) through (e) at Amendment 23–53.

Applicability

As discussed above, these special conditions are applicable to the Morrow Model MB–300. Should Morrow Aircraft Corporation apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model, the Morrow Model MB–300 airplane. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Authority: The authority citation for these special conditions in part 23 is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17, and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Morrow Model MB–300 airplane.

1. High Intensity Radiated Fields (HIRF) Protection. In showing

compliance with 14 CFR part 21 and the airworthiness requirements of 14 CFR part 23, protection against hazards caused by exposure to HIRF fields for the full authority digital engine control system which performs critical functions, must be considered. To prevent this occurrence, the electronic engine control system must be designed and installed to ensure that the operation and operational capabilities of this critical system are not adversely affected when the airplane is exposed to high energy radio fields.

At this time, the FAA and other airworthiness authorities are unable to precisely define or control the HIRF energy level to which the airplane will be exposed in service; therefore, the FAA hereby defines two acceptable interim methods for complying with the requirement for protection of systems that perform critical functions.

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the external HIRF threat environment defined in the following table:

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak root-mean-square (rms) values.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter peak electrical strength, without the benefit of airplane structural shielding, in the frequency range of 10 KHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation. Data used for engine certification may be used, when appropriate, for airplane certification.

2. Electronic Engine Control System. The installation items that affect the electronic engine control system must comply with the requirements of § 23.1309(a) through (e) including applicable amendments through Amendment 23–53. Data used for engine certification may be used, when appropriate, for airplane certification.

Issued in Kansas City, Missouri on April 28, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–12142 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–98–090]

RIN 2115–AE47

Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard has revised its proposal to change the regulations governing the operation of the Norfolk and Western Railroad drawbridge across the Eastern Branch of the Elizabeth River, mile 2.7, at Norfolk, Virginia. The revised proposal would require on-signal openings from 6 a.m. to 10 p.m. using a half-cycle draw operation and would reduce the advance notice required at other times from 3 hours to 2 hours. This change would provide for the reasonable needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before July 14, 2000.

ADDRESSES: You may mail comments and related material to the Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or they may be hand-delivered to the same address between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Commander (Aowb), Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ann Deaton, Bridge Administrator, Fifth Coast Guard District, (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–98–090), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 81/2 by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (Aowb), Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory History

On November 2, 1998, the Coast Guard published a Notice of Proposed Rulemaking (NRPM) entitled ''Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, Virginia'' in the **Federal Register** (63 FR 58676). We also distributed local notice of the **Federal Register** publication. We received 652 comments on the proposed rule. Most of the comments included a request for a public hearing, but based on the number of comments and the issues addressed by the comments, we determined that a public hearing would not provide additional information to aid the rulemaking process.

Background and Purpose

The Norfolk and Western Railroad drawbridge is owned and operated by Norfolk Southern Corporation (NSC). The regulations at 33 CFR 117.1007(a)

require the bridge to open on signal from 6 a.m. to 10 p.m. and require a three-hour advance notice for openings from 10 p.m. to 6 a.m. all year.

NSC initially requested a change to the regulations that would have reduced the hours during the day and times of the year when on-signal openings are required. Specifically, they requested that the drawbridge only be required to open on signal from April 15 to September 30, Monday through Thursday from 10 a.m. to 6 p.m. and Friday through Sunday from 6 a.m. to 11 p.m. At all other times, the drawbridge would open only after a three-hour advance notice.

NSC based their request on data from the 1996 and 1997 drawlogs. The logs show that from April to October during the weekdays (Monday through Thursday) from 10 a.m. to 6 p.m., and during the weekends (Friday through Sunday) from 6 a.m. to 11 p.m., the waterway traffic was at its peak. From 6 p.m. to 10 a.m. weekdays, and from 11 p.m. to 6 a.m. weekends during these same months, NSC suggested that waterway traffic decreased sufficiently to justify placing the bridge in advance-notice status. NSC also claimed that reduced maritime traffic from October to April justified a three-hour advance notice requirement for bridge openings during that period.

We reviewed all of the drawlogs and found that waterway traffic, particularly recreational, remained active through October and November. From December to mid-April, recreational waterway traffic decreased by 80% while commercial waterway traffic remained steady. The information provided by NSC showed that during October and November 1996, the number of draw openings were 86 and 73, respectively. During October and November 1997, the number of openings were 88 and 59, respectively. During the months of June, July and August of 1996, the number of openings were 180, 106, and 137. In 1997 during the same months, the number of openings were 155, 107, and 148. Even though draw openings decreased from October through November when compared to the peak summer months, we decided that the needs of maritime traffic required that the months of October and November be included in the on-signal season to more fairly balance the competing needs of the railroad and vessel traffic. The NPRM proposed on-signal openings from April 15 to November 30, Monday through Thursday, from 10 a.m. to 6 p.m., and Friday through Sunday from 6 a.m. to 11 p.m. At all other times the bridge would only have to open for vessel traffic after three hours advance notice.

After publication of the proposal, we received 652 comments from the public. All objected to the proposed changes. We notified NSC of the overwhelming public opposition to our proposed changes and asked them for additional input in a letter dated January 22, 1999. NSC responded in a letter dated February 11, 1999. We facilitated a meeting on April 20,1999, during which NSC, local government representatives, and other interested attendees discussed the proposed rule and their respective needs and concerns. Representatives from the Norfolk Police and Fire Departments and the Virginia Marine Patrol voiced concerns about bridge openings in case of emergencies. Representatives of the Lower Chesapeake Waterman's Association voiced concerns that the proposed 10 a.m. start time for on-signal openings would interfere with commercial fishing and crabbing enterprises which require early morning transits. The validity of the number of openings logged by NSC was also questioned. All other issues raised at the meeting relevant to this rulemaking were the same as those contained in the written comments to the docket. A written summary of that meeting is available for review in the public docket.

In July 1999, NSC informed the Coast Guard that the bridge had at times used a half-cycle operation and inquired about the possibility of incorporating half-cycle operation as part of a revised proposal. (A ''full cycle'' involves changing a bridge from its current position to the opposite position and then returning it to the position from which it began. In a ''half-cycle'' operation, a bridge's position is changed from its current position to the opposite position and then remains there until it is necessary to return the bridge to its original position. That is, the bridge goes from the closed position to the open position or vice versa, but does not complete the ''cycle'' to it's original position, hence the term ''half-cycle'' operation.) This type of operation is permitted and offers some benefits to both bridge operators and waterway users. Bridge operators reduce the wear and tear on the bridge and waterway users enjoy increased ease of navigation and reduced delay in transiting through the bridge.

Discussion of Comments and Changes

We received 652 comments objecting to the proposed rule change to reduce the on-signal opening requirements of the Norfolk and Western Railroad Bridge. The vast majority of those comments (over 630) were ''form letters,'' signatures on a petition, and letters that although individually drafted contained the same or similar language. These and other comments opposed the proposed changes and favored maintaining the current regulations or slightly increasing the hours of on-signal openings on weekend and holiday nights. Other suggestions included requiring the bridge to remain in the open position unless actually being used for train traffic, automating the operation of the bridge, and requiring the bridge to open on-signal at all times.

Reasons cited in support of the above suggestions included the effect on property values and future development, concern about the ability of waterborne emergency personnel to transit the waterway, inconvenience and interference with the commercial enterprise of fisherman, inconvenience and interference with the recreational pursuits of other waterway users, and safety concerns of those who wished to return to port due to deteriorating weather conditions and who were hampered in that endeavor by the advance notice requirements.

The comments concerning future development, property values, and transit of emergency personnel were not accompanied by any supporting data. Having evaluated the comments, the Coast Guard is satisfied that the existing federal regulations found at 33 CFR 117.31 regarding operation of the draw for emergency situations are sufficient based on the information provided by the emergency service agencies involved.

The comments submitted concerning actual usage of the waterway were considered and balanced against the comments made by the bridge operator. The revelation that half-cycle operations had been used in the past casts doubt on the reliability of using the drawlogs as a valid indicator of vessel traffic; it is impossible to tell how many vessels actually transited through the bridge during periods when it remained in the open to navigation position.

Based on all the information received since the publication of the NPRM, we are revising our original proposal which would have reduced the hours during the day and times of the year when on-signal openings are required. The proposal to have months of the year during which no on-signal opening hours were required has been dropped. Rather than limiting the times during which the drawbridge will open on signal, we propose to keep the same on-signal hours as in the current regulations using a ''half-cycle

operation'' that will reduce the number of openings during the on-signal hours. Beginning at 6 a.m. when the draw first opens for vessel passage, it will stay in the open position, rather than completing the draw cycle back to the closed position. It will remain in the open to navigation position until a train crossing requires that it be lowered to the closed position. It will then stay in the closed position until a vessel passage requires it to be opened again. Between 6 a.m. and 10 p.m. this half-cycle operation will reduce the number of complete cycles normally caused by vessel passages through the draw and should effectively keep the draw in the open to navigation position during most of the on-signal period. This will reduce the waiting time for vessels and reduce the wear and tear of normal operations on the drawbridge and will meet both the needs of navigation and train traffic.

In addition, we are reducing the current advance notice requirement from three hours to two hours during the 10 p.m. to 6 a.m. period. The reduction in the amount of advance notice required will allow waterway users greater flexibility in planning their transits of the bridge while not burdening the bridge operator with extended hours of on-signal operation unnecessarily. It is also responsive to the comments from vessel operators who expressed safety concerns over being unnecessarily delayed in returning to their moorings, especially under adverse weather conditions.

Regulatory Evaluation

This proposal 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).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

We reached this conclusion based on the fact that the proposed change will not impede maritime traffic but will actually serve to increase the ease of use by waterway users, while still providing for the needs of the bridge owner.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: the owners and operators of vessels that desire to transit the waterway and homeowners associations representing property owners upstream of the drawbridge. This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. The proposed rule will increase the amount of time the drawbridge is open during peak waterway usage and decreases the notification requirement for off-peak opening of the drawbridge.

If you think that your business, organization, or governmental jurisdiction qualifies as small entitiy and that his rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this rule would economically affect it.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this proposed rule under E.O. 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates and Enhancing the Intergovernmental Partnership

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093, October 28, 1993) govern the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.lC, this proposed rule is categorically excluded from further environmental documentation. This proposed rule only deals with the operating schedule of an existing drawbridge and will have no impact on the environment. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under the authority of Pub. L. 102–4587, 106 Stat. 5039.

2. Section 117.1007(a) is revised to read as follows:

§ 117.1007 Elizabeth River—Eastern Branch.

(a) The draw of the Norfolk and Western Railroad bridge, mile 2.7 in Norfolk shall operate as follows:

(1) From 6 a.m. to 10 p.m., the draw shall open on signal if it is in the closed to navigation position and remain open until a train crossing requires that it be returned to the closed to navigation position.

(2) From 10 p.m. to 6 a.m., the draw shall open on signal if at least two hours notice is given.

* * * * *

Dated: May 3, 2000.

Thomas E. Bernard,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 00–12147 Filed 5–12–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF84

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plants Lomatium cookii (Cook's lomatium) and Limnanthes floccosa ssp. grandiflora (Large-Flowered Wooly Meadowfoam) in Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list two plants, *Lomatium cookii* (Cook's lomatium) and *Limnanthes floccosa* ssp. *grandiflora* (large-flowered wooly meadowfoam) as endangered species pursuant to the Endangered Species Act of 1973, as amended (Act). Both of these plants inhabit seasonally wet habitats known as vernal pools in the Agate Desert, an area north of Medford (Jackson County), Oregon. Researchers know of only 13 occurrences of *L. cookii* and 10 occurrences of *L. f.* ssp. *grandiflora* in the Agate Desert. An additional 10 occurrences of *L. cookii* are known in French Flat, Josephine County. The continued existence of *L. cookii* and *L. f.* ssp. *grandiflora* is threatened primarily by destruction of their habitat by industrial and residential development, including road and powerline construction and maintenance. Agricultural conversion, certain grazing practices, off-road vehicle use, and competition with nonnative plants also contribute to population declines. *Lomatium cookii* sites in Josephine County are additionally threatened by habitat alteration associated with gold mining, certain proposed timber projects, and woody species encroachment resulting from fire suppression. This proposal, if made final, would extend the Act's protection to these plants.

DATES: Comments from all interested parties must be received by July 14, 2000. Public hearing requests must be received by June 29, 2000.

ADDRESSES: You may submit comments and materials on this proposal in person or by mail to: Field Supervisor, U.S. Fish and Wildlife Service, Oregon State Office, 2600 S.E. 98th Avenue, Portland, Oregon 97266. Alternatively, you may send comments via the Internet to *loli@r1.fws.gov.* For further information please see section entitled ''Public Comments Solicited.''

FOR FURTHER INFORMATION CONTACT: Judy Jacobs, U.S. Fish and Wildlife Service, Oregon State Office (see **ADDRESSES** section) (telephone 503/231–6179; facsimile 503/231–6195).

SUPPLEMENTARY INFORMATION:

Background

Vernal pools are seasonal wetlands that form only in regions where certain soil and climatic conditions exist. During fall and winter rains typical of Mediterranean climates, water collects in shallow depressions in areas where downward percolation of water is prevented by the presence of an impervious hard pan or clay pan layer below the soil surface (Keeley and Zedler 1998). Later in the spring, when rains decrease and the weather warms, the water evaporates, and the pools generally disappear by May. Vernal pools thus provide unusual ''flood and drought'' habitat conditions to which certain plants and animals have specifically adapted. *Lomatium cookii* (Cook's lomatium) and *Limnanthes floccosa* ssp. *grandiflora* (large-flowered wooly meadowfoam) are two such plant taxa that occur in vernal pool habitats in a small area of Jackson County, southwestern Oregon. *Lomatium cookii* also occurs in seasonally wet habitats at a few locations in Josephine County, the adjacent county to the west. The *L. f.* ssp. *grandiflora* is believed to be extant in only 10 locations in Jackson County, while *L. cookii* is believed to occur at 13 sites in Jackson and 10 in Josephine County (Oregon Natural Heritage Program (ONHP) Database 1998).

Lomatium cookii is a perennial forb in the carrot family (Apiaceae) that grows 1.5 to 5 decimeters (6 to 20 inches (in)) tall from a slender, twisted taproot. Leaves are smooth, finely dissected, and strictly basal (growing directly above the taproot on the ground, not along the stems). One to four groups of clustered, pale-yellow flowers produce boat-shaped fruits 8 to 13 millimeters (mm) (0.3 to 0.5 in) long with thickened margins. The taproot can often branch at ground level to produce multiple stems. The branching taproot distinguishes *L. cookii* from *L. bradshawii* (indigenous to wet prairies from southern Willamette Valley, Oregon, to southwest Washington) and *L. humile* (found in vernal pools in northern California) (Kagan 1986). *Lomatium utriculatum,* found on mounds adjacent to pools in the Agate Desert, is distinguished from *L. cookii* by its more intense yellow flowers, the different shape of its involucel bracklets (leaflike structures below the flowers), and thin-winged fruits (Kagan 1986). *Lomatium tracyi,* occurring in California and the Illinois Valley, Oregon, has a similar appearance to *L. cookii,* but *L. tracyi* has slender-margined fruits and can grow on dry sites. *Lomatium cookii* has boat or pumpkin-shaped fruits and grows on seasonally wet sites (Lincoln Constance, Prof. Emeritus, University of California, Berkeley, pers. comm. 1992).

James Kagan first collected *Lomatium cookii* in 1981 from vernal pools in the Agate Desert, Jackson County, Oregon, and subsequently described the species (Kagan 1986). Additional populations were found at French Flat in the Illinois Valley, Josephine County, Oregon in 1988 (ONHP Database 1998). Plants in the French Flat populations grow on seasonally wet soils. Slight morphological differences exist between *L. cookii* populations in the Agate Desert and French Flat, but these differences are not considered significant enough to separate the species into subspecies (L. Constance, *in litt.* 1992). Preliminary genetic work has not revealed any differences between the Agate Desert and French Flat *L. cookii* populations (Matt Gitzendanner, Washington State University, pers. comm. February 1998).

Limnanthes floccosa spp. *grandiflora* is a delicate annual in the meadowfoam, or false mermaid, family (Limnanthaceae). *Limnanthes floccosa* ssp. *grandiflora* grows 5 to 15 centimeters (cm) (2 to 6 in) tall, with 5 cm (2 in) leaves divided into 5 to 9 segments. The stems and leaves are sparsely covered with short, fuzzy hairs. The flowers, and especially the calyx (outer whorl of floral parts), are densely covered with wooly hairs. Each of the 5 yellowish to white petals is relatively long for the genus, 6 to 13 mm (0.2 to 0.5 in.), and has 2 rows of hairs near its base.

In his monograph of the genus *Limnanthes,* Mason (1952) described three varieties of *Limnanthes floccosa* but did not recognize grandiflora as distinct. Based on her study of specimens grown under controlled conditions from field-collected seed, Arroyo (1973) elevated Mason's varieties to subspecies and described

two additional subspecies, including ssp. *grandiflora.* This subspecies is distinguished from other subspecies of *L. floccosa* by its larger flower size, sparsely hairy stems and leaves, and two lines of hairs at the petal base (Arroyo 1973). Over much of its range, *L. f.* ssp. *grandiflora* overlaps with *L. f.* ssp. *floccosa.* However, *L. f.* ssp. *floccosa* grows on the slightly drier, outer fringes of the pools, whereas *L. f.* ssp. *grandiflora* grows on the relatively wetter, inner fringe of the pools (Arroyo 1973; Darren Borgias, The Nature Conservancy, pers. comm. 1998).

Limnanthes floccosa ssp. *grandiflora* and *Lomatium cookii* both occur in and around vernal pools within an 83 square kilometer (km2) (32 square mile (mi²)) landform in southwestern Oregon known as the Agate Desert in Jackson County. Located on the floor of the Rogue River basin north of Medford, the Agate Desert is characterized by shallow, Agate-Winlow complex soils, a relative lack of trees, sparse prairie vegetation, and agates (fine-grained sands that have striped, cloudy, and rounded spots or patches of a color or shade different from their background) commonly found on the soil surface (ONHP 1997). *Lomatium cookii* also occurs in another area encompassing some 10 km2 (4 mi ²) in adjacent Josephine County. This area, referred to as French Flat, is located within the Illinois Valley near the Siskiyou Mountains.

In the Agate Desert, researchers know of only 13 occurrences of *Lomatium cookii* and 10 occurrences of *Limnanthes floccosa* ssp. *grandiflora.* Mapped habitat for these species in the Agate Desert totals some 54 hectares (ha) (133 acres (ac)) for *L. cookii* and 80 ha (198 ac) for *L. f.* ssp. *grandiflora* (ONHP Database 1998). However, due to recent alteration and destruction of vernal pools in the Agate Desert (ONHP 1997), habitat currently occupied by these plants is considerably less, an estimated 28 ha (69 ac) and 47 ha (116 ac) for *L. cookii* and *L. f.* ssp. *grandiflora,* respectively (ONHP Database 1998). These two taxa occur in five of the same vernal pool systems, constituting three ''occurrences'' as defined by ONHP. In French Flat, Josephine County, there are 10 known occurrences of *L. cookii,* occupying up to 61 ha (150 ac) of habitat, but many of these sites are very small (50 individuals or less), and current status is not well known.

Two occurrences each of *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* occur partially or entirely within the Agate Desert Preserve (Preserve), owned by The Nature Conservancy (TNC). The Preserve contains the only large populations on private land managed for protection of these species.

Two occurrences of each taxon are on State land, mainly in the Ken Penman Wildlife Area, where much of the habitat has been altered and planted to grasses. Portions of two *Lomatium cookii* and three *Limnanthes floccosa* ssp. *grandiflora* occurrences are on lands owned by the City of Medford, within an area designated as the Whetstone Industrial Park. Portions of two *L. f.* ssp. *grandiflora* and four *L. cookii* occurrences are located in highway or powerline rights-of-way (ONHP Database 1998), where they are subject to herbicide spraying and other maintenance activities conducted by the State or counties. In French Flat, there are 10 known occurrences of *L. cookii*. Three occurrences of *L. cookii* occur on private land. Two of these occurrences are located on land managed by Jackson County; one of these has been largely extirpated by construction of a baseball sports complex. The remaining seven populations of *L. cookii* in Josephine County are located partially or entirely on land managed by the Bureau of Land Management (BLM).

The Agate Desert landscape consists of a gentle mound-swale topography with a characteristic appearance in aerial photographs that is sometimes referred to as patterned ground. During the fall and winter rainy season, a striking pattern of shallow pools develops in the swales. These vary in size from 1 to 30 meters (m) (3 to 100 feet (ft)) across, and attain a maximum depth of about 30 cm (12 in) (ONHP 1997). Plants native to these pools, including *Limnanthes floccosa* ssp. *grandiflora* and *Lomatium cookii*, are adapted to grow, flower, and set seed during the relatively short time that water is available in the spring. Special assemblages of plants blooming in concentric rings toward the deepest part of the pools can be seen as soil moisture recedes throughout the spring (ONHP 1997). Native plants that occur with *Lomatium cookii* and *Limananthes floccosa* ssp. *grandiflora* in these vernal pools include *Plagiobothrys bracteatus* (popcorn flower), *Juncus uncialis* (a rush), *Navarretia* spp. (Navarretia), and *L. f.* spp. *floccosa* (common wooly meadowfoam) (Kagan 1987).

The historical range for *Limnanthes floccosa* ssp. *grandiflora* and *Lomatium cookii* in the Agate Desert may have originally encompassed over 130 km² (50 mi²), within a 17-km (11-mi) radius of White City (ONHP 1997). Vernal pool habitat, formerly widespread south of the Rogue River, is now almost completely eliminated (Brock 1987; ONHP 1997).

During January and February of 1998, we conducted a preliminary study of vernal pool invertebrates at a number of vernal pools in the Agate Desert. This study revealed the presence of a federally threatened species, the vernal pool fairy shrimp (*Branchinecta lynchi*), at six of the pools sampled (May Consulting Services 1998). Two of these pools are on property managed by BLM, and the remainder are on TNC land. This fairy shrimp, previously believed to be endemic to vernal pools in California, was listed as a federally threatened species in 1994 (59 FR 48136). The presence of this threatened species underscores the need to conserve and restore remaining vernal pool habitat in the Agate Desert area.

In French Flat, *Lomatium cookii* grows in wet meadow areas underlain with floodplain bench deposits that contain sufficient clay to form a clay pan at 60 to 90 cm (24 to 35 in) below the soil surface (U.S. Department of Agriculture 1983). The clay pan creates seasonally wet areas similar to the vernal pools of the Agate Desert, but mostly lacking the latter area's distinctive mound-swale topography. Common plants associated with *L. cookii* in French Flat include *Danthonia californica* (oatgrass), *Plagiobothrys bracteatus, Horkelia congesta* (horkelia), *Calochortus uniflorus* (mariposa lily), and *Erythronium howellii* (trout lily). The surrounding forest contains *Pseudotsuga menziesii* (Douglas fir) and *Pinus jeffreyi* (Jeffrey pine). Shrub species that grow on serpentine (rocky mineral consisting mostly of magnesium that gives it a green mottled color) soils, such as *Ceanothus cuneatus* (buckbrush) and *Arctostaphylos viscida* (manzanita), are found within the area of *L. cookii* sites (Linda Knight, BLM, *in litt.* 1992).

The historical range of *Lomatium cookii* in French Flat may have included seasonally wet meadows along the East Fork of the Illinois River. Fire suppression, grazing, residential development, and extensive gold mine dredging (Shenon 1933) altered *L. cookii* habitat in this area. However, some native perennial communities remain in wet meadows that were not affected by mining. Gold mining imminently threatens *L. cookii* habitat in French Flat (Joan Seevers, BLM, pers. comm. 1998).

Previous Federal Action

Federal action on *Limnanthes floccosa* ssp. *grandiflora* began with section 12 of the Act (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a

report on those plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975, and included *L. f.* ssp. *grandiflora* as endangered. We published a notice on July 1, 1975, (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 identified plant species. On June 16, 1976, we published a proposal (41 FR 24523) to determine approximately 1,700 vascular plant species, including *L. f.* ssp. *grandiflora*, to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and us in response to House Document No. 94–51 and our July 1, 1975, **Federal Register** publication.

General comments received regarding the 1976 proposal were summarized in an April 26, 1978, notice (43 FR 17909). The Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already more than 2 years old. On December 10, 1979, we published a notice of withdrawal (44 FR 70796) of the June 6, 1976, proposal, along with four other proposals that had expired.

We published a Notice of Review for plants on December 15, 1980 (45 FR 82480). This notice included *Limnanthes floccosa* ssp. *grandiflora* as a category 1 candidate for Federal listing. Category 1 candidates were those taxa for which we had on file substantial information on biological vulnerability and threats to support preparation of listing proposals. On November 28, 1983, we published a supplement to the Notice of Review (48 FR 53640). However, in the September 27, 1985, Notice of Review (50 FR 39526), the status of this taxon was changed to category 2. Category 2 candidates were those taxa for which data in our possession indicated listing was possibly appropriate, but for which substantial data on biological vulnerability and threats were not currently known or on file to support proposed rules.

Category 2 status was maintained for *Limnanthes floccosa* ssp. *grandiflora* in the Notice of Review published on February 21, 1990 (55 FR 6184). *Lomatium cookii* was first included in that 1990 Notice of Review as a category 1 candidate species. We made no changes to the status of the two species in the plant notice published on September 30, 1993 (58 FR 51144). In our February 28, 1996, Notice of Review (61 FR 7596), we discontinued the use of multiple candidate categories, and now only those taxa meeting the definition of the former category 1 are considered candidates for listing purposes. *Lomatium cookii* was maintained as a candidate species, but *L. f.* ssp. *grandiflora* was not. Our September 18, 1997, Notice of Review (62 FR 49397) included both *L. f.* ssp. *grandiflora* and *L. cookii* as candidates. The most recent Notice of Review (64 FR 57534), published on October 25, 1999, included both *L. f.* ssp. *grandiflora* and *L. cookii* as candidates.

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. This provision applied to *Limnanthes floccosa* ssp. *grandiflora* 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 reviewed annually pursuant to section 4(b)(3)(C)(i) of the Act. For the purpose of making these annual petition findings, we made an administrative decision to treat all candidate plants as if their listings had been petitioned prior to 1982. Therefore, the ''warranted but precluded'' finding also applies to *Lomatium cookii,* which first appeared in the February 21, 1990, Notice of Review. The warranted but precluded finding for both species has been reviewed annually through 1999. Publication of this proposal constitutes the final finding for the petitioned action.

The processing of this proposed 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. 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. Processing of this proposed rule is a Priority 3 action and is being completed in accordance with the current Listing Priority Guidance.

Peer Review

In accordance with interagency policy published on July 1, 1994 (59 FR 34270), upon publication of this proposed rule in the **Federal Register** we will solicit expert reviews by at least three specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomic, biological, and ecological information for *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora.* The purpose of such a review is to ensure that listing decisions are based on scientifically sound data, assumptions, and analyses, including the input of appropriate experts.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and regulations (50 CFR part 424) that implement the listing provisions of the Act established 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 *Lomatium cookii* (Cook's lomatium) and *Limnanthes floccosa* ssp. *grandiflora* Arroyo (large-flowered wooly meadowfoam) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The vernal pools and other seasonally wet soils where *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* grow are susceptible to various land use disturbances. The primary threats to the vernal pool habitat of *L. cookii* and *L. f.* ssp. *grandiflora* in the Agate Desert are industrial, commercial, and residential development and related road and utilities construction and maintenance, including mowing and herbicide spraying; firebreak construction; and hydrologic alteration, particularly the conversion of nonirrigated land to irrigated agricultural use (D. Borgias, pers. comm. 1999). Competition, particularly from introduced annual grass species (see Factor E of this

section), and grazing, especially during the fall and winter months, can also reduce or eliminate populations of both species (Kagan 1987; James Kagan, Oregon Natural Heritage Program (ONHP), pers. comm. 1998). Josephine County populations of *L. cookii* are additionally threatened by proposed gold mining operations, the uncontrolled use of off-road vehicles (ORVs) in the areas occupied by this species, certain timber harvesting activities, and tree encroachment into open areas associated with fire suppression.

Human-related impacts to vernal pool habitat in the Agate Desert began in the mid-1800's, when the area was grazed by cattle and sheep (ONHP 1997). In 1905, a land speculation company acquired a large part of the area and attempted to establish pear orchards by constructing an extensive system of shallow irrigation ditches and, in some cases, blasting through the hardpan layer. This effort failed, and grazing continued as the dominant land use until 1942, when the U.S. military purchased a large segment of the Agate Desert for a training center. When this center was decommissioned in 1946, a 158–ha (390–ac) portion of the area west of Highway 62 was purchased by a timber industry consortium, and a timber mill industrial center began to grow (ONHP 1997). Other industries were drawn to the area, and around 1980 the City of Medford established the 290–ha (720–ac) Whetstone Industrial Park. Much of this area has been leveled and compacted, destroying any vernal pools, although some potential vernal pool habitat remains in the area (ONHP 1997). Another area west of Highway 62, encompassing some 728 ha (1,800 ac), is State land managed as the Ken Denman Wildlife Area (ONHP 1997). Devoted to waterfowl production, much of this area has been covered with log deck debris, plowed in strips, and planted with nonnative wildlife food plants (Brock 1987; J. Kagan, pers. comm. 1997).

East of Highway 62, much of the Agate Desert landform was subdivided into 2–ha (5–ac) homesites in the 1950's, many of which were leveled. Because grazing was removed from some of these sites when they were offered for sale, this area has recovered somewhat and harbors some intact vernal pool habitat (Brock 1987; ONHP 1997).

The southernmost section of the historical Agate Desert has been largely modified by cultivation for pasture. The Medford-Jackson County Airport occupies some 374 ha (925 ac) at the southern limit of the landform. A new building that will house a Foreign Trade Zone at the airport is currently under development (Bern Case, Director, Medford-Jackson County Airport, pers. comm. 1998), and construction associated with this facility could impact *Lomatium cookii* plants at the site.

Jackson County is experiencing rapid population increase. It is the ninth fastest growing county in Oregon, and the majority of this growth is centered in the Medford area (Oregon Center for Population Research and Census, pers. comm. 1998). Much of this development has occurred in and around *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* habitat near Medford and White City.

A recent habitat assessment map and report (ONHP 1997) indicates that residential, commercial, and industrial development, along with land leveling, have claimed nearly 60 percent of the historic Agate Desert vernal pool landscape. According to this assessment, no pristine vernal pool habitat remains due to the presence of introduced plants throughout the Agate Desert. The highest quality remaining vernal pool habitat occurs on 23 percent of the landform. By overlaying ONHP plant occurrence polygons on the habitat assessment base map, one can determine that over 50 percent of *Lomatium cookii* sites and nearly 50 percent of *Limnanthes floccosa* ssp. *grandiflora* sites originally mapped in the Agate Desert during the 1980's have been severely altered. While most of these sites were altered prior to the 1980's (D. Borgias, pers. comm. 1999), habitat alterations in the Agate Desert are continuing at a rapid rate, as indicated by numerous examples below.

In 1992, a sewage line was built by the City of Medford across the southwest corner of the Cardinal Avenue site in the Agate Desert. A large department store was built on land adjacent to this site. The Cardinal Avenue site is proposed for inclusion in the Foreign Trade Zone at the Medford-Jackson County Airport, and development on the 1.2–ha (3–ac) site is very likely (Gerald Anderson, Medford City Manager, pers. comm. 1998). The Cardinal Avenue site, with a population of approximately 140 *Lomatium cookii* individuals, was graded in January 1993 (J. Kagan, pers. comm. 1998). The landowner was contacted by TNC to request permission to remove some plants for experimental transplantation. The landowner agreed to allow removal of the plants, but TNC was able to obtain only one individual prior to completion of grading and was unable to successfully transplant the individual (D. Borgias, pers. comm. 1999).

In 1986, private lands with 4 ha (10 ac) of *Lomatium cookii* habitat and some 500 individual plants were developed into a sports park complex by Jackson County with Federal Land and Water Conservation Funds. The area was leveled, and playing fields and parking lots were constructed. Approximately 80 percent of the available habitat was removed at this site. Inventory of this population in 1992 documented 150 plants at this site (Kagan 1987). Based on preliminary surveys in 1997, these plants may have been extirpated (J. Kagan, pers. comm. 1998).

Another project related to increased development of the Agate Desert area and that resulted in adverse affects to *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* habitat is a 500-kilovolt powerline that Pacific Power and Light constructed in June 1992 (Gerald Nielsen, Pacific Power Co., pers. comm. 1992). The powerline directly affected 7.5 ha (18.5 ac) out of a total of 80 ha (198 ac), or 9.3 percent of the existing *L. f.* ssp. *grandiflora* habitat in the Agate Desert. About 2.6 ha (6.4 ac), or 4.8 percent of the existing *L. cookii* habitat, was affected in the Agate Desert. Maintenance activities along the powerline corridor may continue to adversely impact *L. cookii* and *L. f.* ssp. *grandiflora* habitat.

Two sites where *Limnanthes floccosa* ssp. *grandiflora* was collected in 1969 have been destroyed, one by construction of a mill, and another by construction of a large industrial plant (J. Kagan, pers. comm. 1997). Additional sites of *L. f.* ssp. *grandiflora* occurrences (50 percent of the total extant) have been severely degraded as follows (J. Kagan, pers. comm. 1998): (1) One site, at the intersection of three major roads, has been reduced to a few fragmented patches. The site is now bordered by two fast-food restaurants, a powerline, and residential development, leaving virtually no opportunity for conservation. (2) Another site occurs at the corner of a building adjacent to railroad tracks and has been reduced to approximately 5 square meters (54 square feet), leaving no avenue for site conservation. (3) A sewer plant for the City of Medford has reduced the type locality for this taxon to two small pools. (4) In 1985, *L. f.* ssp. *grandiflora* was estimated to cover some 16 ha (40 ac) at one of two occurrences of *L. f.* ssp. *grandiflora* on Denman Wildlife Area, since then the site has been leveled and scraped for planting tall wheatgrass as wildlife food, as a result by 1993, coverage had been reduced to 1.2 ha (3 ac), a 92 percent reduction. (5) More recently, over two-thirds of the second site found on Denman Wildlife Area

(29.5 ha (73 ac) in size) has been leveled, grazed, and piped for irrigation.

In the early 1990's, a proposed highway connector between Interstate 5 and Highway 140 across the Agate Desert would have impacted a number of occurrences of both *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora.* Although that specific project is no longer under consideration, the Oregon Department of Transportation (ODOT) is currently considering a number of alternatives for moving traffic through the area, some of which could impact vernal pools. The vernal pools that are not directly impacted by the highway project are often impacted by projects that result from increased access to the area, such as industrial and residential development.

The only *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* habitat protected from industrial, residential, or commercial development in the Agate Desert area is the habitat located on the Preserve managed by TNC for the protection of these species. Approximately 7 ha (17 ac) of *L. cookii* habitat and 16.7 ha (41.2 ac) of *L. f.* ssp. *grandiflora* habitat exist on the Preserve.

The Preserve, supporting the largest populations of *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora*, is located in an area that may soon be surrounded by commercial and industrial developed land. Although the Preserve land is protected, the alteration of land adjacent to the Preserve could disrupt the hydrologic processes within the Preserve. For example, a road was built along the southern edge of the Preserve in 1988. Water runs off the road into a ditch after rainstorms, where it would have normally remained in pools in the Preserve. This ditch drained several of the vernal pools on the southern portion of the Preserve, further reducing approximately 0.2 ha (0.5 ac) of vernal pools available to *L. cookii* and *L. f.* ssp. *grandiflora* in the Preserve (J. Kagan, pers. comm. 1998). In addition, potential habitat that borders the west side of the Preserve was partitioned and developed into industrial property in January 1993 (J. Kagan, pers. comm. 1998). Hydrology and available management (e.g., prescribed burning) were also altered by the development. During development of land west of the Preserve, land-moving equipment trespassed onto a portion of the Preserve. At the time, vernal pools on the Preserve had no fences or physical barriers to prevent trespass by ORVs or land-moving equipment (D. Borgias, pers. comm. 1998).

To summarize these plants' status in the Agate Desert, *Limnanthes floccosa* ssp. *grandiflora* is presently declining at seven of its ten known occurrences, and its status is unknown at two additional sites and is known to be stable at only one site. Populations of *Lomatium cookii* are declining at 11 of the 13 known occurrences in the Agate Desert. Habitat originally mapped for these species in the Agate Desert totals some 54 ha (133 ac) for *L. cookii* and 80 ha (198 ac) for *L. f.* ssp. *grandiflora* (ONHP Database 1998). However, habitat currently occupied by these plants is considerably less, an estimated 28 ha (69 ac) and 47 ha (116 ac) for *L. cookii* and *L. f.* ssp. *grandiflora*, respectively (ONHP Database 1998). Thus, the current ranges of both species are roughly 50 percent less than the area of historical habitat in the Agate Desert.

Occurrences of *Lomatium cookii* in Josephine County are also subject to numerous threats. The only habitat for this plant on federally owned land is located near French Flat, which is managed by BLM. Gold mining operations threaten approximately 10 percent of the federally owned portion of this habitat. Approximately 600 plants occur in the area threatened by mining. Mining activities could result in direct habitat loss for the species and limit recovery at this site.

Indirect effects from mining operations in French Flat could also occur due to off-site activities, such as road construction, which are likely to alter hydrologic cycles at *Lomatium cookii* habitat sites. These changes could cause seasonally saturated soils to drain and could impede seed germination or lead to death of seedlings and mature plants. Currently, no safeguards exist to protect habitat in the French Flat area from mining operations.

Habitat for *Lomatium cookii* on BLM-managed land at French Flat continues to experience damage from ORV use. In 1992, ORV use damaged a large wet meadow in this area, creating ruts that punctured the clay pan layer and allowed soil moisture to drain from the wet meadow habitat. Heavy ORV use of *L. cookii* habitat in the area is continuing. To date, ORV use has caused puncturing and draining of 6 ha (15 ac) of meadow habitat in the French Flat population. As a result, 20 percent of the remaining *L. cookii* habitat on federally managed land has been destroyed. The BLM intends to gate part of the area to discourage ORV trespass, but restricting access to this large, open area is difficult (Linda Mazzu, BLM, pers. comm. 1998; J. Seevers, pers. comm. 1998). If recently proposed mining actions on BLM lands are implemented, habitat destruction would be substantially increased beyond 20 percent.

Lomatium cookii occurrences in French Flat are also threatened by a timber sale presently under consideration by BLM. Additionally, one recently discovered occurrence at Indian Hill, which is in a long, narrow meadow, is threatened by encroachment of woody species from the surrounding forest. Fire suppression activities have caused an increase in the invasion of trees and shrubs that shade out *L. cookii* plants and decrease available water (L. Mazzu, pers. comm. 1998).

Residential development and road building in the Illinois Valley also threaten populations of *Lomatium cookii.* For example, construction of a residential driveway and roto-tilling on private ground extirpated a Josephine County population of this species in 1991 (J. Kagan, pers. comm. 1998).

B. Overutilization for commercial, recreational, scientific, or educational purposes. Lomatium cookii and *Limnanthes floccosa* ssp. *grandiflora* have no known commercial, recreational, or scientific use at this time. No evidence exists of overcollection by botanists and/or horticulturists at this time. However, *Limnanthes floccosa* ssp. *grandiflora* may be of interest to collectors and researchers; some members of the genus have the potential to become important new crop plants because they possess a seed oil that exhibits stability at high temperature and pressure. This oil could be used as a lubricant for various industrial uses (University of California-Davis 1998). *Limnanthes alba,* a wildflower found in California, is now poised to become a multimillion dollar crop in the Willamette Valley of Oregon for its oil (Savonen 1997). To domesticate the species and improve strains, seeds were, and still are, collected from wild *L. alba,* as well as other *Limnanthes* species to cross with the domesticated plants. *Limnanthes floccosa* ssp. *grandiflora* could have this potential, though no known research has been conducted on this subject. This species may be sought for collection if its rarity and population locations become well known. Vandalism or intentional destruction also could occur. Most of the remaining populations of the species are so small, and their distribution so limited, that even limited collecting pressure could have significant adverse impacts.

Eighty-three percent of *Lomatium cookii* occurrences and 40 percent of *Limnanthes floccosa* ssp. *grandiflora* occurrences are concentrated on 2 ha (5 ac) of land or less. Easy access exists to

occurrences of these plants in the Agate Desert, and to *L. cookii* sites near Cave Junction, since they occur near heavily traveled roads. Most sites for these species lack fences or appropriate signs to discourage collectors or others from accessing the sites.

C. *Disease or predation.* No data exist to substantiate whether disease threatens *Lomatium cookii* or *Limnanthes floccosa* ssp. *grandiflora.* An unidentified *Ascomycete* fungus was responsible for the mortality of four *L. cookii* plants in a single population (Kagan 1987). Since this fungus has not been observed at other sites, no conclusions can be drawn regarding the threat of the fungus to the species as a whole. Predation has been observed on *L. cookii* from gophers, other rodents, and black-tailed jackrabbits feeding on vegetative portions; wireworms and other insect larvae eat the roots of plants, and insects prey on *L. cookii* seeds (Kagan 1987).

Cattle grazing causes substantial impacts to *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora.* Tracts heavily grazed from October to April are less likely to support these taxa. The majority of the seasonal growth occurs during the winter. If the plants are grazed during fall and winter, they are less likely to survive to produce seed in the spring or early summer (Brock 1987).

The effects of cattle grazing on *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* are exemplified by the history of land use on what is now TNC's Agate Desert Preserve. Prior to TNC's acquisition of this tract, the area was grazed for a number of years. An estimated 480 individuals of *L. f.* ssp. *grandiflora* were noted at this site between 1984 and 1987. Cattle were removed in 1987, and in 1988, the *L. f.* ssp. *grandiflora* population had soared to over 7,000 individuals. By 1991, the population had grown to an estimated 17,600 plants, and it is now stable or increasing (D. Borgias, pers. comm. 1998). Despite the potential negative effects of fall to spring cattle grazing, carefully managed and timed grazing may actually reduce competition with introduced grass species (see Factor E of this section).

D. *The inadequacy of existing regulatory mechanisms.* The majority of *Lomatium cookii* and all *Limnanthes floccosa* ssp. *grandiflora* plants grow in association with vernal pools, which are classified as wetlands. Under section 404 of the Clean Water Act, the U.S. Army Corps of Engineers (Corps) regulates the discharge of dredged or fill material into waters of the United States, including wetlands (33 CFR parts 320–330). To be in compliance with the Clean Water Act, parties are generally required to notify the Corps prior to undertaking any activity that would result in the discharge of fill, including soil, into wetlands under the Corps' jurisdiction. An individual permit is required in many cases. The Nationwide Permit Program (33 CFR part 330) was designed to eliminate the need for individual permits for some activities. Nationwide Permit Number 26, as conditioned by the Portland District of the Corps for application within the State of Oregon, allows the discharge of fill affecting up to only 0.8 ha (2 ac) of wetlands, if the wetlands are isolated or above the headwater point of a stream (average annual flow of less than 0.14 cubic meters per second (5 cubic feet per second). Also, the permittee must notify the Corps prior to discharge and comply with the terms and conditions of the nationwide permit. Fills affecting less than 0.13 ha (0.32 ac) do not require Corps notification. However, the Corps is aware of the sensitivity of the Agate Desert vernal pools and may require individual permits on a case-by-case basis. The Clean Water Act does not regulate drainage of wetlands unless that action results in the discharge of dredged or fill material into a wetland.

Most *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* sites occupy wetlands less than 2 ha (5 ac) in size, often in wetlands with no surface drainage to streams (*i.e.,* isolated). Therefore, activities resulting in the filling of vernal pools often fall under Nationwide Permit Number 26. Currently, the Corps is not required to request consultation under section 7 of the Act on fill activities that may affect *L. cookii, L. f.* ssp. *grandiflora,* or other unlisted species. If *L. cookii* and *L. f.* ssp. *grandiflora* are listed, consultation with us would be required by the Nationwide Permit conditions prior to the Corps authorization of an activity that would adversely affect the species. The Portland District has issued General Regulatory Conditions that accompany all nationwide permits. One of these conditions indicates that if at any time the permittee becomes aware of the presence of a listed species within the authorized project area, all work activity must cease immediately, the Corps must be notified, and work must not resume until approved by the Corps. If *L. cookii* and *L. f.* ssp. *grandiflora* are listed, these regulatory conditions would apply to the seasonal wetlands these species occupy.

State of Oregon wetland laws do not protect many *Lomatium cookii* or *Limnanthes floccosa* ssp. *grandiflora* sites due to their small size. The Removal-Fill Law of 1989 (ORS 196.800–196.990), administered by the Oregon Division of State Lands, does not regulate activities that involve less than 38 cubic meters (m^3) (50 cubic yards (yd^3)) of fill. Such an amount of fill could seriously impact many smaller vernal pool wetlands in which *L. cookii* and *L. f.* ssp. *grandiflora* occur.

Lomatium cookii and *Limnanthes floccosa* ssp. *grandiflora* are listed as endangered species under the State of Oregon threatened or endangered plant law (OAR 603–73–070). In general, State-listed plant populations on private lands are not subject to this law. The law prohibits the ''take'' of State-listed plants only on State, county, and city-owned or leased lands. And on these lands, the State law does not guarantee the protection of State-listed plants because it allows for the loss of populations if a proposed project or activity is considered to be a public benefit (Tom Kaye, Oregon State University, pers. comm. 1999). Because *Lomatium cookii* is listed as a Federal candidate, lands owned by the BLM will seek to provide a protection buffer when a plant population may be impacted by a proposed project (e.g., mining permit) (L. Mazzu, pers. comm. 1999).

E. *Other natural or manmade factors affecting its continued existence.* Herbicide spraying, mowing, grading, and other road maintenance activities threaten small *Lomatium cookii* sites adjacent to roads on private lands near Cave Junction in the Illinois Valley. In the Agate Desert, *L. cookii* and *Limnanthes floccosa* ssp. *grandiflora* individuals in road or powerline rights-of-way could be accidentally destroyed by local public works departments, highway districts, fire departments, or private citizens when carrying out maintenance activities (Rose Hayden-Owens, ODOT, pers. comm. 1998).

Invasion of nonnative annual plants in the Agate Desert altered native perennial plant communities (Brock 1987) where *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* grow. Native bunch grasses on mounds between vernal pools have been replaced by introduced European grasses such as *Bromus mollis* (brome grass), *Taeniatherum caput-medusae* (medusahead), *Cynosurus echinatus* (dogtail), and *Poa bulbosa* (bluegrass). *Taeniatherum caput-medusae* competes with *L. cookii* and *L. f.* ssp. *grandiflora* on seasonally wet mounds between the pools. Seeds of both the native taxa are not able to germinate under the dense thatch produced by introduced annual species. Competition with introduced plant species is exacerbated on the Denman Wildlife Area, where game bird

food plots are seeded with nonnative plant species. Brock (1987) supports the contention that the main cause of the reduction of *L. cookii* populations has been intensive cattle grazing accompanied by the negative competitive effects of introduced grasses, specifically *T. caput-medusae.*

Mowing, burning, light grazing, or even raking of vernal pool habitat after *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* seeds have matured, but before the fall growth period, may help reduce plant cover from exotic annual plants (Brock 1987). In a small experiment conducted on the Preserve, germination and seedling survivorship of the rare plants was increased on plots that were raked, as compared with untreated, or raked and scarified plots (D. Borgias, pers. comm. 1998).

Catastrophic events, such as fire, could eliminate the large occurrences of *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* located on the Preserve (J. Kagan, pers. comm. 1998). Demographic extinction is possible for nine other occurrences of *L. cookii,* mostly in the French Flat area, because of their small size (fewer than 100 plants). Many of the known French Flat sites are found directly adjacent to roads, increasing the possibility of extirpation.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* in determining to propose this rule. These species occupy an extremely restricted geographic range, with roughly 80 ha (200 ac) and 47 ha (116 ac) of known occupied habitat for *L. cookii* and *L. f.* ssp. *grandiflora,* respectively. The majority of these plants' remaining occupied habitat is threatened by commercial, industrial, and residential development; road and utilities construction and maintenance, including herbicide spraying; leveling for agriculture or pasture; ill-timed grazing or mowing; competition with introduced plants; mining; ORV use; certain timber sale activities; encroachment of trees and shrubs associated with fire suppression; and random natural events. Based on this evaluation, the preferred action is therefore to propose the listing of *L. cookii* and *L. f.* ssp. *grandiflora* as endangered species. Other alternatives to this action were considered but not preferred because not listing or listing as threatened would not be consistent with 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 which may require special management considerations or protection; and specific areas outside the geographical area occupied by the 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 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 1999/2000 (64 FR 57114) states that the processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations 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.

We propose that critical habitats designations are prudent for both *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora.* 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 both *L. cookii* and *L. f.* ssp. *grandiflora.*

Due to the small number of populations both, *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* are vulnerable to unrestricted collection, vandalism, or other disturbance. We are concerned that these threats might be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, at this time we do not have specific evidence for either *Lomatium cookii* or *Limnanthes floccosa* ssp. *grandiflora* of taking, vandalism, collection, or trade of this species or any similarly situated species. Consequently, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and recent case law, we do not expect that the identification of critical habitat will increase the degree of threat to this species of taking or other human activity.

In the absence of a finding that critical habitat would increase threats to a species, if 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 propose that critical habitat is prudent for both *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora*. However, the deferral of the critical habitat designation for these species will allow us to concentrate our limited resources on higher priority critical habitat (including court ordered designations) and other listing actions, while allowing us to put in place protections needed for the conservation of both *L. cookii* and *L. f.* ssp. *grandiflora* without further delay. However, because we have successfully reduced, although not eliminated, the backlog of other listing actions, 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. We will make the final critical habitat determination with the final listing determination for both *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora*. If this final critical habitat determination is that critical habitat is prudent, we will develop a proposal to designate critical habitat for both *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* as soon as feasible, considering our workload priorities. Unfortunately, for the immediate future, most of Region 1's listing budget must be directed to complying with numerous court orders and settlement agreements, as well as due and overdue final listing determinations.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing 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. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with us.

Seven occurrences of *Lomatium cookii* exist on Federal land managed by the BLM. Should this species be listed, BLM actions that may affect the species (including permits governing mining activities) would be subject to section 7 of the Act. BLM has conducted some conservation actions for *L. cookii*, including regular surveys of certain sites and attempts to exclude ORVs from vulnerable populations (L. Mazzu, pers. comm. 1998). The Federal Aviation Administration could be involved in section 7 consultation on the Medford Airport project. In areas that presently support *L. cookii* or *Limnanthes floccosa* ssp. *grandiflora,* housing loans insured by the Department of Housing and Urban Development could be subject to consultation.

The Corps has been involved with vernal pool protection through its permitting authority under section 404 of the Clean Water Act. By regulation, Corps permits may not be issued where a federally listed endangered or threatened species may be affected by the proposed project without first completing consultation pursuant to section 7 of the Act. Due to the recent discovery of the threatened vernal pool fairy shrimp in the Agate Desert, consultation will now be required for wetland fills in the area. Consultation would also be required for the two plants that are the subject of this rulemaking, should they be listed.

In 1997, the Oregon Department of Corrections was considering placing a new prison facility in the Agate Desert area (D. Borgias, pers. comm. 1999). One of the potential locations for this facility would have impacted a number of extant *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* sites. This location was not chosen. However, any further developments of this nature requiring Federal involvement would require consultation pursuant to section 7 of the Act for the vernal pool fairy shrimp, and for the two plants that are the subject of this proposed rulemaking, should they be listed.

With regard to recovery, *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* plants in the Agate Desert may be able to repopulate a site that was disturbed, if the hard pan soil layer and the historical or otherwise appropriate hydrologic patterns remain intact. These plants may also be able to repopulate historical habitat naturally, if a sufficient amount of seed remains in the soil and young plants are not grazed or sprayed (J. Kagan, pers. comm. 1998). For example, *L. cookii* appears to have repopulated the Antelope Road site after the area was leveled in the 1940's. Plant numbers at this site, however, decreased from 1,000 in 1987 to 500 in 1992. The reason for this decline is unknown. The Avenue H site was leveled in 1954 but the site was repopulated because the hard pan layer was not disturbed, thus allowing soil moisture to remain sufficiently high. Plant counts at this site also decreased from approximately 14,000 in 1987 to 6,000 in 1992, again for unknown reasons (J. Kagan, pers. comm. 1998). Any proposed habitat creation or restoration work for these plants would require careful planning prior to implementation, and close monitoring thereafter.

The Oregon Department of State Parks has undertaken protective measures for the *Lomatium cookii* site that occurs on park property. The Department recently fenced the entrance road to exclude ORV use from areas near the road where this rare plant occurs. The Departments proposed plans for a campground in the area will be designed to protect this rare plant (M. Stenberg, pers. comm. 1998).

Listing these two plants would provide for development of a recovery plan (or plans). Such plan(s) would bring together both State and Federal efforts for conservation of the plants. The plan(s) would establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan(s)

would set recovery priorities and estimate costs of various tasks necessary to accomplish them. The plan(s) also would describe site-specific management actions necessary to achieve conservation and survival of the two plants. Additionally, pursuant to section 6 of the Act, we would be able to grant funds to the State of Oregon 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, 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 from areas under Federal jurisdiction any such plant. In addition, the Act prohibits 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. 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. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. We anticipate that few trade permits would ever be sought or issued because these plants are not in cultivation or common in the wild.

As published in the **Federal Register** on July 1, 1994 (59 FR 34272), it is our policy to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range. *Limnanthes floccosa* ssp. *grandiflora* is not presently known to occur on Federal land, although two occurrences are known from the vicinity of Table Rock, where BLM manages some land. *Lomatium cookii* is known to occur on lands under the jurisdiction of the BLM.

We believe that, based upon the best available information, the following actions affecting these plants on Federal property would not likely result in a violation of section 9, provided these activities are carried out in accordance with existing regulations and permit requirements:

(1) Activities authorized, funded, or carried out by Federal agencies (*e.g.,* livestock grazing, agricultural conversions, wetland and riparian habitat modification, flood and erosion control, residential development, recreational trail development, road construction, hazardous material containment and cleanup activities, prescribed burns, pesticide/herbicide application, pipelines or utility lines crossing suitable habitat) when such activity is conducted in accordance with any reasonable and prudent measures given by us in a consultation conducted under section 7 of the Act;

(2) Casual, dispersed human activities on foot or horseback (*e.g.,* bird watching, sightseeing, photography, camping, hiking);

(3) Activities on private lands that do not require or involve Federal funding, permits, or authorization, such as livestock grazing, agricultural conversions, flood and erosion control, residential development, road construction, and pesticide/herbicide application when consistent with label restrictions; and

(4) Residential landscape maintenance (including irrigation) and the clearing of vegetation around one's personal residence as a firebreak.

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; and

(2) 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 State Supervisor of our Oregon State Office (see **ADDRESSES** section).

Requests for copies of the regulations regarding listed plants and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon, 97232–4181 (telephone 503/231–2063; facsimile 503/231–6243).

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Lomatium cookii* or *Limnanthes floccosa* ssp. *grandiflora;*

(2) The location of any additional occurrences of *L. cookii* or *L. f.* ssp. *grandiflora* and the reasons why any habitat of these species 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 these species; and

(4) Current or planned activities in the subject areas, including possible mining operations on federally managed land, and their possible impacts on *L. cookii* or *L. f.* ssp. *grandiflora.*

A final determination on *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* will take into consideration the comments and any additional information received by us, and such communications may lead to a final determination that differs from this proposal.

You may submit comments and materials on this proposal should in person or by mail to: Field Supervisor, U.S. Fish and Wildlife Service, Oregon State Office, 2600 S.E. 98th Avenue, Portland, Oregon 97266. Alternatively, you may send comments via the Internet to *loli@r1.fws.gov.* Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: RIN 1018–AF84'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, please contact us directly by calling our Oregon State Office at phone number 503–231–6179. Please note that the Internet address *''loli@r1.fws.gov''* will be closed out at the termination of the public comment period.

Comments and materials received, will be available for public inspection, by appointment, during normal business hours at the above address. Our practice is to make comments, including names and home addresses of respondents, available for public review. We will make all submissions from

organizations or businesses, and from individuals representing organizations or businesses, available for public inspection in their entirety. We will not consider anonymous comments. However, individual respondents may request that we withhold their home address, and under certain circumstances, their identity, from the rulemaking record. We will honor such requests to the extent allowable by law. If you wish us to withhold your name and/or address, please state this prominently at the beginning of your comment.

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the State Supervisor, U.S. Fish and Wildlife Service, Oregon State Office (see **ADDRESSES** section).

National Environmental Policy Act

We have determined that environmental assessments, 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, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Executive Order 12866

Executive Order 12866 requires each agency to write regulations/notices that are easy to understand. We invite your comments on how to make this regulation easier to understand, including answers to questions such as the following—(1) Are the requirements in the regulation clearly stated? (2) Does the regulation contain technical jargon that interferes with the clarity? (3) Does the format of the regulation (grouping and order of the sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the regulation in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the regulation? What else could we do to make this regulation easier to understand?

Required Determinations

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. Any information collection related to the rule pertaining to permits for endangered and threatened species has OMB approval and is assigned clearance number 1018–0094. This rule does not alter that information collection requirement. For additional information concerning permits and associated requirements for endangered plants, see 50 CFR 17.62 and 17.63.

References Cited

A complete list of all references cited in this document is available upon request from the State Supervisor, Oregon State Office (see **ADDRESSES** section).

The authors of the proposed rule to list *Lomatium cookii* are Marilyn Hemker, U.S. Fish and Wildlife Service, Boise Field Office, 1387 South Vinnell Way, Room 368, Boise, Idaho 83709 (telephone 208/378–5243), and Judy Jacobs, U.S. Fish and Wildlife Service, Oregon State Office (see **ADDRESSES** section). The author of the proposal to list *Limnanthes floccosa* ssp. *grandiflora* is Judy Jacobs.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

For the reasons given in the preamble, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Limnanthes floccosa ssp. *grandiflora.*	Large-flowered wooly meadowfoam.	U.S.A. (OR)	Limnanthaceae	E	.....	NA	NA
*	*	*	*	*	*	*	
Lomatium cookii	Cook's lomatium	U.S.A. (OR)	Apiaceae	E	.....	NA	NA
*	*	*	*	*	*	*	

Dated: April 12, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–12123 Filed 5–12–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF98

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Determination of Critical Habitat for the Alameda Whipsnake (Masticophis lateralis euryxanthus)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice of a public hearing on the proposed rule to designate critical habitat for the threatened Alameda whipsnake (*Masticophis lateralis euryxanthus*). In addition, the comment period which originally closed on May 8, 2000, will be reopened. The new comment period and hearing will allow all interested parties to submit oral or written comments on the proposal. 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 comment period for this proposal now closes on June 12, 2000. Any comments received by the closing date will be considered in the final decision on this proposal. The public hearing will be held from 1:00 p.m. to 3:00 p.m. and from 6:00 p.m. to 8:00 p.m. on June 1, 2000, in San Ramon, California.

ADDRESSES: The public hearing will be held at the San Ramon Marriott, 2600 Bishop Drive, Salon E, San Ramon, California. Comments and materials concerning this proposal should be sent to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W–2605, Sacramento, California 95825. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jason Davis or Heather Bell, at the above address, phone 916–414–6600, facsimile 916–414–6710.

SUPPLEMENTARY INFORMATION:

Background

On March 8, 2000, the Service published a proposed rule to designate critical habitat for the threatened Alameda whipsnake in the **Federal Register** (65 FR 12155). The original comment period closed on May 8, 2000. The comment period now closes on June 12, 2000. Written comments should be submitted to the Service (see **ADDRESSES** section).

A total of approximately 164,663 hectares (406,708 acres) of land fall within the boundaries of the proposed critical habitat designation. Proposed critical habitat is located in Contra Costa, Alameda, San Joaquin, and Santa Clara counties, California. If this proposal is made final, section 7 of the Act prohibits destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Section 4 of the Act requires us to consider economic and other impacts of specifying any particular area as critical habitat.

Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to three such requests, the Service will hold a public hearing on the date and at address described in the **DATES** and **ADDRESSES** sections above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to the Service at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to the Service. Legal notices announcing the date, time, and location of the hearing will be published in newspapers concurrently with the **Federal Register** notice.

Comments from the public regarding the accuracy of this proposed rule are sought, especially regarding:

(1) The location of any additional populations of Alameda whipsnakes and the reasons why any habitat should or should not be determined to be critical habitat;

(2) Additional information regarding the validity of the primary constituent elements described in the proposed rule; and (3) Additional information regarding areas that may be essential as travel corridors for connecting individual Alameda whipsnake populations.

Reopening of the comment period will enable the Service to respond to the request for a public hearing on the proposed action. The comment period on this proposal now closes on June 12, 2000. Written comments should be submitted to the Service office listed in the **ADDRESSES** section.

Author

The primary authors of this notice are Jason Davis and Heather Bell (see **ADDRESSES** section).

Authority

The authority for this action are the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: May 2, 2000.

John Engbring,

Manager.

[FR Doc. 00–11450 Filed 5–12–00; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 65, No. 94
Monday, May 15, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 00–014N]

Announcement of and Request for Comment Regarding Industry Petition on Hazard Analysis and Critical Control Point (HACCP) Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice; opportunity to comment.

SUMMARY: The Food Safety and Inspection Service (FSIS) is requesting comment on a petition that asks FSIS to amend sections of the Hazard Analysis and Critical Control Point (HACCP) regulations ''to increase the effectiveness'' of the HACCP system and to make the regulations more consistent with the HACCP principles published in 1997 by the National Advisory Committee on Microbiological Criteria for Food (NACMCF). The petition is set out in this **Federal Register** notice. The petition was submitted by a group of trade associations. It contains no data or examples to support the requests it makes. In addition to comments from the public, FSIS will solicit comment from the members of the National Advisory Committee on Meat and Poultry Inspection (NACMPI) at its May 16–17, 2000, meeting.

DATES: Comments are due July 14, 2000.

ADDRESSES: Send comments in triplicate to USDA, FSIS Docket Room, Docket No. 00–014N, Room 102 Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Philip Derfler, Deputy Administrator, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture (202) 720–2709.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1996, FSIS published a final rule in the **Federal Register**, entitled ''Pathogen Reduction; Hazard Analysis and Critical Control Point Systems'' (61 FR 38806), requiring that federally inspected meat and poultry establishments implement HACCP systems to address hazards that are reasonably likely to occur in their operations. This rule requires that all federally inspected meat and poultry plants develop and implement written sanitation standard operating procedures (sanitation SOPs); mandates that meat and poultry slaughter plants conduct microbial testing for generic *E. coli* to verify the adequacy of their process controls; requires that all meat and poultry plants develop and implement a system of preventive controls known as HACCP to improve the safety of their products; and sets pathogen reduction performance standards for *Salmonella* that slaughter plants and plants producing raw ground products must meet.

When FSIS issued this final rule, it was aware that the rule would bring about major changes in the way plants operate and in how FSIS conducts its inspections. To account for this impact, the implementation of the rule was phased in over a three-year period that concluded January 25, 2000. Also, to assist the industry in preparing for the implementation of HACCP, FSIS provided extensive technical assistance and guidance and held numerous public meetings to receive input from all stakeholders.

Petition

FSIS received a petition dated December 30, 1999, signed by the following organizations: The American Meat Institute, American Association of Meat Processors, National Chicken Council, National Food Processors Association, National Meat Association, National Turkey Federation, and the North American Meat Processors. The petition requests that FSIS amend sections of the HACCP regulations in order, according to the petition, to increase the effectiveness of the HACCP system and to make the regulations more consistent with the HACCP principles published in 1997, by the National Advisory Committee on Microbiological Criteria for Food (NACMCF).

The petitioners contend that FSIS has too narrowly interpreted its rulemaking and ignores the ''* * * commonsense approach needed to make HACCP successful.'' In particular, they point out that there are other components of a HACCP system that the Agency should recognize, such as good manufacturing practice (GMP) programs (referred to as prerequisite programs), and that FSIS does not permit prerequisite programs to address food safety concerns. In 61 FR 38805, FSIS stated that it expected the HACCP plan to be a stand-alone document addressing food safety.

The petitioners also suggest that FSIS change some of the definitions contained in the HACCP regulations. Specifically, they suggest the following definition changes:

1. Delete the term and definition for ''food safety hazard'' and replace it with the term ''hazard.'' A ''hazard'' would be defined as ''a biological, chemical or physical agent that is reasonably likely to cause illness or injury in the absence of its control.''

2. Change the definition of ''hazard analysis'' to ''the process of collecting and evaluating information on hazards associated with the food under consideration to decide which are significant and must be addressed in the HACCP plan.''

3. Define ''severity'' as ''the seriousness of the effect(s) of a hazard.''

4. Define ''shipped'' as ''a product has been shipped if it has been sold to a third party and is not under the direct or effective control of the inspected establishment. Products have not been shipped in circumstances such as when the product is still owned by the inspected establishment, whether stored at the inspected establishment or at another storage location, as well as when the product is moving from one facility to another that is owned by the same person or company.'' The petitioners also suggest that throughout the regulations the word ''shipped'' should replace the phrase ''enters commerce.''

5. Lastly, the petitioners request that FSIS amend 9 CFR 417.6(e) to provide that a HACCP system may be found to be inadequate only when adulterated product has been shipped. Currently, the regulations state that the system may be found inadequate when adulterated product is produced or shipped.

As part of the Agency's continued efforts to involve all stakeholders in

issues related to the HACCP regulation and its implementation, FSIS is publishing the petition in this **Federal Register** notice. FSIS is also publishing this petition as part of its on-going efforts to keep stakeholders updated and informed about the Agency's activities. The Agency is working on a separate rulemaking related to the petition process, to more clearly define the requirements to be contained in a petition for changing the FSIS regulations.

Questions

FSIS is seeking public comment on the following questions about the petition:

1. The industry petition relies mainly on the NACMCF document and does not provide any data or examples to support its request. Is there any information that would support taking any of the actions requested in the petition?

2. Would amending 9 CFR 417.2(a) in the manner suggested in the petition result in regulations that provide the level of public health protection required by the Federal Meat Inspection Act and the Poultry Products Inspection Act?

3. Should FSIS consider regulatory modifications that would acknowledge the prerequisite programs concept of NACMCF?

4. Do FDA regulations, such as the GMP regulations, offer an approach that FSIS should consider? How would such an approach fit within the HACCP concept? How would FSIS implement such an approach?

5. What will be the effects of making FSIS and FDA HACCP regulatory requirements dissimilar?

6. Should the changes suggested in the industry petition be considered in light of the views expressed on HACCP by Codex and by other countries?

The Text of the Petition

Petition for Rulemaking Amendments to Pathogen Reduction; Hazard Analysis Critical Control Point (HACCP); Final Rule

The member companies of the trade associations (the associations) identified below support the adoption of Hazard Analysis Critical Control Point (HACCP) as the best system available for enhancing the safety of meat and poultry products. Through this petition, the associations seek amendments that will contribute to the evolution and effectiveness of HACCP. Although some adjustments can be made to the inspection system administratively, certain amendments to the Pathogen Reduction; Hazard Analysis Critical Control Point Systems final rule (the Rule) published by the Food Safety and Inspection Service (FSIS or the agency) on July 25, 1996 (61 FR 38806) will be required to accomplish these objectives.

Although HACCP implementation to date has been largely successful, disputes over ''technical'' non-conformances with certain elements of the Rule have arisen that have adversely affected the overall success of HACCP, without contributing to protection of consumers.[1] In that regard, amending the rule would reduce the occurrence of these unproductive instances and help focus future activities of the industry and the agency on issues that are vital to consumer protection.

Background

HACCP is a preventive system of hazard control, the inherent value of which is widely acknowledged. In that regard, the HACCP system has provided a framework for establishing more effective food safety measures. Nearly 15 years ago, the National Academy of Sciences (NAS) recognized the importance of incorporating HACCP into the meat and poultry inspection system and encouraged FSIS to move quickly to apply the HACCP system.[2]

The seven principles of HACCP, as revised by the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) in 1997, provide the basis for contemporary interpretations of the HACCP system. Those principles are:

1. Conduct a hazard analysis.
2. Determine the critical control points.
3. Establish critical limits.
4. Establish monitoring procedures.
5. Establish corrective actions.
6. Establish verification procedures.
7. Establish recordkeeping and documentation procedures.[3]

Through the application of these principles, simple production processes can be accommodated. Similarly, highly sophisticated procedures, even those that may pose some degree of risk can also be accommodated, assuming that the appropriate critical control points are identified and measurement criteria are established.

These principles purportedly provide the basis for the agency's Rule. The Rule as written, however, deviates from the intended application of these principles in several important ways. It is because the Rule as implemented by the agency does not adhere in its entirety to the principles of HACCP that this petition is submitted.

The Rule and industry's adoption of HACCP have fundamentally changed many aspects of food safety practices and inspection. HACCP requires acceptance by industry that it is responsible for ensuring the safety of products it produces. That concept, and the challenges it presents, has been accepted by industry.

The Rule also has required adjustments within the agency's inspection program. Companies' HACCP control activities occur in establishments under some form of continuous inspection and a wide range of enforcement sanctions remains available to FSIS. Indeed, the Rule has, in effect, expanded that capability through provisions permitting withholding actions in the event an establishment's HACCP plan is deemed to be inadequate. Under HACCP, however, inspection emphasis was to have shifted away from the application of subjective criteria and toward monitoring of specific, quantitative benchmarks.

HACCP should result in a food inspection system with a much higher level of private and public cooperation. Ideally, under HACCP government and industry would find themselves working together to monitory food safety compliance, with the goal of providing the safest possible meat and poultry supply.

Discussion

The Rule Is Written and Interpreted Too Narrowly

An important component of HACCP is the requirement that a written HACCP plan be developed for all products in accordance with HACCP principles. That plan should identify the hazards associated with the product, identify the critical control points in the process, establish quantitative monitoring procedures to assure compliance and corrective actions, and provide effective documentation of compliance. A HACCP plan is, however, only one part of a plant's overall food safety system. Other integral components of that system include Sanitation Standard

[1] Although HACCP implementation will not be completed throughout the meat and poultry industry until next January, nearly 80 percent of meat and poultry production already occurs under HACCP systems. This experience suggests strongly, that the time is now to discuss ways to improve an HACCP-based inspection system.

[2] *Meat and Poultry Inspection—The Scientific Basis of the Nation's Program,* National Academy Press, 1985 (pp. 134–135).

[3] The NACMCF streamlined the principles in a report adopted August 14, 1997. That report reversed principles six and seven from the original order established by NACMCF to the order presented above. See Hazard Analysis and Critical Control Point Principles and Application Guidelines (hereinafter the Guidelines), J. of Food Protection, Vol. 61, No. 6, at 762–775, 1998.

Operating Procedures (SSOPs), and various good manufacturing practices and other prerequisite programs (hereinafter collectively prerequisite programs) that are needed to form the foundation for the HACCP system.[4]

Unfortunately, the agency has elected only to recognize the sanitation part of these other components of establishments' food safety systems. For example, a beef plant typically controls temperature according to prerequisite programs to preserve product quality. Although this is a necessary program for meeting quality criteria, FSIS has apparently taken the posisiton that establishments must also incorporate product temperature controls into their HACCP plans. This position has resulted essentially in government mandated critical control points (CCPS)—contrary to the agencys often repeated statement that companies develop and operate their own HACCP plans and are responsible for the same. The role of prerequisite programs is a central question that needs to be addressed through a dialogue with the agency to determine the appropriate role for prerequisite programs as a component of a plant's operating system.

This mandate arises out of the agency's refusal to acknowledge prerequisite programs and other important food safety systems as very important, integral components of an establishment's food safety system. The agency specifically points to the ''in the absence of those controls'' language it incorporated into section 417.2(a)(1) of the Rule. The agency's interpretation of the Rule's language is unduly narrow and ignores the commonsense approach needed to make HACCP successful.

Notwithstanding the problems encountered to date, the Rule can be amended to enable the agency to consider the other important aspects of an establishment's food safety system, such as prerequisite programs. Rather than continue to implement a regulation that the agency interprets as forcing FSIS to ignore certain elements of a plant's program, the Rule should be amended to permit the agency to consider those other components when determining whether an establishment's HACCP plan is adequate. As discussed below, prerequisite programs will influence the likelihood that a food safety hazard will occur and, therefore, should be acknowledged by the Agency.

Such an amendment will benefit the agency, the regulated industry, and most significantly will enhance food safety. In that regard, the agency will be better able to determine whether a company's HACCP plan is adequate, enabling the agency to apply its limited resources to situations in which the integrity of the food inspection system may be compromised. Similarly, regulated companies will be better able to direct their resources to address circumstances that involve legitimate food safety issues, rather than including additional and often unnecessary provisions in their HACCP plans in order to accommodate the current interpretation of HACCP contained in the rule. Making the system operate more efficiently benefits all interested parties, including consumers who benefit from lower prices and also benefit from the fact that a less complicated, less duplicative system contributes to a more effective system from a food safety standpoint.

The Definition and Interpretation of a Food Safety Hazard Should Be Amended

The Rule's definition of ''food safety hazard'' is inconsistent with the definition of hazard provided by the NACMCF. Currently, the Rule defines a ''food safety hazard'' as any ''biological, chemical, or physical property that may cause a food to be unsafe for human consumption.'' [5] The NACMCF, however, developed a tighter, more appropriate defintion of ''hazard'' in its 1997 report.[6] Specifically, NACMCF defines a ''hazard'' as a ''biological, chemical, or physical agent that is reasonably likely to cause illness or injury in the absence of its control.'' [7] This definition will facilitate development of HACCP plans that focus on food safety, while encouraging firms to utilize prerequisite programs.

The Guidelines include a thorough discussion of that definition and, in that regard, provide that the purpose of a hazard analysis ''is to develop a list of hazards which are of such significance that they are reasonably likely to cause injury or illness if not effectively controlled.'' [8] The Guidelines provide that each identified potential hazard should be evaluated, giving consideration to its severity and likely occurrence. That consideration should also include the food, its method of preparation, transportation, storage, and the persons likely to consume the product.[9] Also included in these considerations would be the influence of prerequisite programs on the likely occurrence of the hazard under consideration. In short, the Guidelines make clear that significance, based on a variety of factors, is an integral part of determining whether a potential hazard is, in fact, a hazard that should be addressed in a HACCP plan.[10]

The Rule, however, is not written, nor interpreted, in a manner consistent with the NACMCF Guidelines. The Rule provides a much broader definition of ''hazard'' because it identifies as a ''hazard'' those properties that may cause a food to be unsafe, regardless of whether the hazard is ''significant'' in terms of actually presenting a risk to human health. This interpretation has led to confusion regarding what should be covered in HACCP plans and how to make this determination. This problem could be addressed by changing the Rule's definition of ''hazard.'' The NACMCF definition and interpretation of a ''hazard,'' is more precise and consistent with the principles of HACCP because it provides useful guidance for identifying those properties that, when all factors are considered, present a significant risk of illness or injury.

Prior to the implementation date for HACCP in the very large plants, the agency published the first of several notices that, in effect, dictate the adoption or establishment of hazards, without engaging in the necessary hazard analysis with respect to the significance and severity of those hazards. For example, in November 1997 FSIS published a notice telling establishments that zero tolerance for visible fecal material was a food safety standard and that FSIS would be determining compliance before the application of interventions. FSIS stated in the notice that visible fecal was a vehicle for microbial contamination. However, an establishment employing microbial interventions would typically set the critical control point at the intervention, not prior to it. In a situation such as this the visible contamination would need to be minimized but would not be the most critical point in the system. This notice, in effect, dictated the presence of CCPs in the production process, as well as its positioning.

[4] Prerequisite programs have been identified as the foundation upon which a HACCP plan is built. See ''The Role of Prerequisite Programs in Managing a HACCP System,'' *Dairy, Food and Environmental Sanitation,* Vol. 18, No. 7 at 418–423, July 1998.

[5] 9 CFR sec. 417.1.

[6] FSIS cross-references hazard and food safety hazard in the Rule. See 9 CFR sec. 417.1.

[7] See Hazard Analysis and Critical Control Point Principles and Application Guidelines, National Advisory Committee on Microbiological Criteria for Foods, at 6 (August 14, 1997).

[8] *Id.* at 12–13.

[9] *Id.* at 12.

[10] Indeed, the Guidelines provide that hazards identified in one facility may not be significant in another plant for the same or similar product. *Id.* at 14.

Immediately following large plant implementation the agency published a notice that effectively abandoned the concepts underlying HACCP in favor of a command and control regulatory system. Ultimately, the agency issued letters to numerous federally inspected facilities effectively dictating CCPs when a hazard analysis conducted by those plants, consistent with the NACMCF model for conducting such an analysis, indicated that the hazard was not of sufficient significance and severity to warrant its control through the HACCP plan. Finally, more recently, the agency has again insisted on dictating the presence and positioning of CCPs in plants that manufacture raw ground and not ground products.

Implementing the change recommended by this petition would address this problem and would benefit the agency, consumers, and the regulated industry. As previously discussed, such a change would enable the agency to focus its resources in a more efficient and effective manner and would enhance food safety by doing so. Accordingly, the Rule should be amended to adopt the definition of ''hazard'' as set forth by the NACMCF and abide by the NACMCF's intent with regard to conducting a hazard analysis.

The Rule Does Not Adequately Address When a Product Is Within an Establishment's Control

The Rule does not provide adequate guidance as to when a product has left the producing facility's control. The agency's interpretation of the Rule fails to acknowledge that products can be within an establishment's control even when the product is outside the physical boundaries of an establishment. For example, product on a company-owned or contracted truck is still under that company's control, as is product still owned by the establishment but held in a cold storage warehouse away from the production facility. FSIS has, on several occasions, contended that product was no longer within the establishment's control once it left the production facility's loading dock. Indeed, the agency has taken that position even when the product was stored on tractor-trailers still on the physical plant compound.

The Rule should be amended to define, for purposes of compliance with the HACCP regulations, when a product is shipped. In that regard, product should be deemed to have been shipped for purposes of HACCP compliance when it has been sold to another entity and is no longer in the direct or effective control of the producing establishment. For example, when product owned by the establishment is stored at a cold storage warehouse and is still subject to movement at the direction of the establishment it should be deemed to be in the establishment's control.

The Provision Regarding Inadequate Plans Should Be Amended

The Rule provides that a plant's HACCP plan may be deemed to be inadequate when ''adulterated product is produced or shipped.'' That provision however, is too draconian and should be amended to delete the reference to ''produced.''

The checks built into a HACCP plan are intended to identify not only when the production process is working as intended, but also to alert an establishment when the process has not met the critical limits relevant to the identified CCPs. A HACCP plan operating, as intended, will alert a company when a critical limit has not been met for one of many reasons that can, over the course of time, be expected to occur. In some cases, that will result in the production of ''adulterated'' product as that term is defined in the Federal Meat Inspection Act and the Poultry Products Inspection Act. What is relevant for purposes of compliance with the Rule is whether administration of the HACCP plan resulted in the company being able to detect the problem, as well as enabling the company to take corrective action.

A plant's operation should not be in jeopardy when it identifies a problem, as its plan is designed to do—even though adulterated product has been produced. The Rule, however, puts the agency in the position of taking action and deciding that an establishment's HACCP plan is inadequate when adulterated product is produced, even if the company caught the problem before any product left the plant's control. If the system is working a company should not be penalized. At a minimum, no plan should be deemed to be inadequate for deviations detected by the company in pre-shipment review. Numerous examples of such technical non-conformances can be cited and such instances have encumbered the agency and industry in resource intensive discussions that do not enhance public health protection. By modifying the Rule the squandering of valuable inspection resources can be avoided.

Specific Action Requested

The undersigned organizations request that the FSIS HACCP regulations be amended as set forth below.

Amend section 417.2(a)(1) to read as follows: ''Every official establishment shall conduct, or have conducted for it, a hazard analysis to develop a list of hazards that are of such severity and significance that they are reasonably likely to cause injury or illness if not effectively controlled. Hazards that are not reasonably likely to cause injury or illness do not require further consideration within a HACCP plan. The hazard analysis shall consider the ingredients and raw materials, each step in the process, product storage and distribution, and final preparation and use by the consumer.''

Amend section 417.1 to include several necessary definitions to ensure consistency with the recommendations of the NACMCF. In that regard the following amendments should be promulgated.

- Delete the term food safety hazard and provide the following definition of hazard: ''A biological, chemical, or physical agent that is reasonably likely to cause illness or injury in the absence of its control.''
- Provide the following definition of hazard analysis: ''The process of collecting and evaluating information on hazards associated with the food under consideration to decide which are significant and must be addressed in the HACCP plan.''
- Provide the following definition of severity: ''The seriousness of the effect(s) of a hazard.''
- Provide the following definition of shipped: ''A product has been shipped if it has been sold to a third party and is not under the direct or effective control of the inspected establishment. Products have not been shipped in circumstances such as when the product is still owned by the inspected establishment, whether stored at the inspected establishment or at another storage location, as well as when the product is moving from one facility to another that is owned by the same person or company.''

Amend section 417.3 to provide when product produced pursuant to a HACCP plan has been shipped for purposes of compliance with the rule. Specifically, section 417.3(b)(3) should be amended by striking the words ''enters commerce'' and inserting in lieu thereof ''is shipped.''

Amend section 417.6(e) to provide that a HACCP system may be found to be inadequate when adulterated product has been shipped. Specifically, section 417.6(e) should be amended by striking ''produced or.''

Conclusion

Amendments to the Rule as suggested by this Petition will advance the interests of government, industry, and the consuming public. The Food Safety and Inspection Service should proceed without further delay toward adoption of these amendments. With regard specifically to prerequisite programs, the undersigned organizations intend to engage the agency in discussions to develop the appropriate consideration of these programs within a comprehensive system for managing food safety, quality, and wholesomeness.

Certification

The undersigned certifies that, to the best of his knowledge and belief, the Petition includes all information and views on which the Petition relies, and that it includes representative data and information known to the Petitioners that are unfavorable to the Petitioners.

Respectfully submitted,

American Meat Institute
American Association of Meat Processors
National Chicken Council
National Food Processors Association
National Meat Association
National Turkey Federation
North American Meat Processors

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC, on: May 8, 2000.

Thomas J. Billy,

Administrator.

[FR Doc. 00–12156 Filed 5–12–00; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

International Trade Administration

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the following overseas trade missions that they also explain at the following website: *http://www.its.doc.gov/doctm.* For a comprehensive description of the trade mission, obtain a copy of the mission statement from the project officer listed below. The recruitment and selection of private sector participants will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions announced by Secretary Daley on March 3, 1997.

The Aerospace Executive Service at the Farnborough International Air Show 2000

United Kingdom
July 24–30, 2000

For Further Information Contact: Roderick A. Hirsch at the Department of Commerce in Long Beach, CA; Telephone number: (562) 980–4566 or Fax: (562) 980–4561.

Housing Business Development Mission to China

Hong Kong, Shanghai, Chendu & Beijing
June 5–14, 2000

For Further Information Contact: Chris Twarok at the Department of Commerce in Washington, DC; Telephone number: (202) 482–0377 or Fax: (202) 482–0382.

Anita Blackman,

Director of Operations, Office of Domestic Operations.

[FR Doc. 00–12077 Filed 5–12–00; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Public Telecommunications Facilities Program Application Form

ACTION: Proposed collection; comments requested.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A).

DATES: Written comments must be submitted on or before July 14, 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 or copies of the information collection instrument(s) and instructions should be directed to Clifton Beck, NTIA, Room H–4888, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of the Public Telecommunications Facilities Program is to assist, through matching funds, in the planning and construction of public telecommunications facilities in order to achieve the following objectives:

- Extend delivery of public telecommunications services to as many citizens in the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies;
- Increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and
- Strengthen the capability of existing public radio and television stations to provide public telecommunications services to the public.

II. Method of Collection

The information collection instrument to be used is in written form.

- Application form distributed to all potential applicants who have notified PTFP that they wish to be placed on the mailing list for applications.

III. Data

OMB Number: 0660–0003.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Public Telecommunications Facilities Program applicants (who may be non-profit corporations, public and private

universities and colleges, state and local government agencies).

Burden Hours Calculations/Reporting

Requirement	Hours/applicant	No. of applicants	Burden hours
Application for PTFP Funds	86	450	38,700
Resubmission of applications	9	179	*1,550
Total			40,250

*In every grant cycle, PTFP requires revised information to be submitted by applicants under serious consideration. We estimate this information requires 9 hours of work by about 170 of the 450 total applicants. (9×170 = 1,530). This number has been rounded to 1,550.

Estimated Total Annual Cost to the Public: Cost to respondents is consistent with their normal administrative overhead. Respondents will not have to purchase equipment or material to provide information.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to the notice will be summarized and/or included in the request for OMB approval of the information collection; they also will become a matter of public record.

Dated: May 9, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–12092 Filed 5–12–00; 8:45 am]

BILLING CODE 3510–60–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

May 9, 2000.

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

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 17, 2000.

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

SUPPLEMENTARY INFORMATION:

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

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 60796, published on November 8, 1999.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements

Committee for the Implementation of Textile Agreements.

May 9, 2000.

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

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 2, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on May 17, 2000, you are directed to adjust the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement:

Category	Adjusted twelve-month limit [1]
Group I	
200–224, 225/317/326, 226, 227, 229, 300/301/607, 313–315, 360–363, 369–L/670–L/870 [2], 369–S [3], 369–O [4], 400–414, 464–469, 600–606, 611, 613/614/615/617, 618, 619/620, 621–624, 625/626/627/628/629, 665, 666, 669–P [5], 669–T [6], 669–O [7], 670–H [8] and 670–O [9], as a group.	613,796,901 square meters equivalent.
Sublevels in Group I	
218	23,756,391 square meters.
225/317/326	42,167,530 square meters.
300/301/607	1,862,669 kilograms of which not more than 1,552,224 kilograms shall be in Category 300; not more than 1,552,224 kilograms shall be in Category 301; and not more than 1,552,224 kilograms shall be in Category 607.
619/620	15,609,313 square meters.
Within Group I subgroup	
604	246,241 kilograms.

Category	Adjusted twelve-month limit [1]
Group II	
237, 239, 330–332, 333/334/335, 336, 338/339, 340–345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359–C/659–C [10], 359–H/659–H [11], 359–O [12], 431–444, 445/446, 447/448, 459, 630–632, 633/634/635, 636, 638/639, 640, 641–644, 645/646, 647/648, 649, 651, 653, 654, 659–S [13], 659–O [14], 831–844 and 846–859, as a group.	725,771,576 square meters equivalent.
Sublevels in Group II	
336	142,675 dozen.
338/339	1,016,690 dozen.
340	1,289,323 dozen.
347/348	1,514,317 dozen of which not more than 1,288,567 dozen shall be in Categories 347–W/348–W [15].
352/652	3,389,959 dozen.
359–H/659–H	5,085,672 kilograms.
435	26,902 dozen.
436	5,306 dozen.
438	29,948 dozen.
443	45,250 numbers.
445/446	143,617 dozen.
638/639	6,476,467 dozen.
640	946,794 dozen of which not more than 281,710 dozen shall be in Category 640–Y [16].
642	805,462 dozen.
647/648	5,339,618 dozen of which not more than 5,088,804 dozen shall be in Categories 647–W/648–W [17].
659–S	1,713,821 kilograms.
Within Group II Subgroup	
342	254,420 dozen.
351	379,899 dozen.
447/448	22,084 dozen.
636	399,564 dozen.
651	476,420 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

[2] Category 870; Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091 and 6307.90.9905; Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091, 6307.90.9905 (Category 369–L); and 6307.10.2005 (Category 369–S).

[5] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[6] Category 669–T: only HTS numbers 6306.12.0000, 6306.19.0010 and 6306.22.9030.

[7] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 6306.12.0000, 6306.19.0010 and 6306.22.9030 (Category 669–T).

[8] Category 670–H: only HTS numbers 4202.22.4030 and 4202.22.8050.

[9] Category 670–O: all HTS numbers except 4202.22.4030, 4202.22.8050 (Category 670–H); 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[10] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[11] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[12] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C); 6505.90.1540 and 6505.90.2060 (Category 359–H).

[13] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[14] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 6 59–S).

[15] Category 347–W: only HTS numbers 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–W: only HTS numbers 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[16] Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[17] Category 647–W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2015, 6203.49.2030, 6203.49.2045, 6203.49.2060, 6203.49.8030, 6210.40.5030, 6211.20.1525, 6211.20.3820 and 6211.33.0030; Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.6030, 6204.69.9030, 6210.50.5035, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.

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

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–12109 Filed 5–12–00; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–38]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives,

Transmittal 00–38, with attached transmittal and policy justification.

Dated: May 8, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

27 April 2000

In reply refer to:
I-00/004804

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-38, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to the United Arab Emirates for defense articles and services estimated to cost $20 million. Soon after this letter is delivered to your office, we plan to notify the news media.

We notified transmittal number 98-45 to Congress on 16 September 1998 in support of a commercial sale of 80 F-16 Block 60 aircraft for weapons, munitions, and services for an estimated value of $2 billion.

Sincerely,

A. R. Keltz
Deputy Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 00-38

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: United Arab Emirates**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 17 million
Other	$ 3 million
TOTAL	$ 20 million

(iii) **Description of Articles or Services Offered: In support of a commercial sale of 80 F-16 Block 60 aircraft, the Government of the United Arab Emirates (UAE) has requested a possible sale of 80 M61A 20mm Vulcan cannons with 80 Ammunition Handling Systems and 80 barrel sets. Also included are 20 spare barrel sets, maintenance and pilot training, software support, publications and technical documentation, U.S. Government and contractor technical assistance and other related elements of logistics and program support.**

(iv) **Military Department: Air Force (SAA, Amendment 1)**

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none**

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none**

(vii) **Date Report Delivered to Congress: 27 April 2000**

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

United Arab Emirates - M61A 20mm Vulcan Cannons

In support of a commercial sale of 80 F-16 Block 60 aircraft, the Government of the United Arab Emirates (UAE) has requested a possible sale of 80 M61A 20mm Vulcan cannons with 80 Ammunition Handling Systems and 80 barrel sets. Also included are 20 spare barrel sets, maintenance and pilot training, software support, publications and technical documentation, U.S. Government and contractor technical assistance and other related elements of logistics and program support. The estimated cost is $20 million.

This proposed sale, in support of a commercial purchase of 80 F-16 Block 60 aircraft, will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

The proposed sale of the weapons will strengthen the effectiveness and interoperability of a potential coalition partner, reducing the dependence on U.S. forces in the region while enhancing any coalition operations the U.S. undertake. The cannons will be installed on the commercially-supplied fighters and will improve its fighter fleet. UAE will have no difficulty absorbing these weapons into its armed forces.

The proposed sale of these weapons support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin of Fort Worth, Texas. Offset arrangements were negotiated between contractor and the UAE in conjunction with the 36(b) commercial sale.

The number of U.S. Government and contractor representatives required in UAE to support the program will be determined in joint negotiations as the program proceeds through the development, production and equipment installation phases.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 00–12068 Filed 5–12–00; 8:45 am]
BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of 20 Department of Defense Federal Advisory Committees

ACTION: Notice.

SUMMARY: Under the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act,'' notice is hereby given that the following 20 advisory committees have been determined to be in the public interest and have been renewed:

A. Board of Visitors, National Defense University.

B. Strategic Advisory Group for the U.S. Strategic Command.

C. Advisory Group on Electron Devices.

D. Defense Science Board.

E. Defense Advisory Committee on Military Personnel Testing.

F. Defense Advisory Committee on Women in the Services.

G. DoD Wage Committee.

H. National Security Agency Advisory Board.

I. Armed Forces Epidemiological Board.

J. Army Science Board.

K. Army Education Advisory Committee.

L. Chief of Engineers Environmental Advisory Board.

M. Scientific Advisory Board of the Armed Forces Institute of Pathology.

N. Board of Advisors to the President, Naval War College.

O. Board of Advisors to the Superintendent, Naval Postgraduate School.

P. Chief of Naval Operations Executive Panel Advisory Committee.

Q. Naval Research Advisory Committee.

R. Air University Board of Visitors.

S. Community College of the Air Force Board of Visitors.

T. U.S. Air Force Scientific Advisory Board.

These committees provide necessary and valuable advice to the Secretary of Defense and other senior officials in the DoD in their respective areas of expertise. They make important contributions to DoD efforts in research and development, education and training, and various technical program areas. Some of them are authorized by statute.

It is a continuing DoD policy to make every effort to achieve a balanced membership on all DoD advisory committees. Each committee is evaluated in terms of the functional disciplines, levels of experience, professional diversity, public and private association, and similar characteristics required to ensure a high degree of balance is obtained.

FOR FURTHER INFORMATION CONTACT: Contact Jennifer Spaeth, DoD Committee Management Officer, 703–695–4281.

Dated: May 9, 2000.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–12064 Filed 5–12–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Manual for Courts-Martial

AGENCY: Joint Service Committee on Military Justice (JSC).

ACTION: Notice of proposed amendments to the Manual for Courts-Martial, United States, (1998 ed.)

SUMMARY: The Department of Defense is considering recommending changes to the Manual for Courts-Martial, United States, (1998 ed.) (MCM). The proposed changes are the 2000 draft annual review required by the MCM and DoD Directive 5500.17, ''Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice,'' May 8, 1996. The proposed changes concern the rules of procedure applicable in trials by court-martial. More specifically, the proposed changes would: (1) Add references to Military Rule of Evidence 513, *Psychotherapist-patient privilege,* in Rule for Courts-Martial (R.C.M.) 701, *Discovery;* (2) clarity the analysis accompanying R.C.M. 707, *Speedy trial,* in light of current case law; and (3) clarify R.C.M. 1003 and R.C.M. 1107, governing the authority of a court-martial to adjudge, and the convening authority to approve, the combination of both a fine and forfeitures at summary and special courts-martial.

The proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, ''Preparation and Processing of Legislation, Executive Orders, Proclamations, and Reports and Comments Thereon,'' May 21, 1964, and do not constitute the official position of the Department of Defense, the Military Departments, or any other government agency.

In accordance with paragraph III B 4 of the Internal Organization and Operating Procedures of the Joint Service Committee on Military Justice (2 March 2000), the JSC invites members of the public to suggest changes to the Manual for Courts-Martial in accordance with the herein described format.

This notice is provided in accordance with DoD Directive 5500.17, ''Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice,'' May 8, 1996. This notice is intended only to improve the internal management of the Federal Government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.

DATES: Comments on the proposed changes must be received no later than July 31, 2000, for consideration by the JSC.

ADDRESSES: Comments on the proposed changes should be sent to Lt Col Thomas C. Jaster, U.S. Air Force, Air Force Legal Services Agency, 112 Luke Avenue, Room 343, Bolling Air Force Base, Washington, DC 20332–8000.

FOR FURTHER INFORMATION CONTACT: Lt Col Thomas C. Jaster, U.S. Air Force, Air Force Legal Services Agency, 112 Luke Avenue, Room 343, Bolling Air Force Base, Washington, DC 20332–8000, (202) 767–1539; FAX (202) 404–8755.

SUPPLEMENTARY INFORMATION: The proposed amendments to the Manual for Courts-Martial are as follows:

Amend the Discussion following R.C.M. 701(a)(2)(B) to read as follows:

''For specific rules concerning certain mental examinations of the accused or third party patients, *see* R.C.M. 701(f), R.C.M. 706, Mil. R. Evid. 302 and Mil. R. Evid. 513.''

Amend R.C.M. 701(b)(4) to read as follows:

''*Reports of examination and tests.* If the defense requests disclosure under subsection (a)(2)(B) of this rule, upon compliance with such request by the Government, the defense, on request of trial counsel, shall (except as provided in R.C.M. 706, Mil. R. Evid. 302 and Mil. R. Evid. 513) permit the trial counsel to inspect any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, which are within the possession, custody, or control of the defense which the defense intends to introduce as evidence in the defense case-in-chief at trial or which were prepared by a witness whom the defense intends to call at trial when the results or reports relate to that witness' testimony.''

Amend the Analysis accompanying R.C.M. 701(b) by inserting the following prior to the current paragraph:

''*2000 Amendment:* Subsection (b)(4) was amended in light of Mil. R. Evid. 513.''

Amend the analysis accompanying R.C.M. 707(A) by inserting the following paragraph after the second full paragraph:

''*2000 Analysis Amendment: Burton* and its progeny were re-examined in 1993 when the Court of Military Appeals specifically overruled *Burton* and reinstated the earlier rule from *United States* v. *Tibbs,* 15 C.M.A. 350, 35 C.M.R. 322 (1965). *United States* v. *Kossman,* 38 M.J. 258 (C.M.A. 1993). In *Kossman,* the Court reinstated the ''reasonable diligence'' standard in determining whether the prosecution's progress toward trial for a confined accused was sufficient to satisfy the speedy trial requirement of Article 10, UCMJ.''

Amend R.C.M. 1003(b)(3) to read as follows:

''Fine. Any court-martial may adjudge a fine in lieu of or in addition to forfeitures. Special and summary courts-martial may not adjudge any fine or combination of fine and forfeitures in excess of the total amount of forfeitures that may be adjudged in that case. In order to enforce collection, a fine may be accompanied by a provision in the sentence that, in the event the fine is not paid, the person fined shall, in additional to any period of confinement adjudged, be further confined until a fixed period considered an equivalent punishment to the fine has expired. The total period of confinement so adjudged shall not exceed the jurisdictional limitations of the court-martial;''

Amend the Discussion accompanying R.C.M. 1003(b)(3) by adding the following after the second paragraph:

''Where the sentence adjudged at a special court-martial includes a fine, *see* R.C.M. 1107(d)(5) for limitations on convening authority action on the sentence.''

Amend the Analysis accompanying R.C.M. 1003(b)(3) by inserting the following before the discussion of subsection (b)(4):

''*2000 Amendment:* The amendment clearly defines the authority of special and summary courts-martial to adjudge both fines and forfeitures. *See generally, United States* v. *Tualla,* 52 M.J. 228 (2000).''

Add R.C.M. 1107(d)(5) as follows:

''*Limitations on sentence of a special court-martial where a fine has been adjudged.* A convening authority may not approve in its entirety a sentence adjudged at a special court-martial where, when approved, the cumulative impact of the fine and forfeitures, whether adjudged or by operation of Article 58b, UCMJ, would exceed the jurisdictional maximum dollar amount of forfeitures that may be adjudged at that court-martial.''

Amend the Analysis accompanying R.C.M. 1107(d) by inserting the following before the discussion of subsection (e):

''*2000 Amendment:* Subparagraph (d)(5). This subparagraph is new. The amendment addresses the impact of Article 58b, UCMJ. In special courts-martial, where the cumulative impact of a fine and forfeitures, whether adjudged or by operation of Article 58b, would otherwise exceed the total dollar amount of forfeitures that could be adjudged at the special court-martial, the fine and/or adjudged forfeitures should be disapproved or decreased accordingly. *See generally, United States* v. *Tualla,* 52 M.J. 228, 231–32 (2000).''

Members of the public are hereby invited to submit proposals for changes to the Manual for Courts-Martial for consideration by the JSC. All submissions should be received by the close of the public comment period in order to be considered in the next annual review cycle. Proposals should include reference to the specific provision you wish changed, a rationale for the proposed change, and specific and detailed proposed language to replace the current language. Incomplete submissions will not be considered. The individual or agency submitting each proposal will be notified in writing whether the JSC voted to decline the proposal as not within the JSC's cognizance, reject it, table, or accept it.

Dated: May 9, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–12063 Filed 5–12–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Manual for Courts-Martial

AGENCY: Joint Service Committee on Military Justice (JSC).

ACTION: Notice of proposed amendments to the Manual for Courts-Martial, United States, (1998 ed.)

SUMMARY: The Department of Defense is considering recommending changes to the Manual for Courts-Martial, United States, (1998 ed.) (MCM). The proposed changes are the 2000 draft annual review required by the MCM and DoD Directive 5500.17. ''Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice,'' May 8, 1996. The proposed changes concern the rules of procedure applicable in trials by court-martial. More specifically, the proposed changes would: (1) Add references to Military Rule of Evidence 513, *Psychotherapist-patient privilege,* in Rule for Courts-Martial (R.C.M.) 701, *Discovery:* (2) clarify the analysis accompanying R.C.M. 707, *Speedy trial,* in light of current case law; and (3) clarify R.C.M. 1003 and R.C.M. 1107, governing the authority of a court-martial to adjudge, and the convening authority to approve, the combination of both a fine and forfeitures at summary and special courts-martial.

The proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, ''Preparation and Processing of Legislation, Executive Orders, Proclamations, and Reports and Comments Thereon,'' May 21, 1964, and do not constitute the official position of the Department of Defense, the Military Departments, or any other government agency.

In accordance with paragraph III B 4 of the Internal Organization and Operating Procedures of the Joint Service Committee on Military Justice (2 March 2000), the JSC invites members of the public to suggest changes to the Manual for Courts-Martial in accordance with the herein described format.

This notice is provided in accordance with DoD Directive 5500.17, ''Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice,'' May 8, 1996. This notice is intended only to improve the internal management of the Federal Government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.

DATES: Comments on the proposed changes must be received no later than July 31, 2000 for consideration by the JSC.

ADDRESSES: Comments on the proposed changes should be sent to Lt Col Thomas C. Jaster, U.S. Air Force, Air Force Legal Services Agency, 112 Luke Avenue, Room 343, Bolling Air Force Base, Washington, DC 20332–8000.

FOR FURTHER INFORMATION CONTACT: Lt Col Thomas C. Jaster, U.S. Air Force, Air Force Legal Services Agency, 112 Luke Avenue, Room 343, Bolling Air Force Base, Washington, DC 20332–8000, (202) 767–1539; FAX (202) 404–8755.

SUPPLEMENTARY INFORMATION: The proposed amendments to the Manual for Courts-Martial are as follows:

Amend the Discussion following R.C.M. 701(a)(2)(B) to read as follows:

''For specific rules concerning certain mental examinations of the accused or third party patients, *see* R.C.M. 701(f), R.C.M. 706, Mil. R. Evid. 302 and Mil. R. Evid. 513.''

Amend R.C.M. 701(b)(4) to read as follows:

''*Reports of examination and tests.* If the defense requests disclosure under subsection (a)(2)(B) of this rule, upon compliance with such request by he Government, the defense, on request of trail counsel, shall (except as provided in R.C.M. 706, Mil. R. Evid. 302 and Mil. R. Evid. 513) permit the trial counsel to inspect any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, which are within the possession, custody, or control of the defense which the defense intends to introduce as evidence in the defense case-in-chief at trial or which were prepared by a witness whom the defense intends to call at trial when the results or reports relate to that witness' testimony.''

Amend the Analysis accompanying R.C.M. 701(b) by inserting the following prior to the current paragraph:

''*2000 Amendment:* Subsection (b)(4)was amended in light of Mil. R. Evid. 513.''

Amend the analysis accompanying R.CM. 707(a) by inserting the following paragraph after the second full paragraph:

''*2000 Analysis Amendment: Burton* and its progeny were re-examined in 1993 when the Court of Military Appeals specifically overruled *Burton* and reinstated the earlier rule from *United States v. Tibbs,* 15 C.M.A. 350, 35 C.M.R. 322 (1965). *United States v. Kossman*, 38 M.J. 258 (C.M.A. 1993). In *Kossman*, the Court reinstated the 'reasonable diligence' standard in determining whether the prosecution's progress toward trial for a confined accused was sufficient to satisfy the speedy trial requirement of Article 10, UCMJ.''

Amend R.C.M. 1003(b)(3) to read as follows:

''Fine. Any court-martial may adjudge a fine in lieu of or in addition to forfeitures. Special and summary courts-martial may not adjudge any fine or combination of fine and forfeitures in excess of the total amount of forfeitures that may be adjudged in that case. In order to enforce collection, a fine may be accompanied by a provision in the sentence that, in the event the fine is not paid, the person fined shall, in addition to any period of confinement adjudged, be further confined until a fixed period considered and equivalent punishment to the fine has expired. The total period of confinement so adjudged shall not exceed the jurisdictional limitations of the court-martial;''

Amend the Discussion accompanying R.C.M. 1003(b)(3) by adding the following after the second paragraph:

''Where the sentence adjudged at a special court-martial includes a fine, *see* R.C.M. 1107(d)(5) for limitations on convening authority action on the sentence.''

Amend the Analysis accompanying R.C.M. 1003(b)(3) by inserting the following before the discussion of subsection (b)(4):

''*2000 Amendment:* The amendment clearly defines the authority of special and summary courts-martial to adjudge both fines and forfeitures. *See generally, United States v. Tualla*, 52 M.J. 228 (2000).''

Add R.C.M. 1107(d)(5) as follows:

''*Limitations on sentence of a special court-martial where a fine has been adjudged.* A convening authority may not approve in its entirety a sentence adjudged at a special court-martial where, when approved, the cumulative impact of the fine and forfeitures, whether adjudged or by operation of Article 58b, UCMJ, would exceed the jurisdictional maximum dollar amount of forfeitures that may be adjudged at that court-martial.''

Amend the Analysis accompanying R.C.M. 1107(d) by inserting the following before the discussion of subsection (e):

''*2000 Amendment:* Subparagraph (d)(5). This subparagraph is new. The amendment addresses the impact of Article 58b, UCMJ. In special courts-martial, where the cumulative impact of a fine and forfeitures, whether adjudged or by operation of Article 58b, would otherwise exceed the total dollar amount of forfeitures that could be adjudged at the special court-martial, the fine and/or adjudged forfeitures should be disapproved or decreased accordingly. *See generally,*

United States v. Tualla, 52 M.J. 228, 231–32 (2000).''

Members of the public are hereby invited to submit proposals for changes to the Manual for Courts-Martial for consideration by the JSC. All submissions should be received by the close of the public comment period in order to be considered in the next annual review cycle. Proposals should include reference to the specific provision you wish changed, a rationale for the proposed change, and specific and detailed proposed language to replace the current language. Incomplete submissions will not be considered. The individual or agency submitting each proposal will be notified in writing whether the JSC voted to decline the proposal as not within the JSC's cognizance, reject it, table it, or accept it.

Dated: May 9, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–12069 Filed 5–12–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0076]

Submission for OMB Review; Comment Request Entitled Novation/ Change of Name Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Novation/Change of Name Requirements. A request for public comments concerning this burden estimate was published at 65 FR 12219, March 8, 2000. No comments were received.

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 June 14, 2000.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, 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), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

When a firm performing under Government contracts wishes the Government to recognize (1) a successor in interest to these contracts or (2) a name change, it must submit certain documentation to the Government.

B. Annual Reporting Burden

Respondents: 1,000.

Responses Per Respondent: 1.

Total Annual Responses: 1,000.

Preparation Hours Per Response: .458.

Total Response Burden Hours: 458.

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. 9000–0076, Novation/Change of Name Requirements, in all correspondence.

Dated: May 9, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 00–12057 Filed 5–12–00; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0147]

Submission for OMB Review; Comment Request Entitled Pollution Prevention and Right-To-Know Information

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 (9000–0147).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Pollution Prevention and Right-to-Know Information. A request for public comments concerning this burden estimate was published at 65 FR 12219, March 8, 2000. No comments were received.

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 June 14, 2000.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, 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), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Federal Acquisition Policy Division, GSA, 501–1757.

SUPPLEMENTARY INFORMATION:

A. Purpose

Executive Order 12856 of August 3, 1993, ''Federal Compliance With Right-to-Know Laws and Pollution Prevention Requirements,'' requires that Federal facilities comply with the planning and reporting requirements of the Pollution Prevention Act of 1990 and the Emergency Planning Community Right-to-Know Act of 1986. The Executive Order requires that contracts to be performed on a Federal facility provide for the contractor to supply to the Federal agency all information the Federal agency deems necessary to comply with these reporting requirements.

B. Annual Reporting Burden

Number of Respondents: 2,550.
Responses Per Respondent: 7.6.
Total Responses: 19,380.
Average Burden Per Response: 45 minutes.
Total Burden Hours: 14,535.

Obtaining Copies of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVRS), Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No.

9000–0147, Pollution Prevention and Right-to-Know Information in all correspondence.

Dated: May 9, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 00–12058 Filed 5–12–00; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of closed meeting

AGENCY: Defense Intelligence Agency, Joint Military Intelligence College.

ACTION: Notice of Closed Meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Joint Military Intelligence College Board of Visitors has been scheduled as follows:

DATES: Monday, 12 June 2000, 0800 to 1700; and Tuesday, 13 June 2000, 0800 to 1200.

ADDRESSES: Joint Military Intelligence College, Washington, DC 20340–5100

FOR FURTHER INFORMATION CONTACT: Mr. A. Denis Clift, President, DIA Joint Military Intelligence College, Washington, DC 20340–5100 (202/231–3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of U.S. Code and therefore will be closed. The Board will discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the Joint Military Intelligence College.

Dated: May 8, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 00–12066 Filed 5–12–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting to Review the Mitre Report

AGENCY: Special Oversight Board for Department of Defense Investigations of Gulf War Chemical and Biological Incidents, Department of Defense.

ACTION: Notice.

SUMMARY: The Board will conduct a two-day closed meeting to review the Mitre Report, a classified report dealing with how and when the intelligence community determined the type, number and location of Iraqi weapons of mass destruction during operations Desert Shield and Desert Storm. OSAGWI will also present a short classified briefing on the revised Khamisiyah plume.

DATES: May 22–23, 2000.

ADDRESSES: 1401 Wilson Boulevard, suite 401, Arlington, VA 22209 (Day 1); Old Executive Office Building, 17th Street and Pennsylvania Avenue, NW., Washington, DC 20504 (Day 2).

FOR FURTHER INFORMATION CONTACT: Contact Mr. David Edman, Special Oversight Board, 1401 Wilson Blvd, Suite 401, Arlington, VA 22209, phone (703) 696–9468, fax (703) 696–4062, or via Email at *Gulfsyn@osd.pentagon.mil.* Copies of the draft meeting agenda can be obtained by contacting Ms. Sandra Simpson at (703) 696–9464 or at the above fax number of above email.

SUPPLEMENTARY INFORMATION: Classified information will be discussed and reviewed throughout the two-day meeting. Therefore, the meeting is not open to the public. No government personnel other than the two briefing teams will be permitted to attend the meeting.

Dated: May 1, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 00–12065 Filed 5–12–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on June 6, 2000, June 13, 2000, June 20, 2000, and June 27, 2000, 2000, at 10 a.m. in Room A105, the Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings maybe obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: May 8, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–12067 Filed 5–12–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to alter systems of records.

SUMMARY: The Office of the Secretary of Defense proposes to alter systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on June 14, 2000 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Division, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 588-0159.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on April 24, 2000, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 9, 2000.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DOCHA 01

SYSTEM NAME:

Health Benefits Authorization Files *(March 24, 1994, 59 FR 13934).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'DTMA 01'.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Original correspondence to and from individuals; medical/dental statements; medical/dental histories; Health Care Advise Nurse records; Congressional inquiries; medical/dental treatment records; authorization and pre-authorization requests for care; case status sheets; memoranda for the record; follow-up reports justifying extended care; correspondence with contractors; and work-up sheets maintained by case workers.'

* * * * *

PURPOSE(S):

Add a new paragraph 'To determine eligibility of an individual, authorize payment, control and review health care management plans, health care demonstration programs, control accomplishment of reviews, and coordinate subject matter clearance for internal and external audits and reviews of the program.'

ROUTINE USE(S) OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Delete paragraph two, and add a new paragraph 'Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.'

* * * * *

DTMA 01

SYSTEM NAME:

Health Benefits Authorization Files.

SYSTEM LOCATION:

TRICARE Management Activity, Department of Defense, 16401 East CentreTech Parkway, Aurora, CO 80011–9043, and Managed Care Contractors under contract to TRICARE. A listing of TRICARE Managed Care Contractors is available from the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who seek authorization or pre-authorization for medical and dental health care under TRICARE/CHAMPUS and CHAMPVA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Original correspondence to and from individuals; medical/dental statements; medical/dental histories; Health Care Advise Nurse records; Congressional inquiries; medical/dental treatment records; authorization and pre-authorization requests for care; case status sheets; memoranda for the record; follow-up reports justifying extended care; correspondence with contractors; and work-up sheets maintained by case workers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

41 CFR part 101-11.000; chapter 55, 10 U.S.C. 613, chapter 17, 38 U.S.C.; 32 CFR part 199; and E.O. 9397 (SSN).

PURPOSE(S):

To maintain and control records pertaining to requests for authorization or pre-authorization of health and dental care under TRICARE/CHAMPUS.

To determine eligibility of an individual, authorize payment, control and review health care management plans, health care demonstration programs, control accomplishment of reviews, and coordinate subject matter clearance for internal and external audits and reviews of the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department of Veterans Affairs consistent with their statutory administrative responsibilities under TRICARE/CHAMPUS and CHAMPVA pursuant to chapter 55, 10 U.S.C. and section 613, chapter 17, 38 U.S.C.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE/CHAMPUS.

Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper, electronic, microfilm, imaging, or optical formats.

RETRIEVABILITY:

Information is retrieved by sponsor's Social Security Number and sponsor's or beneficiary's name.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Decentralized automated segments within contractor's operations are accessible on-line only to authorized persons possessing user identification codes. Security systems and/or security guards protect buildings where records are maintained.

RETENTION AND DISPOSAL:

Automated indexes are maintained for six years. Hard copy records are closed out at the end of the calendar year in which finalized and held six additional years. Where hard copy records have been converted to electronic, microfilm, imaging, or optical formats, the hard copy is destroyed and the electronic, microfilm, imaging, or optical format is kept by the contractor for six years after claim is processed to completion.

SYSTEM MANAGER(S) AND ADDRESS:

TRICARE Management Activity, Department of Defense, Administration and Evaluation Directorate, 16401 East CentreTech Parkway, Aurora, CO 80011-9043.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Written requests for information should include the full name of the beneficiary, the full name of the sponsor and sponsor's Social Security Number, current address and telephone number.

For personal visits to examine records, the individual should provide some acceptable identification such as a driver's license or other form of picture identification.

If it is determined that the release of medical information to the requester could have an adverse effect upon the individual's physical or mental health, the requester should be prepared to provide the name and address of a physician who would be willing to receive the medical record, and at the physician's discretion, inform the individual covered by the system of the contents of that record. In the event the physician does not agree to convey the information contained within the record to the individual, TRICARE Management Activity will take positive measures to ensure the individual is provided the requested information.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Contractors, Health Benefits Advisors, all branches of the Uniformed Services, congressional offices, providers of care, consultants and individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

DOCHA 02

SYSTEM NAME:

Medical Care Inquiry Files *(March 24, 1994, 59 FR 13936).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'DTMA 02'.

SYSTEM NAME:

Delete entry and replace with 'Medical/Dental Care and Claims Inquiry Files'.

* * * * *

PURPOSE(S):

Delete entry and replace with 'To maintain and control records pertaining to requests for information concerning an individual's TRICARE/CHAMPUS eligibility status, the benefits provided under programs of TRICARE/CHAMPUS and CHAMPVA and the processing of individual TRICARE/CHAMPUS and CHAMPVA claims.'

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete paragraph two, and add a new paragraph 'Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Contractors, congressional offices, Health Benefits Advisors, all branches of the Uniformed Service, congressional offices, providers of care, consultants and individuals.'

* * * * *

DTMA 02

SYSTEM NAME:

Medical/Dental Care and Claims Inquiry Files.

SYSTEM LOCATION:

TRICARE Management Activity, Department of Defense, 16401 East CentreTech Parkway, Aurora, CO 80011-9043, and Managed Care Contractors under contract to TRICARE. A listing of TRICARE Managed Care Contractors is available from the system manager.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

All individuals who seek information concerning health care (medical and dental) under TRICARE/CHAMPUS and CHAMPVA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents reflecting inquiries received from private individuals for information on TRICARE/CHAMPUS and CHAMPVA and replies thereto; congressional inquiries on behalf of constituents and replies thereto; and files notifying personnel of eligibility or termination of benefits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

41 CFR 101-11.000; chapter 55, 10 U.S.C.; section 613, chapter 17, 38 U.S.C.; and E.O. 9397 (SSN).

PURPOSE(S):

To maintain and control records pertaining to requests for information concerning an individual's TRICARE/CHAMPUS eligibility status, the benefits provided under programs of TRICARE/CHAMPUS and CHAMPVA and the processing of individual TRICARE/CHAMPUS and CHAMPVA claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department of Veterans Affairs consistent with their

statutory administrative responsibilities under TRICARE/CHAMPUS and CHAMPVA pursuant to chapter 55, 10 U.S.C. and section 613, chapter 17, 38 U.S.C.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE/CHAMPUS.

Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper, electronic, microfilm, imaging, or optical formats.

RETRIEVABILITY:

Information is retrieved by case number, sponsor name and/or Social Security Number, and inquirer name.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Automated segments are accessible only by authorized persons possessing user identification codes. Security systems and/or security guards protect buildings where records are maintained.

RETENTION AND DISPOSAL:

Paper records are retained in active file until end of calendar year in which closed, held two additional years, and then destroyed. Where hard copy records have been converted to electronic, microfilm, imaging or optical formats, the hard copy record is destroyed and the electronic, microfilm, imaging, or optical format is kept by the contractor for six years after claim is processed to completion.

SYSTEM MANAGER(S) AND ADDRESS:

TRICARE Management Activity, Department of Defense, Administration and Evaluation Directorate, 16401 East CentreTech Parkway, Aurora, CO 80011-9043.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Written request for information should include the full name of the beneficiary, the full name of the sponsor and sponsor's Social Security Number, current address and telephone number.

For personal visits to examine records, the individual should provide some acceptable identification such as a driver's license or other form of picture identification.

If it is determined that the release of medical information to the requester could have an adverse effect upon the individual's physical or mental health, the requester should be prepared to provide the name and address of a physician who would be willing to receive the medical record, and at the physician's discretion, inform the individual covered by the system of the contents of that record. In the event the physician does not agree to convey the information contained within the record to the individual, TRICARE Management Activity will take positive measures to ensure the individual is provided the requested information.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Contractors, congressional offices, Health Benefits Advisors, all branches of the Uniformed Service, congressional offices, providers of care, consultants and individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

DOCHA 04

SYSTEM NAME:

Legal Opinion Files *(February 22, 1993, 58 FR 10227).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'DTMA 03'.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Individuals who have contacted or corresponded with TRICARE Management Activity regarding any matter requiring legal clarification or resolution.'

* * * * *

PURPOSE(S):

Delete entry and replace with 'TRICARE Management Activity uses these records to address and resolve legal issues and for research, precedent, historical, and record purposes.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with 'In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department of Veterans Affairs consistent with their statutory administrative responsibilities under TRICARE/CHAMPUS and CHAMPVA pursuant to chapter 55, 10 U.S.C. and section 613, chapter 17, 38 U.S.C.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE/CHAMPUS.

Disclosure to the Department of Justice and the United States Attorneys

in situations where the United States is an interested party.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.'

* * * * *

DTMA 03

SYSTEM NAME:

Legal Opinion Files.

SYSTEM LOCATION:

TRICARE Management Activity, Department of Defense, Office of General Counsel, 16401 East CentreTech Parkway, Aurora, CO 80011-9043.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have contacted or corresponded with TRICARE Management Activity regarding any matter requiring legal clarification or resolution.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inquiries received from individuals, attorneys, fiscal administrators, hospital contractors, other government agencies, Health Care Advise Nurse records, and congressional offices. Files contain legal opinions, correspondence, memoranda for the record, and similar documents. Medical/dental treatment records, authorizations and pre-authorizations, care and claims inquiry documents, and medical/dental history files may be included in these records, as appropriated to document TRICARE legal determinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

41 CFR 101-11.000; Chapter 55, 10 U.S.C. 613, Chapter 17, 38 U.S.C.; 32 CFR part 199; and E.O. 9397 (SSN).

PURPOSE(S):

TRICARE Management Activity uses these records to address and resolve legal issues and for research, precedent, historical, and record purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department of Veterans Affairs consistent with their statutory administrative responsibilities under TRICARE/CHAMPUS and CHAMPVA pursuant to chapter 55, 10 U.S.C. and section 613, chapter 17, 38 U.S.C.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE/CHAMPUS.

Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper, electronic, microfilm, imaging, or optical formats.

RETRIEVABILITY:

Information is retrieved by subject matter with cross-reference by individual name and/or Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Security systems and/or security guards protect buildings where records are maintained.

RETENTION AND DISPOSAL:

Records are permanent. Paper records are retired to the Denver Regional Records Center when ten years old or when no longer needed for current business. Records are transferred to the NARA when thirty years old. Electronic and other non-paper media records are maintained until no longer needed for current business and are then deleted or destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

TRICARE Management Activity, Department of Defense, Office of General Counsel, 16401 East CentreTech Parkway, Aurora, CO 80011-9043.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Written requests for information should include the full name of the beneficiary, the full name of the sponsor, and sponsor's Social Security Number, current address and telephone number.

For personal visits to examine records, the individual should be able to provide some acceptable identification such as a driver's license or other form of picture identification.

If it is determined that the release of medical information to the requester could have an adverse effect upon the individual's physical or mental health, the requester should be prepared to provide the name and address of a physician who would be willing to receive the medical record, and at the physician's discretion, inform the individual covered by the system of the contents of that record. In the event the physician does not agree to convey the information contained within the record to the individual, TRICARE Management Activity will take positive measures to ensure the individual is provided the requested information.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals (TRICARE/CHAMPUS and CHAMPVA beneficiaries, sponsors, or others), attorneys, fiscal administrators, hospital contractors, managed care support contractors, providers of care, medical records, other government agencies (Federal, state, local and foreign), and Congressional offices.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

DOCHA 07

SYSTEM NAME:

Medical Claim History Files *(March 24, 1994, 59 FR 13937).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'DTMA 04'.

SYSTEM NAME:

Add '/Dental' after 'Medical.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'File contains claims, billings for services, applications or approval forms, enrollment files, recoupment files, third-party liability files, fraud and abuse files, case management files, resource sharing files, utilization management/quality assurance files, payment files, medical/dental records, family history files, records of grievances with a medical/dental provider, appeals, hearings, or any other correspondence, memoranda, or reports which are acquired or utilized in the development and processing of TRICARE/CHAMPUS or CHAMPVA claims. Records are also maintained on health care demonstration projects, including enrollment and authorization agreements, correspondence, memoranda, forms and reports, which are acquired or utilized during the projects.'

* * * * *

PURPOSE(S):

Delete entry and replace with 'TRICARE Management Activity and its contractors, DoD staff (including Military Treatment Facilities, clinics and Lead Agent Staff) use the information to control and process health care benefits available under TRICARE/CHAMPUS and CHAMPVA including the processing of medical/dental claims, the control and approval of medical/dental treatments, issuance of deductible certificates, and necessary interface with providers of health care. The system also supports audits of contractor-processed claims to determine payment and occurrence accuracy of the contractor's adjudication process.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Delete entry and replace with 'In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department of Veterans Affairs consistent with their statutory administrative responsibilities under TRICARE/CHAMPUS and CHAMPVA pursuant to chapter 55, 10 U.S.C. and section 613, chapter 17, 38 U.S.C.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE/CHAMPUS.

Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.'

* * * * *

DTMA 04

SYSTEM NAME:

Medical/Dental Claim History Files.

SYSTEM LOCATION:

TRICARE Management Activity, Department of Defense, 16401 East CentreTech Parkway, Aurora, CO 80011-9043, and Managed Care Contractors under contract to TRICARE. A listing of TRICARE Managed Care Contractors is available from the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eligible beneficiaries and all individuals who seek health care (medical and dental) under TRICARE/CHAMPUS and CHAMPVA.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains claims, billings for services, applications or approval forms, enrollment files, recoupment files, third-party liability files, fraud and abuse files, case management files, resource sharing files, utilization management/quality assurance files, payment files, medical/dental records, family history files, records of grievances with a medical/dental provider, appeals, hearings, or any other correspondence, memoranda, or reports which are acquired or utilized in the development and processing of TRICARE/CHAMPUS or CHAMPVA claims. Records are also maintained on health care demonstration projects, including enrollment and authorization agreements, correspondence, memoranda, forms and reports, which are acquired or utilized during the projects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

41 CFR 101-11.000; chapter 55, 10 U.S.C. 613, chapter 17, 38 U.S.C.; 32 CFR part 199; and E.O. 9397 (SSN).

PURPOSE(S):

TRICARE Management Activity and its contractors, DoD staff (including Military Treatment Facilities, clinics and Lead Agent Staff) use the information to control and process health care benefits available under TRICARE/CHAMPUS and CHAMPVA including the processing of medical/dental claims, the control and approval of medical/dental treatments, issuance of deductible certificates, and necessary interface with providers of health care. The system also supports audits of contractor-processed claims to determine payment and occurrence accuracy of the contractor's adjudication process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services and/or the Department

of Veterans Affairs consistent with their statutory administrative responsibilities under TRICARE/CHAMPUS and CHAMPVA pursuant to chapter 55, 10 U.S.C. and section 613, chapter 17, 38 U.S.C.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE/CHAMPUS.

Disclosure to the Department of Justice and the United States Attorneys in situations where the United States is an interested party.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting act of 1966 (15 U.S.C. 1681a(f)) or the Federal Claims Collections Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of the disclosure is to aid in the collection of outstanding debts owed to the Federal Government; typically, to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records.

The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper, electronic, microfilm, imaging, or optical formats.

RETRIEVABILITY:

Information is retrieved by sponsor's name; sponsor's Social Security Number; beneficiary's name; beneficiary's Social Security Number; provider's name; provider's number (Tax Identification Number or Social Security Number); internal control number; classification of medical diagnosis; procedure code; geographical location of care provided; and selected utilization limits.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Decentralized automated segments within contractor's operations are accessible on-line only to authorized persons possessing user identification codes. The automated portion of the Primary System is accessible only through TRICARE Management Activity on-line data systems. Security systems and/or security guards protect buildings where records are maintained.

RETENTION AND DISPOSAL:

Paper records are closed out at the end of the calendar year in which finalized and held six additional years and then destroyed. Where hard copy records (except Claims History Files) have been converted to electronic, microfilm, imaging, or optical formats, the hard copy record is destroyed and the electronic, microfilm, imaging, or optical format is kept by the contractor for six years after claim is processed to completion and then destroyed. Claims History Files maintained in electronic format are kept for ten years and are then destroyed or deleted.

SYSTEM MANAGER(S) AND ADDRESS:

TRICARE Management Activity, Department of Defense, Administration and Evaluation Directorate, 16401 East CentreTech Parkway, Aurora, CO 80011-9043.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Written request for information should include the full name of the beneficiary, the full name of the sponsor and sponsor's Social Security Number, current address and telephone number.

For personal visits to examine records, the individual should provide some acceptable identification such as a driver's license or other form of picture identification.

If it is determined that the release of medical information to the requester could have an adverse effect upon the individual's physical or mental health, the requester should be prepared to provide the name and address of a physician who would be willing to receive the medical record, and at the physician's discretion, inform the individual covered by the system of the contents of that record. In the event the physician does not agree to convey the information contained within the record to the individual, TRICARE Management Activity will take positive measures to ensure the individual is provided the requested information.'

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Contractors, Health Benefit Advisors; other Components of the Department of Defense; all branches of the Uniformed Services; Congressional offices; providers of care; consultants; and individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

DOCHA 09

SYSTEM NAME:

Grievance Records *(August 9, 1993, 58 FR 42303).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'DTMA 05'.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with 'In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

To disclose information to officials of the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission, when requested in performance of their authorized duties.

To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

To provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to the performance of their exclusive representation duties concerning personnel policies, practices, and matters affecting working conditions.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.'

* * * * *

DTMA 05

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

TRICARE Management Activity, Department of Defense, Personnel Office, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Federal employees of TRICARE Management Activity or its predecessor, Office of Civilian Health and Medical Program of the Uniformed Services who have submitted grievances in accordance with 5 U.S.C. 2302 and 5 U.S.C. 7121 or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents related to grievances including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, copy of the original and final decision, and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that TRICARE Management Activity may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 2302; 5 U.S.C. 7121; and E.O. 11491.

PURPOSE(S):

To control and process grievances of Federal employees of TRICARE Management Activity or its predecessor, Office of Civilian Health and Medical Program of the Uniformed Services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

To disclose information to officials of the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission, when requested in performance of their authorized duties.

To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

To provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to the performance of their exclusive representation duties concerning personnel policies, practices, and matters affecting working conditions.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Information is retrieved by individual name.

SAFEGUARDS:

Security systems and/or security guards protect buildings where records are maintained.

RETENTION AND DISPOSAL:

Records are closed at the end of the calendar year in which they are closed, held an additional four years, and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

TRICARE Management Activity, Department of Defense, Personnel Office, 16401 East CentreTech Parkway, Aurora, CO 80011-9043.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: Privacy Act Officer, 16401 CentreTech Parkway, Aurora, CO 80011-9043.

Written requests for information should include the full name of the individual.

For personal visits to examine records, the individual should provide some acceptable identification such as a driver's license or other form of picture identification.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals, witnesses, agency officials, and organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–12072 Filed 5–12–00; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on June 14, 2000, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act System Notice Manager, Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, Stop 5603, Ft. Belvoir, VA 22060-5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on April 24, 2000, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 9, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0195-2b USACIDC

SYSTEM NAME:

Criminal Investigation and Crime Laboratory Files *(July 7, 1997, 62 FR 36267).*

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to entry 'Army Regulation 195-2, Criminal Investigation Activities.'

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add a new paragraph 'To the Department of Veterans Affairs to verify veterans claims. Criminal investigative files may be used to adjudicate veteran claims for disability benefits, post traumatic stress disorder, and other veteran entitlements.'

STORAGE:

Delete from entry 'card files and indices;'

RETENTION AND DISPOSAL:

Delete from entry 'Destruction is by shredding.'

* * * * *

A0195-2b USACIDC

SYSTEM NAME:

Criminal Investigation and Crime Laboratory Files *(July 7, 1997, 62 FR 36267).*

SYSTEM LOCATION:

Headquarters, U.S. Army Criminal Investigation Command, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060-5506.

Segments exist at subordinate U.S. Army Criminal Investigation Command elements. Addresses may be obtained from the Commander, U.S. Army Criminal Investigation Command, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060-5506.

An automated index of cases is maintained at the U.S. Army Crime Records Center, U.S. Army Criminal Investigation Command, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060-5585 and at the Defense Security Service, Army Liaison Office, P.O. Box 46060, Baltimore, MD 21240-6060.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual, civilian or military, involved in or suspected of being involved in or reporting possible criminal activity affecting the interests, property, and/or personnel of the U.S. Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, rank, date and place of birth, chronology of events; reports of investigation containing statements of witnesses, subject and agents; laboratory reports, documentary evidence, physical evidence, summary and administrative data pertaining to preparation and distribution of the report; basis for allegations; Serious or Sensitive Incident Reports, modus operandi and other investigative information from Federal, State, and local investigative agencies and departments; similar relevant documents. Indices contain codes for the type of crime, location of investigation, year and date of offense, names and personal identifiers of persons who have been subjects of electronic surveillance, suspects, subjects and victims of crimes, report number which allows access to records noted above; agencies, firms, Army and Defense Department organizations which were the subjects or victims of criminal investigations; and disposition and suspense of offenders listed in criminal investigative case files, witness identification data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 195-2, Criminal Investigation Activities; and E.O. 9397 (SSN).

PURPOSE(S):

To conduct criminal investigations and crime prevention activities; to accomplish management studies involving the analysis, compilation of statistics, quality control, etc., to ensure that completed investigations are legally sufficient and result in overall improvement in techniques, training and professionalism.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information concerning criminal or possible criminal activity is disclosed to Federal, State, local and/or foreign law enforcement agencies in accomplishing and enforcing criminal laws; analyzing modus operandi, detecting organized criminal activity, or criminal justice employment. Information may also be disclosed to foreign countries under the provisions of the Status of Forces Agreements, or Treaties.

To the Department of Veterans Affairs to verify veterans claims. Criminal investigative files may be used to adjudicate veteran claims for disability benefits, post traumatic stress disorder, and other veteran entitlements.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; automated indices; computer magnetic tapes, disks, and printouts.

RETRIEVABILITY:

By name or other identifier of individual.

SAFEGUARDS:

Access is limited to designated authorized individuals having official need for the information in the performance of their duties. Buildings housing records are protected by security guards.

RETENTION AND DISPOSAL:

At Headquarters, U.S. Army Criminal Investigation Command (USACIDC), criminal investigative case files are retained for 40 years after final action, except that at USACIDC subordinate elements, such files are retained from 1 to 5 years depending on the level of such unit and the data involved. Laboratory reports at the USACIDC laboratory are destroyed after 5 years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters, U.S. Army Criminal Investigation Command, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060-5506.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, U.S. Army Crime Records Center, U.S. Army Criminal Investigation Command, ATTN: CICR-FP, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060-5585.

For verification purposes, individual should provide the full name, date and place of birth, current address, telephone numbers, and signature.

RECORD ACCESS PROCEDURES:

Individual seeking access to information about themselves contained in this system should address written inquiries to the Director, U.S. Army Crime Records Center, U.S. Army Criminal Investigation Command, ATTN: CICR-FP, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060-5585.

For verification purposes, individual should provide the full name, date and place of birth, current address, telephone numbers, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340-21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Suspects, witnesses, victims, USACIDC special agents and other personnel, informants; various Department of Defense, federal, state, and local investigative agencies; departments or agencies of foreign governments; and any other individual or organization which may supply pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. 00–12071 Filed 5–12–00; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Defense Logistics Agency

AGENCY: Defense Logistics Agency.

ACTION: Notice to delete a record system.

SUMMARY: The Defense Logistics Agency is proposing to delete a system of records from its inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on June 14, 2000 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767-6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: May 9, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.53 DMDC

SYSTEM NAME:

Defense Debt Collection Data Base *(May 11, 1999, 64 FR 25310).*

Reason: These records have been transferred to the Defense Finance and Accounting Service and are now being maintained under Privacy Act system of records T7332, Defense Debt Management System.

[FR Doc. 00–12070 Filed 5–12–00; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Membership of the Defense Logistics Agency (DLA) Senior Executive Service (SES) Performance Review Board (PRB)

AGENCY: Defense Logistics Agency, Department of Defense.

ACTION: Notice of membership—2000 DLA PRB.

SUMMARY: This notice announces the appointment of members to the Defense Logistics Agency Senior Executive Service (SES) Performance Review Board (PRB). The publication of PRB composition is required by 5 U.S.C. 4314(c)(4). The PRB provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations to the Director, Defense Logistics Agency, with respect to pay level adjustments and performance awards, and other actions related to management of the SES cadre.

EFFECTIVE DATES: July 1, 2000.

ADDRESSES: Defense Logistics Agency, 8725 John J. Kingman Road, STE 2533, Fort Belvoir, Virginia, 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Coward, Workforce Effectiveness and Development Group, Human Resources, Defense Logistics Agency, Department of Defense, (703) 767–6427.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are the names and titles of DLA career executives appointed to serve as members of the SES PRB. Members will serve a 2-year term, effective July 1, 2000.

PRB Chair: Mr. Frank Lotts, Deputy Director, Logistics Operations.

Members: Ms. Phyllis Campbell, Deputy Commander, Defense Distribution Center, Mr. Michael Miller, Executive Director, Program/Budget Office, Ms. Claudia S. Knott, Executive Director, Electronic Business Office.

Gary S. Thurber,

Executive Director, Defense Logistics Agency.

[FR Doc. 00–12105 Filed 5–12–00; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Richard Scheps

SUMMARY: The Department of the Navy hereby gives notice of a prospective license to Richard Scheps to the Government-owned invention described as ''INTERNALLY FOLDED SCALABLE LASER''.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than July 14, 2000.

ADDRESSES: Written objections are to be filed with the Office of Patent Counsel, Space and Naval Warfare Systems Center, D0012, 53510 Silvergate Ave., Rm 103, San Diego, CA 92152–5765. Kindly reference N.C. 73421 in all correspondence directed to this matter.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Fendelman, Patent Counsel, Space and Naval Warfare Systems Center, Code D0012, 53510 Silvergate Ave., Rm 103, San Diego, CA 92152–5765, telephone (619) 553–3001.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: April 26, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–12075 Filed 5–12–00; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

[FE Docket Nos. 00–18–NG, 00–12–NG, 99–110–LNG, 00–20–NG, 00–17–NG, 00–22–NG, 99–88–NG, 00–21–NG, 00–24–NG, 00–23–NG, 00–25–NG]

Office of Fossil Energy; Ductos de Nogales, USA, LLC., Et Al.; Orders Granting or Amending Authority To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during April 2000, it issued Orders granting or amending authority to import and export natural gas, including liquefied natural gas. These Orders are summarized in the attached appendix and may be found on the FE web site at http://www.fe.doe.gov, or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on May 9, 2000.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

Appendix—Orders Granting and Amending Import/Export Authorizations

Order No.	Date issued	Importer/Exporter FE Docket No.	Import volume	Export volume	Comments
1578	04/07/00	Ductos de Nogales, USA, LLC.— 00– 18–NG>.	6.2 Bcf		Export to Mexico over a two-year term beginning on the date of first delivery.
1579	04/10/00	C&L Petroleum Services Company— 00–12–NG.	400 Bcf		Import and export a combined total from and to Canada and Mexico over a two-year term beginning on the date of first import or export delivery.
1580	04/10/00	Phillips Alaska Natural Gas Corporation and Marathon Oil Company—99–110–LNG.		10 Bcf	Export LNG from Alaska to international markets over a two-year term beginning on the date of first delivery.
1581	04/14/00	Anadarko Energy Services Company—00–20–NG.	50 Bcf		Import and export a combined total from and to Canada beginning on May 1, 2000, and extending through April 30, 2000.
1582	04/14/00	Entergy Power Marketing Corp.—00–17–NG.	800 Bf		Import and export a combined total from and to Canada and Mexico beginning on May 1, 2000, and extending through April 30, 2000.
1583	04/14/00	Kimball Energy Corporation—00–22–NG.	75 Bcf		Import from Canada beginning on April 1, 2000, and extending through March 31, 2000.
1536–A	04/19/00	PanCanadian Energy Services, Inc.—99–88–NG.			Amend current authority to: (1) increase the volumes; (2) include import of LNG from international sources; and (3) import and export from and to Mexico.
1584	04/17/00	St. Clair Pipelines (1996) LTD.—00–21–NG 200.	200 Bcf		Import and export from and to Canada beginning on April 17, 2000, and extending through April 16, 2002.
1585	04/21/00	Alcoa, Inc.—00–24–NG	13.4 Bcf		Import from Canada beginning on May 1, 2000, and extending through April 30, 2001.
1586	04/24/00	ARCO Products Company—00–23–NG.	25 Bcf		Import from Canada beginning on September 19, 2000, and extending through September 18, 2002.
1587	04/27/00	Agave Energy Company—00–25–NG.	40 Bcf		Import and export a combined total from and to Mexico, over a two-year term beginning on the date of first import or export delivery.

[FR Doc. 00–12113 Filed 5–12–00 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2035]

City and County of Denver, CO; Notice of Authorization for Continued Project Operation

May 9, 2000.

On April 29, 1998, the City and County of Denver, Colorado, licensee for the Gross Reservoir Project No. 2035, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2035 is located on South Boulder Creek in Boulder County, Colorado.

The license for Project No. 2035 was issued for a period ending April 30, 2000. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 of any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, base don section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2035 is issued to the City and County of Denver, Colorado for a period effective May 1, 2000, through April 30, 2001, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 2001, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the City and County of Denver, Colorado is authorized to continue operation of the Gross Reservoir Project No. 2035 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 00–12083 Filed 5–12–00; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–269–000]

Discovery Gas Transmission LLC; Notice of Cash-Out Report

May 9, 2000.

Take notice that on May 2, 2000, Discovery Gas Transmission LLC (Discovery) filed with the commission its annual cash-out report for the calendar year ended December 31, 1999.

Discovery states that the cash-out report reflects a net loss for this period of $277,063.64. The cumulative loss from cash-out transactions is $295,680.35. This loss will be carried forward to the subsequent reporting period.

Discovery states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protect with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before May 16, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–12086 Filed 5–12–00; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2634]

Great Northern Paper, Inc.; Notice of Authorization for Continued Project Operation

May 9, 2000.

On April 28, 1998, Great Northern Paper, Inc., licensee for the Storage Project No. 2634, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2634 is located on the West and South Branches of the Penobscot River in Somerset and Piscataquis Counties, Maine.

The license for Project No. 2634 was issued for a period ending April 30, 2000. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 1621(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2634 is issued to Great Northern Paper, Inc. for a period effective May 1, 2000, through April 30, 2001, or until the issuance of a new license for the project

or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 2001, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Great Northern Paper, Inc. is authorized to continue operation of the storage Project No. 3634 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 00–12084 Filed 5–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–220–000]

Town of Neligh, Nebraska v. Kinder Morgan Interstate Gas Transmission, LLC and KN Energy, a division of Kinder-Morgan, Inc.; Notice on Procedures

May 9, 2000.

On March 23, 2000, the Town of Neligh, Nebraska (Neligh) filed a complaint against Kinder Morgan Interstate Gas Transmission, LLC (KMI) [1] and KN Energy, a division of Kinder-Morgan, Inc. (KN Energy) pursuant to Section 5 of the Natural Gas Act (NGA) [2] and Rule 206 of the Commission's regulations.[3] Neligh requests that its complaint be considered under the Commission's Fast Track complaint procedures set forth in section 206(h) of the Commission's regulations.[4] On April 12, 2000, we issued and order directing the Commission Staff to convening a technical conference at which the parties and Commission staff could explore the issues raised in this proceeding, including whether Fast Track treatment is appropriate.[5] The technical conference was held on April 18, 2000.

While we recognize Neligh's desire to own and operate its distribution system, the facts provided at the technical conference and in subsequent pleadings indicate that KMI and KN Energy will continue to provide transmission service to the town of Neligh until the time that this complaint can be processed.

The Commission orders:

Neligh's complaint will be processed pursuant to the Commission's standard complaint procedures.

By direction of the Commission.

David P. Boergers,

Secretary.

[FR Doc. 00–12121 Filed 5–12–00; 8:45 am]

BILLING CODE 6717–01–M

[1] Neligh filed its complaint against KN Interstate Gas Transmission Company. However, on December 28, 1999, that company changed its name to Kinder Morgan Interstate Gas Transmission LLC.

[2] 15 U.S.C. 717(d).

[3] 18 CFR 385.206.

[4] 18 CFR 206(h).

[5] 91 FERC ¶ 61,034(2000).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–233–000]

Southern Natural Gas Company; Notice of Application

May 9, 2000.

Take notice that on May 1, 2000, Southern Natural Gas Company, Post Office Box 2563, Birmingham, Alabama 35202–2563, filed an application in Docket No. CP00–233–000 pursuant to Section 7(c) of the Natural Gas Act (NGA), for a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline, compression, measuring and other related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.us/online/rims.htm* (call 202–208–2222).

Southern states that during November 1999, it announced an open season to obtain requests for additional firm service. It is stated that Southern Company Services, Inc. (SCS), South Carolina Pipeline Corporation (SCPC), and the City of LaGrange, Georgia (LaGrange) have subscribed for a total of 335,800 Mcf per day of firm transportation (FT) service on Southern's system, with shipper signing a service agreement with a 15-year term. To provide this FT service, Southern requests authorization to construct, install, and operate certain pipeline loops, compression, measurement, and appurtenant facilities in two phases. Southern indicates that Phase I will consist of the facilities necessary to provide 139,900 Mcf per day of transportation demand, with an in-service date of June 1, 2002. It is further stated that Phase II will consist of the facilities to provide the remaining transportation demand with an in-service date of June 1, 2003. Specifically, Southern requests authorization to construct, install, and operate the following:

Phase I: (1) approximately 5.67 miles of 30-inch South Main 3rd Loop Line extending in Clarke County, Mississippi; (2) approximately 5.0 miles of 30-inch South Main 3rd Loop Line in Sumter County, Alabama; (3) approximately 7.82 miles of 30-inch South Main 3rd Loop Line in Perry and Dallas Counties, Alabama; (4) approximately 7.97 miles of 30-inch South Main 3rd Loop Line in Dallas and Autauga Counties, Alabama; (5) approximately 5.96 miles of 30-inch South Main 4th Loop Line in Macon County, Alabama; (6) approximately 5.08 miles of 24-inch South Main 2nd Loop Line in Jefferson County, Georgia; (7) approximately 1.50 miles of 8-inch LaGrange Extension Loop Line in Lee County, Alabama; (8) install a Caterpillar 3616 high-speed reciprocating compression rated at 4,445 horsepower, replace existing primary pulsation bottles and make piping modifications at Enterprise Compressor Station in Clarke County, Mississippi; (9) reconfigure existing station piping for parallel operation (currently in series configuration), re-wheel existing Dresser-Rand compressors on the GE turbines, and install a Solar Centaur 40 (ISO rated at 4,700 horsepower) turbine-driven centrifugal compressor at York Compressor Station in Sumter County, Alabama; (10) reconfigure existing station piping for parallel operation (currently in series configuration) and re-wheel existing Dresser-Rand compressors on the GE turbines at Selma Compressor Station in Dallas County, Alabama; (11) reconfigure existing station piping for parallel operation (currently in series configuration), re-wheel existing Dresser-Rand compressors on the GE turbines, and install a Solar Taurus 70 (ISO rated at 10,310 horsepower) turbine-driven centrifugal compressor at Auburn Compressor Station in Lee County, Alabama; (12) install a Caterpillar 3616 high-speed reciprocating compressor, rated at 4,445 horsepower, at Thomaston Compressor Station in Upson County, Georgia; (13) interconnection facilities to provide SCS's Phase I transportation demand to the Goat Rock Plant located in Lee County, Alabama; and (14)

measurement facilities to provide SCPC with its transportation demand in Aiken County, South Carolina.

Southern states that there are also non-jurisdictional facilities related to the Phase I Facilities. It is stated that Southern will construct facilities to enable delivery of gas to the Goat Rock Plant located in Lee County, Alabama. It is indicated that the Goat Rock Plant is a non-jurisdictional power plant to be constructed, owned and operated by one of the electric utility affiliates of SCS. Southern states that an affiliate of SCS also will construct and own a new meter station and approximately 5.07 miles of 20-inch connecting pipeline located between the Goat Rock Tap and the new meter station, with Southern operating the connecting pipe and meter station. Southern also states that SCPC will construct, own, and operate approximately 2.5 miles of 16-inch connecting pipeline.

Phase II: (1) approximately 10.39 miles of 30-inch South Main 3rd Loop Line extending Loop in Clarke and Lauderdale Counties, Mississippi; (2) approximately 10.54 miles of 30-inch South Main 3rd Loop Line extending Loop 2 in Sumter County, Alabama; (3) approximately 8.06 miles of 30-inch South Main 3rd Loop Line in Autauga County, Alabama; (4) approximately 5.0 miles of 30-inch South Main 4th Loop Line extending Loop 5 in Tallapoosa and Macon Counties, Alabama; (5) install a Solar Taurus 70 (ISO-rated at 10,310 horsepower) turbine-driven centrifugal compressor at Selma Compressor Station in Dallas County, Alabama; and (6) interconnection facilities to deliver 98 Mmcfd at the Autaugaville Plant in Autauga County, Alabama.

Southern indicates that there are also certain non-jurisdictional facilities related to the Phase II Facilities. Southern states that it will construct facilities to enable delivery of gas to the Autaugaville Plant located in Autauga County, Alabama. It is stated that the Autaugaville Plant is a non-jurisdictional power plant to be constructed, owned and operated by one of the electric utility affiliates of SCS. It is also stated that an affiliate of SCS also will construct and own a new meter station and approximately 11.2 miles of 20-inch pipeline located between the Autaugaville Tap and the new meter station. Southern states that it will operate the connecting pipe and meter station.

Southern states that the total cost of the facilities (Phases I and II) is estimated to be $147.3 million, to be financed initially through short term financing, available cash from operations or a combination of both, and ultimately through permanent financing. Southern requests that the Commission approve a predetermination of roll-in for the expansion in its next rate proceeding, citing both financial benefits to existing customers and system-wide operational benefits.

Southern is requesting that the Commission issue a Preliminary Determination on Non-environmental issues by December 1, 2000, with final approval on all issues by May 1, 2001.

Any person desiring to be heard or to make protest with reference to said application should on or before May 30, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Commission and will receive copies of all documents filed by the Applicant and by every one of the intervenors. Any intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–12080 Filed 5–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–226–000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

May 9, 2000.

Take notice that on April 27, 2000, Williston Basin Interstate Pipeline Company (Williston Basin), 1250 West Century Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP00–226–000 a request pursuant to sections 157.205 and 157.211 of the Commission's Regulations (18 CFR 157.205 and 157.211) under the Natural Gas Act (NGA) for authorization to construct and operate delivery point facilities for service to MI Drilling Fluids, LLC (MI Drilling) an industrial end-user in Big Horn County, Wyoming under blanket certificate issued in Docket Nos. CP82–487–000, *et al* pursuant to section 7 of the NGA, all as more fully set forth in the application which is on file with the Commission

and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/htm (call 202–208–2222 for assistance).

Williston Basin requests authorization to construct and operate delivery point facilities to serve MI Drilling Fluids. LLC (MI Drilling). It is stated that Williston Basin will use the facilities to transport gas daily on a firm basis pursuant to the terms of Williston Basin's FTS rate schedule for delivery to MI Drilling. Williston Basin estimates the cost of the facilities at $32,100. Williston Basin states that the proposed facility will have no significant effect on peak day and there is sufficient capacity to render the proposed service without disadvantage to its other existing customers.

Any questions regarding the application may be directed to Keith A. Tiggelaar, Manager of Regulatory Affairs, at Williston Basin Interstate Pipeline Company, P.O. Box 5601, Bismarck, North Dakota 58506–5601.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

David P. Boergers,

Secretary.

[FR Doc. 00–12081 Filed 5–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–67–000, et al.]

Louisville Gas and Electric Company, et al.; Electric Rate and Corporate Regulation Filings

May 5, 2000.

Take notice that the following filings have been made with the Commission:

1. Louisville Gas and Electric Company and Kentucky Utilities Company

[Docket No. EC00–67–000]

Take notice that on April 28, 2000, Louisville Gas and Electric Company submitted Form U–1 filed on April 26, 2000 with the Securities and Exchange Commission, pursuant to the commitment made in the Section 203 application previously filed in the above docket.

Comment date: May 23, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Midwest Generation, LLC

[Docket No. EC00–81–000]

Take notice that on May 4, 2000, Midwest Generation, LLC (Applicant), filed an amendment to its application that was filed in this docket on April 20, 2000. The application sought Commission approval for the transfer of transformers and interconnection facilities associated with 71 peaking generators being financed pursuant to a sale/leaseback arrangement.

In its application, Applicant advised the Commission that, after Applicant transfers certain jurisdictional facilities to a proposed Lessor, the Lessor will simultaneously lease the facilities to Applicant's parent company, Edison Mission Energy, or to another subsidiary of Edison Mission Energy, which will then sublease the facilities back to Applicant. The parties no longer intend to include a lessee/sublessor in the arrangements. Instead, the Lessor will lease back the facilities directly to Applicant.

Comment date: May 22, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Wisconsin Public Service Corporation and Upper Peninsula Power Company

[Docket No. EC00–84–000]

Take notice that on April 28, 2000, Wisconsin Public Service Corporation (WPSC) and Upper Peninsula Power Corporation (UPPCo) (collectively, the Applicants) on April 28, 2000, tendered for filing an application pursuant to Section 203 of the Federal Power Act, 16 U.S.C. 824b, to transfer operational control over substantial portions of their transmission facilities to the Midwest Independent Transmission System Operator, Inc. (Midwest ISO). The Applicants intend to become members of the Midwest ISO on June 30, 2000 and have asked for an order authorizing this transfer prior to the date.

Copies of the filing were served upon the Applicants' transmission service customers, the members of the Midwest ISO and the state regulatory commissions of Indiana, Illinois, Kentucky, Michigan, Ohio and Wisconsin.

Comment date: May 30, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Atlantic City Electric Company

[Docket No. ER97–3189–027]

Take notice that on May 1, 2000, Atlantic City Electric Company tendered for filing with the Federal Energy Regulatory Commission (Commission), a letter in compliance with the Commission's order in Allegheny Power Service Co., *et al.,* 90 FERC ¶ 61,224 (2000).

Comment date: June 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Gas and Electric Company

[Docket Nos. OA96–28–004, and OA97–619–001]

Take notice that on May 1, 2000, Pacific Gas and Electric Company tendered for filing with the Federal Energy Regulatory Commission (Commission), a letter in compliance with the Commission's order in Allegheny Power Service Co., *et al.,* 90 FERC ¶ 61,224 (2000).

Comment date: June 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Central Maine Power Company

[Docket Nos. OA96–124–001 and OA97–266–001]

Take notice that on May 1, 2000 Central Maine Power Company tendered for filing with the Federal Energy Regulatory Commission (Commission), a report in compliance with the Commission's order in Allegheny Power Service Co., *et al.,* 90 FERC ¶ 61,224 (2000).

Comment date: June 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Energy Service Corporation, on Behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, d/b/a Allegheny Power

[Docket Nos. OA97–122–001 and OA97–712–001]

Take notice that on April 27, 2000, Allegheny Energy Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, d/b/a Allegheny Power tendered for filing with the Federal Energy Regulatory Commission (Commission), a report in compliance with the Commission's order in

Allegheny Power Service Co., *et al.,* 90 FERC ¶ 61,224 (2000).

Comment date: June 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Consumers Energy Company

[Docket No. OA97–259–001]

Take notice that on May 1, 2000, Consumers Energy Company (CECo) tendered for filing with the Federal Energy Regulatory Commission (Commission), a letter in compliance with the Commission's order in Allegheny Power Service Co., *et al.,* 90 FERC ¶ 61,224 (2000).

Copies of the filing have been served on the Michigan Public Service Commission and counsel for intervenors in this docket.

Comment date: June 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Florida Power Corporation

[Docket No. OA97–677–001]

Take notice that on April 28, 2000, Florida Power Corporation tendered for filing with the Federal Energy Regulatory Commission (Commission), a letter in compliance with the Commission's order in Allegheny Power Service Co., *et al.,* 90 FERC ¶ 61,224 (2000).

Comment date: June 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. The FirstEnergy Operating Companies

[Docket No. ER00–2334–000]

Take notice that on April 28, 2000, The FirstEnergy Operating Companies (FirstEnergy) tendered for filing proposed Amendments to service agreements for Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service between FirstEnergy and the Borough of Zelienople, Pa. (Zelienople). FirstEnergy states that the proposed Amendments established a distribution adder and a customer charge for transmission service to Zelienople. FirstEnergy has proposed to make each of the Amendments effective on April 1, 2000.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Great Bay Power Corporation

[Docket No. ER00–2335–000]

Take notice that on April 28, 2000, Great Bay Power Corporation (Great Bay) tendered for filing a Master Energy Purchase and Sale Agreement (Master Agreement) with Enron Power Marketing, Inc. (EPMI). Through the Master Agreement, Great Bay and EPMI set forth the terms and conditions upon which Great Bay will sell at wholesale and EPMI will buy, and upon which EPMI will sell at wholesale and Great Bay will buy, energy and/or capacity. The rates to be charged under the Master Agreement will be market-based rates. Great Bay has market-based rate authority under Docket No. ER96–726–000. Great Bay seeks to have the Master Agreement accepted for filing as a stand-alone rate schedule for Great Bay.

Great Bay requests an effective date of 30 days after this filing, May 28, 2000.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. New England Power Pool

[Docket No. ER00–2336–000]

Take notice that on April 28, 2000, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance a signature page to the New England Power Pool Agreement dated September 1, 1971, as amended, signed by Maine Skiing, Inc. (Maine Skiing). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Participants Committee states that the Commission's acceptance of Maine Skiing's signature page would permit NEPOOL to expand its membership to include Maine Skiing. The Participants Committee further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Maine Skiing a member in NEPOOL. The Participants Committee requests an effective date of May 1, 2000, for commencement of participation in NEPOOL by Maine Skiing.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. New England Power Pool

[Docket No. ER00–2338–000]

Take notice that on April 28, 2000, the New England Power Pool (NEPOOL) Participants Committee tendered for filing for acceptance a signature page to the New England Power Pool Agreement dated September 1, 1971, as amended, signed by TransAlta Energy Marketing (U.S.) Inc. (TransAlta). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Participants Committee states that the Commission's acceptance of TransAlta's signature page would permit NEPOOL to expand its membership to include TransAlta. The Participants Committee further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make TransAlta a member in NEPOOL. The Participants Committee requests an effective date of July 1, 2000, for commencement of participation in NEPOOL by TransAlta.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. New England Power Pool

[Docket No. ER00–2339–000]

Take notice that on April 28, 2000, the New England Power Pool (NEPOOL) Participants Committee tendered for filing for acceptance a signature page to the New England Power Pool Agreement dated September 1, 1971, as amended, signed by Smart Energy.com, Inc. (SmartEnergy.com). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Participants Committee states that the Commission's acceptance of SmartEnergy.com's signature page would permit NEPOOL to expand its membership to include SmartEnergy.com. The Participants Committee further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make SmartEnergy.com a member in NEPOOL. The Participants Committee requests an effective date of June 1, 2000, for commencement of participation in NEPOOL by SmartEnergy.com.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. New England Power Pool

[Docket No. ER00–2340–000]

Take notice that on April 28, 2000, the New England Power Pool (NEPOOL) Participants Committee tendered for filing for acceptance a signature page to the New England Power Pool Agreement dated September 1, 1971, as amended, signed by WPS Energy Services, Inc. (WPS). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Participants Committee states that the Commission's acceptance of WPS's signature page would permit NEPOOL to expand its membership to include WPS. The Participants Committee further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make WPS a member in NEPOOL. The Participants Committee requests an effective date of July 1, 2000, for commencement of participation in NEPOOL by WPS.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. American Electric Power Service Corporation

[Docket No. ER00–2341–000]

Take notice that on April 28, 2000, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm and Non-Firm Point-to-Point Transmission Service Agreements for Amerada Hess Corporation, Cinergy Capital & Trading, Inc., MIECO Inc., and Orion Power MidWest. The agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996. AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after April 1, 2000.

AEPSC also requests termination on April 30, 2000, of firm and non-firm service agreements executed January 1, 1997, by Illinova Power Marketing, Inc. under AEP Companies' FERC Electric Tariff Original Volume No. 4. Dynegy Power Marketing, Inc., merger partner to Illinova Corporation, requested the termination of the service agreements.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Duquesne Light Company

[Docket No. ER00–2342–000]

Take notice that on April 28, 2000, Duquesne Light Company tendered for filing proposed changes to the retail transmission rates in its Open Access Transmission Tariff. Duquesne has requested that the changes become effective as of the closing of its divestiture, expected to occur April 28, 2000.

A copy of this filing was served on the Pennsylvania Public Utility Commission and customers presently taking service under Duquesne's OATT.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Potomac Electric Power Company

[Docket No. ER00–2343–000]

Take notice that on April 28, 2000, Potomac Electric Power Company (Pepco), tendered for filing a service agreement pursuant to Pepco FERC Electric Tariff, Original Volume No. 5, entered into between Pepco and: Sempra Energy Trading Corp. An effective date of April 18, 2000 for this service agreement, with waiver of notice, is requested.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Kansas Gas and Electric Company

[Docket No. ER00–2344–000]

Take notice that on April 28, 2000, Kansas Gas and Electric Company (KGE) tendered for filing an Interconnection Agreement between KGE and Westar Generating II, Inc. KGE requests an effective date of June 1, 2000 or the date that Westar's facilities become commercially operational, whichever occurs later.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. West Texas Utilities Company

[Docket No. ER00–2345–000]

Take notice that on April 28, 2000, West Texas Utilities Company (WTU), tendered for filing First Revised Exhibit A to Amendment No.1 to the Service Agreement between WTU and Tex-La Electric Cooperative of Texas, Inc. (Tex-La), under WTU's TR–1 Tariff. First Revised Exhibit A reflects a recent increase in Tex-La's purchases of power and energy from Southwestern Electric Power Company for certain Tex-La load in WTU's control area in the Electric Reliability Council of Texas.

WTU seeks an effective date of January 1, 2000 and, accordingly, seeks waiver of the Commission's notice requirements. Copies of the filing have been served on Tex-La and on the Public Utility Commission of Texas.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Niagara Mohawk

[Docket No. ER00–2346–000]

Take notice that on April 28, 2000, Niagara Mohawk tendered for filing with the Federal Energy Regulatory Commission an executed letter agreement as a supplement to a Transmission Service Agreement between Niagara Mohawk and PG&E Energy Trading—Power, L.P (PGET), designated as Rate Schedule No. 174. This letter agreement extends the termination date of Rate Schedule No. 174.

Niagara Mohawk has served copies of the filing upon New York Public Service Commission and PGET.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. New England Power Pool

[Docket No.ER00–2347–000]

Take notice that on April 28, 2000, the New England Power Pool (NEPOOL) Participants Committee filed a Service Agreement for Through or Out Service or In Service pursuant to Section 205 of the Federal Power Act and 18 CFR 35.13 of the Commission's regulations.

Acceptance of this Service Agreement will recognize the provision of Firm In Service transmission to PG&E Energy Trading—Power LP, in conjunction with Regional Network Service, in accordance with the provisions of the NEPOOL Open Access Transmission Tariff filed with the Commission on December 31, 1996, as amended and supplemented. An effective date of May 1, 2000 for commencement of transmission service has been requested. Copies of this filing were sent to all NEPOOL members, the New England public utility commissioners and all parties to the transaction.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

23. Westar Generating II, Inc.

[Docket No. ER00–2348–000]

Take notice that on April 28, 2000, in accordance with the provisions of Section 205(c) of the Federal Power Act and Section 35.12 of the Commission's Regulations, Westar Generating II, Inc. (Westar), tendered for filing Westar's FERC Electric Rate Schedule No. 1 governing sales of energy and capacity from its two combustive turbine generating facilities located near Colwich, Kansas to its affiliate Western Resources, Inc.

Westar seeks waiver of the Commission's sixty-day prior notice requirement and requests that the Rate Schedule be permitted to become effective on June 1, 2000, or on the date Westar's generating facilities become commercially operational, whichever occurs later.

Copies of the filing were served upon Western Resources, Inc. and the Kansas Corporation Commission.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

24. West Texas Utilities Company and Central and South West Services, Inc.

[Docket No. ER00–1404–001]

Take notice that on April 28, 2000, West Texas Utilities Company (WTU) and Central and South West Services, Inc. (CSWS), tendered for filing revised unexecuted Interconnection Agreements between WTU and nine of WTU's cooperative customers under WTU's

Wholesale Power Choice Tariff. This filing is made to comply with the Commission's March 30, 2000 order in which it directed WTU to revise the indemnification provisions of these Interconnection Agreements.

Copies of the filing have been served on the affected customers and the Public Utility Commission of Texas.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

25. Allied Companies, LLC (AC)

[Docket No. ER00–2363–000]

Take notice that on April 28, 2000, Allied Companies, LLC (AC), petitioned the Commission for acceptance of AC Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

AC intends to engage in wholesale electric power and energy purchases and sales as a marketer. AC is not in the business of generating or transmitting electric power.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

26. Pacific Gas and Electric Company

[Docket No. ER00–2360–000]

Take notice that on April 28, 2000, Pacific Gas and Electric Company (PG&E) tendered for filing a new Reliability Services Tariff (RS Tariff) and corresponding amendments to PG&E's Transmission Owner Tariff on file with the Commission. This filing establishes wholesale and retail rates for the recovery of reliability charges that the California Independent System Operator Corporation (ISO) imposes on PG&E. PG&E requests an effective date of June 28, 2000. However, PG&E states that it hereby provides notice that it may be necessary to recover such costs for an earlier period depending on subsequent rulings of the Public Utilities Commission of the State of California.

Copies of this filing have been served upon the California Public Utilities Commission, all affected customers and parties designated on the Restricted Service List compiled by the Federal Energy Regulatory Commission in FERC Docket Nos. ER99–4323–000 and ER00–2075–000 and the CAISO.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

27. New England Power Pool

[Docket No. ER00–2337–000]

Take notice that on April 28, 2000, the New England Power Pool (NEPOOL) Participants Committee tendered for filing for acceptance a signature page to the New England Power Pool Agreement dated September 1, 1971, as amended, signed by MHI Inc. (MHI). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Participants Committee states that the Commission's acceptance of MHI's signature page would permit NEPOOL to expand its membership to include MHI. The Participants Committee further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make MHI a member in NEPOOL. The Participants Committee requests an effective date of May 1, 2000, for commencement of participation in NEPOOL by MHI.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–12078 Filed 5–12–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent to File an Application for a New License

May 8, 2000.

Type of Filing: Notice of intent to File An Application for a New License.

b. *Project:* 2586.

c. *Date Filed:* April 24, 2000.

d. *Submitted By:* Alabama Electric Cooperative, Inc.—current licensee.

e. *Name of Project:* Conecuh River Hydroelectric Project.

f. *Location:* On the Conecuh River near the towns of Gantt and River Falls, in Covington County, Alabama.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee Contact:* Mike Noel, Alabama Electric Cooperative, Inc., 2027 East Three Notch Street, Andalusia, AL 36420 (334) 427–3248.

i. *FERC Contact:* Ron McKitrick, ronald.mckitrick@ferc.fed.us, (770) 452–3778.

j. *Effective date of current license:* May 1, 1965.

k. *Expiration date of current license:* April 30, 2005.

l. *Description of the Project:* The project consists of the following two developments:

The Point ''A'' Development consists of the following existing facilities: (1) A 2,800-foot-long earthen dam comprised of a gated concrete spillway section; (2) a 700-acre reservoir at a normal water surface elevation of 170 feet msl; (3) a powerhouse, integral with the dam, containing three generating units with a total installed capacity of 5,200 kW, (4) a 0.39-mile-long, 46–kV transmission line; and (5) other appurtenances.

The Gantt Development consists of the following existing facilities: (1) A 1,562-foot-long earthen dam comprised of a gated concrete spillway section; (2) a 2,767-acre reservoir at a normal water surface elevation of 198 feet msl; (3) a powerhouse, integral with the dam, containing two generating units with a total installed capacity of 3,050 kW, and (4) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2003.

David P. Boergers,

Secretary.

[FR Doc. 00–12079 Filed 5–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Settlement, Transfer, and Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

May 9, 2000.

Take notice that the following application has been filed with the

Commission and is available for public inspection:

a. *Application Type:* Request for Approval of Settlement, Partial Transfer of License, and Amendment of License.

b. *Project No:* 2030–032.

c. *Date Filed:* April 20, 2000.

d. *Applicants:* Portland General Electric Company (PGE) and the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribes).

e. *Name and Location of Project:* The Pelton—Round Butte Hydroelectric Project is on the Deschutes River in Jefferson County, Oregon, The project occupies Tribal lands within the Warm Springs Indian Reservation.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* Mr. A.W. Turner, Assistant General Counsel, Portland General Electric Company, One World Trade Center, 121 SW Salmon Street, Suite 1301, Portland, OR 97304, (503) 464–8926 and Mr. James D. Noteboom, Karnopp, Petersen, Noteboom, Hansen, Arnet & Sayeg, L.L.P., 1201 NW Wall Street, Suite 300, Bend, OR 97701, (541) 382–3011.

h. *FERC Contact:* Any questions on this notice should be addressed to James Hunter at (202) 219–2839.

i. *Deadline for filing comments and or motions:* July 17, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Please include the project number (P–2030–032) on any comments or motions filed.

j. *Description of Proposal:* The application is aimed at resolving long-standing issues between PGE and the Tribes, including establishing compensation to the Tribes pursuant to Section 10(e) of the Federal Power Act (FPA), and obviating their filing of competing relicensing applications for the project. The application requests that the Commission approve the parties' ''Global Agreement,'' which includes compensation to be paid to the Tribes under the parties' ''Compensation Agreement.'' Specifically, the application requests that the Commission:

- Approve the compensation to be paid to the Tribes pursuant to the Compensation Agreement;
- Determine that this compensation shall be the exclusive means of satisfying PGE's obligations to the Tribes pursuant to FPA section 10(e) for the full term of any new license for Project No. 2030;
- Waive the Commission's authority to re-establish compensation at ten (10) year intervals pursuant to FPA section 10(e);
- Approve the future transfer to PGE interests in Project No. 2030 to the Tribes pursuant to the Compensation Agreement;
- Amend paragraph (iii) of Article 25 of the Project license, effective upon the transfer of a 33.33 percent interest in the Project from PGE to the Tribes, to provide that all compensation for use of Tribal lands shall be governed by the Global Agreement; and
- Approve, pursuant to FPA section 8, the partial transfer of the license for Project No. 2030 by deleting paragraph (A) of the license, which made PGE and the Tribes co-licensees ''to the extent of their interests'' in project property, and replace it with a statement that PGE and the Tribes are ''co-licensees without limitations.''

PGE filed a companion Application for Authority to Sell Jurisdictional Facilities pursuant to FPA section 203. Public notice of that application, assigned Docket No. EC00–80–000, was issued on April 27, 2000.

The transfer application was filed within five years of expiration of the license, which is the subject of competing pending relicense applications for Project Nos. 2030–031 and 11832–000. In Hydroelectric Relicensing Regulations Under the Federal Power Act (54 Fed. Reg. 23,756; FERC Stats. and Regs., Regs. Preambles 1986–1990 30,854 at p. 31,437), the Commission declined to forbid all license transfers during the last five years of existing license, and instead indicated that it would scrutinize all such transfer requests to determine if the transfer's primary purpose was to give the transferee an advantage in relicensing (id. at p. 31,438 n. 318).

k. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (20) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters and title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–12082 Filed 5–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 9, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11837–000.

c. *Date filed:* April 11, 2000.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Allegheny L&D#3 Project.

f. *Location:* On the Allegheny River in Allegheny County, Pennsylvania. Would utilize the U.S. Army Corps of Engineer's Allegheny L&D#3.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Gregory S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, OH 44302, (330) 535–7115.

i. *FERC Contact:* Robert Bell, 202–219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource egency.

k. The proposed project utilizing the existing U.S. Army Corps of Engineers' Allegheny L&D#3 would consist of: (1) A proposed intake; (2) ten proposed 60-foot-long, 72-inch diameter steel penstocks; (3) a proposed powerhouse containing generating units having a total installed capacity of 10 MW; (4) a proposed Tailrace; (5) a proposed 1-mile long, 14.7 kV transmission line; and (6) appurtenant facilities.

The project would have an annual generation of 61 GWh and project power would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development application desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–12085 Filed 5–12–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

May 10, 2000.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: May 17, 2000, 10:00 a.m.

PLACE: Room 2C, 888 First Street, NW, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, telephone (202) 208-0400, for a recording listing items, stricken from or added to the, meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro 741st—Meeting May 17, 2000, Regular Meeting (10:00 a.m.)

CAH–1.
Docket# P–4632,026, Clifton Power Corporation
CAH–2.
Docket# P–10615,016, Tower Kleber Limited Partnership
CAH–3.
Docket# P–9100,011, James M. Knott
CAH–4.
Docket# P–2426,148, California Department of Water Resources and City of Los Angeles Department of Water and Power

Consent Agenda—Electric

CAE–1.
Docket# ER00–1743, 000, Entergy Services, Inc.
CAE–2.
Docket# ER99–4226,000, Ameren Operating Companies
Others# ER99–4226,001, Ameren Operating Companies
EL00–16,000, Ameren Operating Companies
CAE–3.
Docket# ER00–1933,000, Entergy Services, Inc.
CAE–4.
Docket# ER00–1947,000, Entergy Services, Inc.
CAE–5.
Docket# ER00–1969,000, New York Independent System Operator, Inc.
Other EL00–57, 000, Niagara Mohawk Power Corporation v. New York Independent System Operator, Inc.
EL00–60,000, Orion Power New York GP, Inc. v. New York Independent System Operator, Inc.
EL00–63,000, New York State Electric & Gas Corporation v. New York Independent System Operator, Inc.
EL00–64,000, Rochester Gas and Electric Corporation v. New York Independent System Operator, Inc.
CAE–6.
Docket# ER00–1849,000, PJM Interconnection L.L.C.
CAE–7.
Docket# ER00–2064,000, Illinois Power Company
CAE–8.
Docket# ER00–2074,000, Elkem Metals Company
Other ER00–2093,000, Elkem Metals Company-Alloy LP
CAE–9.
Docket# ER00–1816,000, DTE River Rouge No. 1, LLC
Other#s EL00–61,000, Nordic Electric, L.L.C. v. the Detroit Edison Company, DTE Energy Company, DTE River Rouge No. 1, LLC and DTE Energy Trading, Inc.
ER00–1816, 001, DTE River Rouge No. 1, LLC
CAE–10.
Docket# EF00–2011,000, United States Department of Energy—Bonneville Power Administration
CAE–11.
Docket# ER00–1920,000, Sun River Electric Cooperative, Inc.
Other#s EL00–55,000, Sun River Electric Cooperative, Inc.
CAE–12.
Docket# OA97–25,000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
Other#s OA97–25,005, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
OA97–606,000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
OA97–606,005 Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
EL98–40,000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
EL98–40,005, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
ER98–1890,000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
ER98–1890,006 Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
ER98–2060,000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
ER98–2060,006, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
CAE–13.
Docket# EC99–81,001, Dominion Resources, Inc. and Consolidated Natural Gas Company
CAE–14.
Docket# ER00–771,001, Tucson Electric Power Company
Other#s ER00–771,002, Tucson Electric Power Company
ER00–771,003, Tucson Electric Power Company
CAE–15.
Docket# ER98–2382,000, Montana Power Company
Other#s OA96–199,006, Montana Power Company
OA97–679,002, Montana Power Company
ER98–2382,002, Montana Power Company
CAE–16.
Docket# ER97–1523,025, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
Other#s OA97–470,023, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–4234,021, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
CAE–17.
Docket# ER97–1523,030, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
Other#s OA97–470,028, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
OA97–470, 030, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State

Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–1523,032, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–4234,026, Central Hudson & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–4234,028, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool

CAE–18.
Docket# EC00–60,000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

CAE–19.
Docket# EL98–77,001, Edison Sault Electric Company
Other#s EL98–77,002, Edison Sault Electric Company
ER00–1966,000, Edison Sault Electric Company
ER00–1966,001, Edison Sault Electric Company

CAE–20.
Docket# ER95–112,009, Entergy Services, Inc.
Other#s EL95–17,005, Entergy Services, Inc. and Entergy Power, Inc.
ER95–1001,002, Entergy Services, Inc.
ER95–1615,014, Entergy Power Marketing Corporation
ER96–586,004, Entergy Services, Inc.
ER96–2709,002, Entergy Services, Inc.

CAE–21.
Omitted

CAE–22.
Docket# ER99–3144,001, Alliance Companies
Other#s EC99–80,001, American Electric Power Service Corporation, Consumers Energy Company, Detroit Edison Company, First Energy Corporation and Virginia Electric and Power Company
EC99–80,002, American Electric Power Service Corporation, Consumers Energy Company, Detroit Edison Company, First Energy Corporation and Virginia Electric and Power Company
ER99–3144,002, Alliance Companies

CAE–23.
Docket# ER00–936,001, Southern Energy Delta, L.L.C.
Other#s ER00–937,001, Southern Energy Potrero, L.L.C.

CAE–24.
Docket# EL00–25,002, Commonwealth Edison Company, Commonwealth Edison Company of Indiana, Inc., IES Utilities, Inc., Interstate Power Company and MidAmerican Energy Company

CAE–25.
Docket# EC98–40,005, American Electric Power Company and Central and Southwest Corporation
Other#s ER98–2770,005, American Electric Power Company and Central and Southwest Corporation
ER98–2786, 006, American Electric Power Company and Central and Southwest Corporation

CAE–26.
Docket# OA97–163,009, Mid-Continent Area Power Pool
Other#s OA97–658,009, Mid-Continent Area Power Pool
ER97–1162,008, Mid-Continent Area Power Pool

CAE–27.
Docket# ER97–1523,041, New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
Other#s OA97–470,039, New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–4234,037, New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool

CAE–28.
Docket # RM95–9,011, Open Access Same-Time Information System and Standards of Conduct

CAE–29.
Docket # EL00–48,000, Black River Limited Partnership

CAE–30.
Docket # EL00–39,000, Southwest Power Pool, Inc.

CAE–31.
Docket # EL00–40,000, Dighton Power Associates Limited Partnership, FPL Energy, L.L.C., Southern Energy New England, L.L.C. and Southern Energy Kendall, L.L.C.

CAE–32.
Docket # EL99–24,000, Central Montana Electric Power Cooperative, Inc. V. Montana Power Company

CAE–33.
Docket # EL98–65,000, Allegheny Electric Cooperative, Inc. v. Pennsylvania Electric Company

Consent Agenda—Miscellaneous

CAM–1.
Docket # RM00–8,000, Revision of Public Reference Room Procedures for Records Requests

Consent Agenda—Gas and Oil

CAG–1.
Docket # RP00–252,000, Florida Gas Transmission Company

CAG–2.
Docket # PR00–7,000, Duke Energy Texas Intrastate Pipeline, LLC

CAG–3.
Docket # RP00–164,001, Northern Natural Gas Company

CAG–4.
Docket # OR99–5,000, Colonial Pipeline Company

CAG–5.
Docket # OR99–6,000, TE Products Pipeline Company, L.P.

CAG–6.
Docket # PR00–9,001, PG&E Texas Pipeline, L.P.

CAG–7.
Docket # RP00–162,001, Panhandle Eastern Pipe Line Company
Other #s RP00–162,002, Panhandle Eastern Pipe Line Company

CAG–8.
Docket # PR99–19,001, Oneok Gas Storage, L.L.C. and Oneok Sayre Storage Company

CAG–9.
Docket # OR92–8,009, SFPP, L.P.
Other #s OR92–8,000, SFPP, L.P.

OR93–5, 000, SFPP, L.P.
OR93–5, 006, SFPP, L.P.
OR94–3, 000, SFPP, L.P.
OR94–4, 000, SFPP, L.P.
OR94–4, 006, SFPP, L.P.
OR95–5, 000, Mobil Oil Corporation V. SFPP, L.P.
OR95–5,004, Mobil Oil Corporation V. SFPP, L.P.
OR95–34,000, Tosco Corporation V. SFPP, L.P.
IS99–144,000, SFPP, L.P.
IS99–144,001, SFPP, L.P.
CAG–10.
Docket # OR96–2, 000, Arco Products Company, a Division of Atlantic Richfield Company, Texaco Refining and Marketing, Inc. and Mobil Oil Corporation V. SFPP, L.P.
Other #s OR96–2,001, Arco Products Company, a Division of Atlantic Richfield Company, Texaco Refining and Marketing, Inc. and Mobil Oil Corporation V. SFPP, L.P.
OR96–2,002, Arco Products Company, a Division of Atlantic Richfield Company, Texaco Refining and Marketing, Inc. and Mobil Oil Corporation V. SFPP, L.P.
OR96–10,000, Arco Products Company, a Division of Atlantic Richfield Company, Texaco Refining and Marketing, Inc. and Mobil Oil Corporation V. SFPP, L.P.
OR98–1,000, Arco Products Company, a Division of Atlantic Richfield Company, Texaco Refining and Marketing, Inc. and Mobil Oil Corporation V. SFPP, L.P.
OR98–1,001, Arco Products Company, a Division of Atlantic Richfield Company, Texaco Refining and Marketing, Inc. and Mobil Oil Corporation V. SFPP, L.P.
OR98–1,002, Arco Products Company, a Division of Atlantic Richfield Company, Texaco Refining and Marketing, Inc. and Mobil Oil Corporation V. SFPP, L.P.
OR00–4,000, Arco Products Company, a Division of Atlantic Richfield Company, Texaco Refining and Marketing, Inc. and Mobil Oil Corporation V. SFPP, L.P.
OR96–2,002, Ultramar Inc. V. SFPP, L.P.
OR96–15,000, Ultramar Inc. V. SFPP, L.P.
OR96–15,001, Ultramar Inc. V. SFPP, L.P.
OR96–15,002, Ultramar Inc. V. SFPP, L.P.
OR96–17,000, Ultramar Inc. V. SFPP, L.P.
OR97–2,000, Ultramar Inc. V. SFPP, L.P.
OR98–2,000, Ultramar Inc. V. SFPP, L.P.
OR98–1,001, Tosco Corporation v. SFPP Inc.
OR98–1,002, Tosco Corporation v. SFPP Inc.
OR98–13,000, Tosco Corporation v. SFPP Inc.
OR98–13,001, Tosco Corporation v. SFPP Inc.
CAG–11.
Docket# MG00–2, 000, Transwestern Pipeline Company
Other#s MG00–2,001, Transwestern Pipeline Company
CAG–12.
Docket# MG99–25,000, Kinder Morgan Interstate Gas Transmission L.L.C. (Formerly K N Interstate Gas Transmission Company)
Other#s MG98–6,002, Natural Gas Pipeline Company of America
MG98–6,003, Natural Gas Pipeline Company of America
MG99–24,000, KN Wattenberg Transmission, L.L.C.
CAG–13.
Omitted
CAG–14.
Docket# CP99–392,000, Transcontinental Gas Pipe Line Corporation
Other#s CP00–17,000, South Carolina Public Service Authority
CP00–19, 000, South Carolina Public Service Authority
CAG–15.
Docket# CP87–203,008, CNG Transmission Corporation
Other#s CP99–106,001, NE HUB Partners, L.P. V. CNG Transmission Corporation
CAG–16.
Docket# MG00–6,000, Consolidated Natural Gas Company
CAG–17.
Docket# PR00–9,000, PG&E Texas Pipeline, L.P.
CAG–18.
Docket# PR00–8,000, PG&E Texas Pipeline, L.P.
CAG–19.
Docket# RP00–250,000, Kinder Morgan Interstate Gas Transmission LLC

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters
PR–1.
Docket# RM98–10,001, Regulation of Short-Term Natural Gas Transportation Services
Other's RM98–10,004, Regulation of Short-Term Natural Gas Transportation Services
RM98–12,001, Regulation of Interstate Natural Gas Transportation Services
RM98–12,004, Regulation of Interstate Natural Gas Transportation Services
Order No. 637–A, Order on Rehearing.
II. Pipeline Certificate Matters
PC–1.
Reserved

David P. Boergers,

Secretary.

[FR Doc. 00–12243 Filed 5–11–00; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6700–2]

Good Neighbor Environmental Board Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Good Neighbor Environmental Board will meet from May 25–26, 2000, in Las Cruces, New Mexico in its role as advisor to Congress and the President on creating and maintaining an environmentally sustainable U.S.–Mexico border region. The entire meeting is open to the public; a distinct public comment session scheduled for 11:30–12 noon on May 25.

DATES AND TIME: The Board will meet from 9 a.m. to 5:30 p.m. on Thursday, May 25, and from 9 a.m. to 12 noon on Friday, May 26 Mountain Time.

LOCATION: The meeting will take place at the Best Western Mesilla Valley Inn and Conference Center in Las Cruces, New Mexico. The address is: 901 Avenida de Mesilla, Las Cruces, New Mexico 88005. The phone number is (505) 524–8603. The Inn is located south of Las Cruces on Highway 28 across the railroad tracks right after Highway 185 and before Interstate 185.

AGENDA: The Board will be briefed on numerous topics related to its advisory role. In addition, it will discuss topics including the following: The value of specific border activities, the role of governmental and nongovernmental initiatives, upcoming recommendations to Congress and the President, the Board's relationship with its Mexican counterpart federal advisory committee, and ongoing business including distribution of the Annual Report and plans for the next meeting.

PUBLIC ATTENDANCE: Seating in the meeting room is available on a first-come, first-served basis. Members of the

public who plan to file written statements and/or make brief oral statements should contact the Designated Federal Officer for the Board (see details below) by May 20.

Background

The Good Neighbor Environmental Board was created by the Enterprise for the Americans Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for providing advice to the President and the Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border. The statute calls for the Board to have representatives from U.S. Government agencies; the governments of the States of Arizona, California, New Mexico and Texas; and private organizations with expertise on environmental and infrastructure problems along the southwest border. The Board meets three times annually. The U.S. Environmental Protection Agency gives notice of this meeting of the Good Neighbor Environmental Board pursuant to the Federal Advisory Committee Act (Pub. L. 92–463).

FOR FURTHER INFORMATION CONTACT: Please contact the Designated Federal Officer for the Good Neighbor Environmental Board: Elaine M. Koerner, Office of Cooperative Environmental Management, Office of the Administrator, USEPA, MC1601A, 1200 Pennsylvania Ave. NW, Washington, DC 20004, (202) 564–1484, *koerner.elaine@epa.gov.*

Dated: May 4, 2000.

Gordon Schisler,

Deputy Director, Office of Cooperative Environmental Management.

[FR Doc. 00–12136 Filed 5–12–00; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00274C; FRL–6559–8]

Voluntary Children's Chemical Evaluation Program, Stakeholder Involvement Process; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA is extending the comment period, announced in the March 29, 2000, **Federal Register**, for the Voluntary Children's Chemical Evaluation Program (VCCEP), from May 12 to May 30, 2000. The VCCEP, formerly known as the Voluntary Children's Health Chemical Testing Program, is a voluntary program to ensure that health effects data are publicly available for industrial chemicals to which children and prospective parents may have a high likelihood of exposure. The comment period is being extended to allow stakeholders additional time to comment on the VCEEP subsequent to the last public meeting of the stakeholder involvement process.

DATES: Comments, identified by docket control number OPPTS–00274B, must be received on or before May 30, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the instructions for each method as directed in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–00274B in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Ward Penberthy, Office of Pollution Prevention and Toxics, Chemical Control Division (7405), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–0508; e-mail address: chem.rtk@epamail.epa.gov. Electronic messages must contain the docket control number OPPTS–00274B and the heading, ''Voluntary Children's Chemical Evaluation Program, Stakeholder Involvement Process,'' in the subject line on the first page of your message.

SUPPLEMENTARY INFORMATION:

I. Does This Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those chemical manufacturers and processors who are or may be required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA) section 4, individuals or groups concerned with chemical testing and children's health, animal welfare groups, or other members of the general public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical 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 certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about the stakeholder meetings or the April 10, 2000, revision of the document entitled ''Framework for a Voluntary Children's Chemical Evaluation Program,'' you may go directly to the website at http://www.epa.gov/chemrtk/childhlt.htm.

B. In Person. The Agency has established an official record for this action under docket control number OPPTS–00274C. The official record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to the Voluntary Children's Chemical Evaluation Program, 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, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East 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. By Phone. If you need additional information about this action, you may also contact the persons listed under ''FOR FURTHER INFORMATION CONTACT.''

A copy of the April 10, 2000, revision of the document entitled ''Framework for a Voluntary Children's Chemical

Evaluation Program'' may be obtained by calling the TSCA Hotline at (202) 554–1404.

III. How and to Whom Do I Submit Comments?

As described in Units I.D. and I.E. of the notice published in the **Federal Register** of March 29, 2000 (65 FR 16590) (FRL–6552–6), you may submit your comments through the mail, in person, or electronically. Please follow the instructions that are provided in that notice. Do not submit any information electronically that you consider to be CBI. To ensure proper receipt by EPA, be sure to identify docket control number OPPTS–00274B in the subject line on the first page of your response.

IV. What Action is EPA taking?

EPA is extending the comment period on the VCCEP from May 12 to May 30, 2000. The VCCEP is described in the April 10, 2000, revision of the document entitled ''Framework for a Voluntary Children's Chemical Evaluation Program'' which EPA made available to the public on April 12, 2000. The VCCEP was developed using a stakeholder involvement process which was announced in the **Federal Register** of August 26, 1999 (64 FR 46673) (FRL–6089–1).

List of Subjects

Environmental protection, Chemicals, Children, Hazardous substances, Health and safety.

Dated: May 10, 2000.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 00–12278 Filed 5–11–00; 2:34 pm]

BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 9:09 a.m. on Wednesday, May 10, 2000, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's resolution, corporate, and supervisory activities.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by vice Chairman Andrew C. Hove, Jr., concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no notice earlier than May 5, 2000, of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: May 10, 2000.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 00–12238 Filed 5–11–00; 10:23 am]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting

TIME AND DATE: 2:30 p.m., Wednesday, May 17, 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: Election of Federal Home Loan Bank Directors.
- Designation of Federal Home Loan Bank Directors.
- Discussion of Issues Pertaining to the Federal Home Loan Bank Capital Reform.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 00–12273 Filed 5–11–00; 2:12 pm]

BILLING CODE 6725–01–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 June 8, 2000.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. JDOB, Inc., Sandstone, Minnesota; to acquire at least 80 percent of the voting shares of First National Bank of Hinckley, Hinckley, Minnesota, a *de novo* bank.

Board of Governors of the Federal Reserve System, May 9, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–12062 Filed 5–12–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages

either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 30, 2000.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. First State Bancshares, Inc., Middlesboro, Kentucky; to acquire LexBanc Corporation, Lexington, Kentucky, and thereby indirectly acquire Lexington Bank, FSB, Lexington, Kentucky, and thereby engage in permissible savings association activities, pursuant to § 225.28(b)(4) of Regulation Y. Comments regarding this application must be received not later than June 8, 2000.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Area Bancshares Corporation, Owensboro, Kentucky; to acquire Area Trust Company, and thereby engage in the operation of a trust company, pursuant to § 225.28(b)(5) of Regulation Y.

2. Lima Bancshares, Inc., Lima, Illinois; to retain voting shares of East Dubuque Bancshares, Inc., East Dubuque, Illinois, and its subsidiary, East Dubuque Savings Bank, East Dubuque, Illinois, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4) of Regulation Y. Comments regarding this application must be received not later than June 8, 2000.

3. Summit Bancorp, Inc., Arkadelphia, Arkansas; to engage *de novo* through its subsidiary, Summit Residential Services, Inc., Arkadelphia, Arkansas, in community development activities, pursuant to § 225.28(b)(12) of Regulation Y.

Board of Governors of the Federal Reserve System, May 9, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–12060 Filed 5–12–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Irwin Union Bank & Trust Company, Columbus, Indiana; a De Novo Corporation To Do Business Under Section 25A of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25A of the Federal Reserve Act (Edge Corporation) 12 U.S.C. 611 *et seq.* The factors that are to be considered in acting on the application are set forth in the Board's Regulation K (12 CFR 211.4).

The application may by inspected at the Federal Reserve Bank of Chicago or at the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Comments regarding the application must be received by the Reserve Bank indicated or at the offices of the Board of Governors not later than June 13, 2000.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Irwin Union Bank & Trust Company, Columbus, Indiana; to establish Irwin International Corporation, Columbus, Indiana, which will acquire 78 percent of the outstanding voting securities of Onset Capital Corporation, Vancouver, Canada, and thereby engage in leasing real or personal property, pursuant to § 25A of the Federal Reserve Act.

Board of Governors of the Federal Reserve System, May 9, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–12061 Filed 5–12–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Thursday, May 18, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 11, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–12239 Filed 5–11–00; 10:24 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting

period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans No.	Acquiring	Acquired	Entities
Transactions Granted Early Termination—03/27/2000			
20002112	Calsonic Corporation	Kansei Corporation	Kansei Corporation.
20002118	AECOM Technology Corporation	Vivendi S.A	Metcalf & Eddy, Inc.
20002163	Grotech Partners, IV, L.P	Pathnet Telecommunications, Inc	Pathnet Telecommunications, Inc.
20002246	Northwestern Corporation	Lucent Technologies Inc	Lucent Technologies Inc.
20002254	Thomas H. Lee Equity Fund IV, L.P	Richard T. Aab	US LEC Corp.
20002279	Fred Hassan	Monsanto Company	Monsanto Company.
20002281	Internet Capital Group, Inc	Breakaway Solutions, Inc	Breakaway Solutions, Inc.
20002284	Quantum Industrial Holdings Ltd	Integra Life Sciences Holdings Corporation.	Integra Life Sciences Holdings Corporation.
20002295	Time Warner Inc	The Welk Group, Inc	Heartland Music, LP.
20002304	North Castle Partners II, L.P	Elizabeth Arden Salon-Holdings, Inc	Elizabeth Arden Salon-Holdings, Inc.
20002308	UICI	HealthAxis, Inc	HealthAxis, Inc.
20002311	GTCR Fund VII, L.P	MidAmerican Energy Holdings Company	MidAmerican Security Company.
20002315	Wind River Systems, Inc	Embedded Support Tools Corporation	Embedded Support Tools Corporation.
20002325	Canon Inc	Energy Conversion Devices, Inc	Emergy Conversion Devices, Inc.
20002328	The Reader's Digest Association, Inc	World's Finest Chocolate, Inc	World's Finest Chocolate, Inc.
20002333	The Bank of New York Company, Inc	Societe Generale	SG Cowen Securities Corporation.
20002336	William Blair Capital Partners VI, L.P	Pawnee Rotational Molding Partners VI, L.P.	Borse Industries, L.P. Fremont Plastics Products, Inc. Wedco Moulded Products Company.
20002337	Fyffes plc	C.I. Union de Bananeros de Uraba, S.A.	Turbana Corporation.
20002346	Odwalla, Inc	Bain Capital Fund VI, L.P	Samantha Investors, LLC.
20002347	Bain Capital Fund VI, L.P	Odwalla, Inc	Odwalla, Inc.
20002351	Penn National Gaming, Inc	Pinnacle Entertainment, Inc	Casino Magic Corp., Boomtown, Inc.
20002354	United Rentals, Inc	National Equipment Services, Inc	Safety Lights Sales and Leasing, Inc. of Texas.
20002355	National Equipment Services, Inc	United Rentals (North America), Inc	NES Texoma Acquisition Corp.
20002357	Stuart P. Olsten	Adecco SA	Adecco SA.
20002369	Vincent L. Martin	Calender Holdings, Inc	Calender Holdings, Inc.
20002392	Westbrand, Inc.	Robert W. Amis, Jr	Advance Acceptance Corporation.
20002393	TPG Partners II, L.P	The Cherry Corporation	Cherry Semiconductor Corporation.
20002399	Castle Harlan Partners III, L.P	Financiere Saint Luc	Financiere Saint Luc.
20002402	C–MAC Industries Inc	Charterhouse Equity Partners II, L.P	A-Plus Manufacturing Corp.
20002403	Berkshire Fund IV, Limited Partnership	Marconi plc	GEC International Limited. Maatschappij Van Berkel's Patent BV.
20002413	Golder, Thoma, Cressey, Ruaner Fund V, L.P.	Douglas T. Mergenthaler	Kwikee Products Company, Inc.
20002414	Lowes Corporation	Continental National Corporation	Continental National Corporation.
20002416	Richard A. Bernstein	Miller Buckeye Biscuit Company	Miller Buckeye Biscuit Company.
20002419	Swifty Serve, LLC	Martin Resource Management Corporation, a Texas corporation.	Midstream Fuel Service, Inc., an Alabama corporation.
20002440	Elan Corporation plc	The Liposome Company, Inc	The Liposome Company, Inc.
20002441	Safeguard Scientifics, Inc	MS Farm International, L.P	AgWeb.Com.
20002444	Motorola, Inc	C-Port Corporation	C-Port Corporation.
20002454	Stonington Capital Appreciation 1994 Fund, L.P.	Lernout & Hauspie Speech Products N.V.	Lernout & Hauspie Speech Products N.V.
20002455	Lernout & Hauspie Speech Products N.V.	Stonington Capital Appreciation 1994 Fund, L.P.	Dictaphone Corporation.
Transactions Granted Early Termination—03/28/2000			
20002155	Pro Mach Holdings, L.L.C	Jack G. Swope	Rennco, Inc.
20002156	Pro Mach Holdings, L.L.C	Stanley J. Swope	Rennco, Inc.
Transactions Granted Early Termination—03/29/2000			
20001439	Thomas W. Bedell Separate Share Trust	Johnson Worldwide Associates, Inc	Century Divestiture Co.
20002256	Calpine Corporation	Duke Energy Corporation	Duke Energy Hidalgo Holding, Inc.
20002264	Country Mutual Insurance Company	Mutual Service Casualty Insurance Company.	Mutual Service Casualty Insurance Company.
20002301	AT&T Corp	ICG Communications, Inc	ICG Communications, Inc.
20002302	HMTF Bridge Partners, L.P	ICG Communications, Inc	ICG Communications, Inc.
20002303	HMTF Equity Fund IV (1999), L.P	ICG Communications, Inc	ICG Communications, Inc.
20002307	HealthAxis, Inc	HealthAxis.com, Inc	HealthAxis.com, Inc.
20002329	C.H. Boehringer Sohn	Pharmacia & Upjohn Company	Pharmacia & Upjohn Company.
20002349	Chase Manhattan Corporation (The)	Viatel, Inc	Viatel, Inc.

Trans No.	Acquiring	Acquired	Entities
20002350	Durr Aktiengesellschaft	Harald Quandt Beteiliguangen GmbH & Co.	Carl Schenck AG.
20002373	Harvest Partners III, L.P	Kevin D. Kalagher	The Finlay Brothers Company.
20002445	LifeMinders.com, Inc	University Corporation for Atmospheric Research.	WITI Corporation.
20002470	E*Trade Group, Inc	Card Capture Services, Inc	Card Capture Services, Inc.
20002472	Nemetschek Aktiengesellshaft	Richard Diehl	Diel Grapshsopt, Inc.
Transactions Granted Early Termination—03/30/2000			
20001342	Duke Energy Corporation	Phillips Petroleum Company	Phillips Gas Company.
20001351	Duke Energy Corporation	Conoco Inc	Conoco Inc.
20001353	Duke Energy Corporation	George P. Mitchell	Mitchell Gas Services, L.P.
20001354	George P. Mitchell	Duke Energy Corporation	Duke Energy Field Services, Inc.
20001892	Computer Associates International, Inc ..	Sterling Software, Inc	Sterling Software, Inc.
20002167	Winsloew Furniture, Inc	Wabash Valley Manufacturing, Inc	Wabash Valley Manufacturing, Inc.
20002263	Christopher Redlich, Jr	Michael J. Browning	MGM Co., Inc. MGM Transportation Services, Inc. O'Toole Transportation Works, Inc. XMGM Co., Inc. XMGM of California, Inc. XMGM of Florida, Inc.
20002285	Century Aluminum Company	Xstrata AG	Xstrata Aluminum Corporation.
20002339	Unicom Corporation	Thomas F. Nelson	Metropolitan Mechanical Contractors, Inc.
Transactions Granted Early Termination—03/31/2000			
20002210	Pittsburgh Tube Company	J.H. Roberts Industries, Inc	J.H. Roberts Industries, Inc.
20002320	Bank of Montreal	Pittsburgh Tube Company	Pittsburgh Tube Company.
20002433	Ensign Resources Service Group Inc	Gary Drilling Company	Gary Drilling Company.
Transactions Granted Early Termination—04/03/2000			
20002251	Smurfit-Stone Container Corporation	St. Laurent Paperboard Inc	St. Laurent Paperboard Inc.
20002272	M. & G. Finanziaria Industriale S.p.A	N. V. Koninklijke Nederlandsche Petroleum Maatschappij.	Crystal Polymer Ltd. Pecten Group S.A. de C.V. Shell Oil Company. Shell Polyesters LLC. SIPET S.p.A.
20002316	Windward Capital Partners II, L.P	Mobile Storage Group, Inc	Mobile Storage Group, Inc.
20002323	UbiquiTel Holdings, Inc	Sprint Corporation	Sprint Corporation.
20002348	Fosters Brewing Group Limited	Klein Foods, Inc	Windsor Vineyards.
20002356	Pequot Private Equity Fund II, L.P	Netlab L.L.C	Online Retail Partners, Inc.
20002364	Wei Yen	ATI Technologies, Inc	ATI Technologies, Inc.
20002368	BTG, Inc	TV Guide, Inc	SSDS, Inc.
20002371	SOFTBANK Corp	Naviant, Inc	Naviant, Inc.
20002372	Naviant, Inc	SOFTBANK Corp	SOFTBANK Capital Advisors Fund LP.
20002375	Citigroup Inc	Reliance Group Holdings, Inc	Reliance Insurance Company.
20002387	Quintus Corporation	Mustang.com, Inc	Mustang.com, Inc.
20002411	Diamond Products Company	The Gillette Company	The Gillette Company.
20002452	Robotic Technology Systems PLC	Bailey P. Robinson, III and Laura Sue Robinson, (spouses).	Wright Industries, Inc.
20002471	Aarque GPC, Inc	John M. Fayad	Alkar Steel Corporation.
20002508	The Interpublic Group of Companies, Inc	Caribiner International, Inc	Caribiner International, Inc.
Transactons Granted Early Termination—04/04/2000			
20002376	CMGI, Inc	uBid, Inc	uBid, Inc.
20002381	Software.com, Inc	At Mobile.com, Inc	At Mobile.com, Inc.
20002383	Windward Capital Partners II, L.P	Richard Samuels	Water Country Corporation & Bellwood Assoc., L.P.
20002384	Windward Capital Partners II, L.P	Joseph O'Donnell	Water Country Corporation & Bellwood Assoc., L.P.
20002385	Hanover Compressor Company	Applied Process Solutions, Incorporated	Applied Process Solutions, Incorporated.
20002386	Russell Corporation	Toxey D. Haas	Hass Outdoors, Inc.
20002389	John J. Fauth	TSI Incorporated	TSI Incorporated.
20002394	Morgan Stanley Dean Witter Capital Partners IV, L.P.	Texas Utilities Company d/b/a TXU Corp	TXU Processing Company.
20002395	Berkshire Fund V, Limited Partnership ...	Thomas A. Ellison	TVI, Inc.
20002397	DTE Energy Company	Covol Technologies, Inc	Mountaineer Fuel, LLC. Synfuel Investments, Inc.
20002407	Pathology consultants of America, Inc ...	Questor Partners Fund, L.P	PathSOURCE, Inc.
20002408	Questor Partners Fund, L.P	Pathology Consultants of America, Inc ..	Pathology Consultants of America, Inc.

Trans No.	Acquiring	Acquired	Entities
20002412	Gateway, Inc	OfficeMax, Inc	OfficeMax, Inc.
20002418	Peter J. Callahan	Gerald Durnell and Kaye Durnell (spouses).	Pizza Expo, Inc. ProTech Publishing and Communications, Inc.
20002422	Bain Capital Fund VI, L.P	Trustee of the Harold Brode Revocable Living Trust.	Broder Bros., Co.
20002423	Tyco International Ltd	Westlock Controls Corporation	Westlock Controls Corporation, a Delaware corporation.
20002424	AT&T Corp	Alloy Online, Inc	Alloy Online, Inc.
20002425	Ford Motor Company	Budget Group, Inc	Warren Wooten Ford, Inc., Paul West Ford, Inc.
20002426	Equant N.V	NEWCO	NEWCO.
20002427	Reuters Group PLC	NEWCO	NEWCO.
20002428	Exact Holding N.V	Macola Technologies, Inc	Macola Technologies, Inc.
20002430	CRH plc	Northern Ohio Paving Company	Northern Ohio Paving Company.
20002432	Solectron Corporation	Zhone Technologies, Inc	Premisys Communications, Inc.
20002434	Morgan Stanley Dean Witter & Co	TNT Post Group N.V	Ansett Worldwide Aviation Services.
20002436	David E. Harvey	Connectivity Technologies, Inc	Connectivity Products Incorporated.
20002439	Telapex, Inc	ALLTEL Corporation	ALLTEL Communications, Inc.
20002442	Nera ASA	World Access, Inc	Cellular Infrastructure Supply, Inc. WA Telcom Products Co., Inc.
20002443	Siemens AG	ENTEX Associates, L.P	ENTEX Information Services, Inc.
20002447	William H. Joyce	The Dow Chemical Company	The Dow Chemical Company.
20002449	Morgan Stanley Dean Witter & Co	The News Corporation Limited	Ansett Worldwide Aviation Services.
20002483	United Technologies Corporation	E.C. Hunt	Thermo-Industries, Inc.
20002601	Bayer AG	ALZA Corporation	ALZA Corporation.
Transactions Granted Early Termination—04/05/2000			
20002446	BP Amoco p.l.c	Burmah Castrol p.l.c	Burmah Castrol p.l.c.
20002517	VS&A Communications Partners III, L.P	Data Transmission Network Corporation	Data Transmission Network Corporation.
Transactions Granted Early Termination—04/06/2000			
20002367	Warburg, Pincus, Equity Partners, L.P	Hilltopper Holding Corp	Hilltopper Holding Corp.
20002391	Richard D. Rehm, M.D	MedicaLogic, Inc	MedicaLogic, Inc.
20002453	Cumulus Media, Inc	William White McDonald Family GST Exempt Perpetual Trust.	McDonald Media Group, Inc.
20002456	The Hain Food Group, Inc	Celestial Seasonings, Inc	Celestial Seasonings, Inc.
20002457	World Access, Inc	Communication TeleSystems International d/b/a WORLDxCHANGE.	Communication TeleSystems International d/b/a WORLDxCHANGE.
20002458	Iceberg Transport, S.A	World Access, Inc	World Access, Inc.
20002459	Roger Abbott	World Access, Inc	World Access, Inc.
20002462	UAL Corporation	Air Canada	Air Canada.
20002463	Sonepar, S.A	Capital Lighting & Supply, Inc	Capital Lighting & Supply, Inc.
20002464	Uni-Marts, Inc	Frank R. and Adeline Orloski	Orloski Service Station, Inc.
20002466	VA Linux Systems, Inc	Andover.Net, Inc	Andover.Net., Inc.
20002467	The Clayton & Dubilier Private Equity Fund IV L.P.	The Drescher Corporation	The Drescher Corporation.
20002474	Allianz Aktiengellschaft	Sol Edelstein	World Access, Inc.
20002475	TPG Partners III, L.P	Quantum Bridge Communications, Inc	Quantum Bridge Communications, Inc.
20002481	Montana Power Company	Qwest Communications International Inc	TeleDistance Holdings, Inc.
20002485	CRH plc	Thomas H. Maddux, III	American Stone-Mix, Inc.
20002486	Arena Capital Investment Fund, L.P	UniDial Holdings, Inc	UniDial Holdings, Inc.
20002495	Chase Manhattan Corporation, (The)	Gabriel Communications, Inc	Gabriel Communications, Inc.
20002505	Mohr, Davidow Ventures IV, L.P	Netcentives, Inc	Netcentives, Inc.
20002509	Communications Ventures III, L.P	Flashcom, Inc	Flashcom, Inc.
20002511	Mayfield IX	Flashcom, Inc	Flashcom, Inc.
20002513	Pfingsten Executive Fund, L.P	Katherine C. Kennedy	Four Wheel Drive Hardware, Inc.
20002515	HNC Software, Inc	The Frank Gates Companies, Inc	Celerity Technologies, Inc.
20002518	Thames Water Plc	E'town Corporation	E'town Corporation.
20002528	Lee R. Anderson, Sr	Gregg R. Huennekens	Alliance Fire Protection, Inc. United States Fire Protection/Illinois, Inc. United States Fire Protection/Wisconsin, Inc.
20002532	American Securities Partners II, L.P	Metapoint Partners Fund-III, L.P	Vutek, Inc.
20002539	ELIFIN, S.A	Carl-F. Bardusch	Bardusch Corporation.
20002540	Securtiy Capital U.S. Realty	Equity Office Properties Trust	Allegheny Tower Limited Partnership. Boston Harbor Garage, L.L.C. Forbes/Allies Limited Partnership. Indianapolis Convention Ctr. Parking Ltd. Partnership.
20002541	Thomas T. Gores	Philip C. Denzer	Process Software Corporation.

Trans No.	Acquiring	Acquired	Entities
20002546	General Electric Company	Trade Out.com, Inc	Trade Out.com, Inc.
20002547	Horizon Capital Partners IA Limited Partnership.	ED&F Man Group plc	PERT Laboratories, Inc. Seabrook Enterprises, Inc.
20002555	NBTY, Inc	Rexall Sundown, Inc	Rexall Sundown, Inc.
20002566	Tribune Company	The Times Mirror Company	The Times Mirror Company.
20002400	U.S. Bancorp	John F. Allen	Oliver-Allen Corporation, Inc.
20002506	Nashua Corporation	Andrew B. Albert	Rittenhouse Paper Company.
Transactions Granted Early Termination—04/10/2000			
20002243	Cummins Engine Company, Inc	Ben J. Strafuss	Cummins Mid-South, Inc.
20002390	John H. Dayani, PhD	MedicaLogic, Inc	MedicaLogic, Inc.
20002437	Matrix Partners IV, L.P	OnDisplay, Inc	OnDisplay, Inc.
20002473	Charles E. Hurwitz	Plymouth Tube Company	Plymouth Tube Company.
20002510	Behrmman Capital II, L.P	Flashcom, Inc	Flashcom, Inc.
20002521	Medical Manager Corporation	Medical Mutual of Ohio	Medical Mutual of Ohio.
20002524	URM Stores, Inc	Rosauers Employee Stock Ownership Trust.	Rosauers Supermarkets, Inc.
20002550	CGW Southeast Partners III, L.P	Printmasters, Inc	Printmasters, Inc.
20002551	David Bing	Lear Corporation	Lear Corporation.
20002552	Radio One, Inc	William G. Mays	IBL L.L.C.
20002556	Z-Tel Technologies, Inc	Touch 1, Inc	Touch 1, Inc.
20002562	Avnet, Inc	Savior Technology Group, Inc	Savior Technology Group, Inc.
20002563	Arbella Mutual Insurance Company	Hellman & Friedman Capital Partners III, L.P.	The Covenant Group, Inc.
20002565	24/7 Media, Inc	Exactis.com, Inc	Exactis.com, Inc.
20002569	Softbank Technology Ventures V, L.P	TeraBeam Corporation	TeraBeam Corporation.
20002570	Corman Foundation, Inc	Z-Tel Technologies, Inc	Z-Tel Technologies, Inc.
20002630	Marmon Holdings, Inc	Hampshire Equity Partners II, L.P	Streater, Inc.
20002647	Royal Bank of Canada	Prism Financial Corporation	Prism Financial Corporation.
20002679	John F. Allen	U.S. Bancorp	U.S. Bancorp.

For Further Information Contact: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–12125 Filed 5–12–00; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans No.	Acquiring	Acquired	Entities
Transactions Granted Early Termination—04/10/2000			
20002243	Cummins Engine Company, Inc	Ben J. Strafuss	Cummins Mid-South, Inc.
20002390	John H. Dayani, PhD	MedicaLogic, Inc	MedicaLogic, Inc.
20002437	Matrix Partners IV, L.P	OnDisplay, Inc	OnDisplay, Inc.
20002473	Charles E. Hurwitz	Plymouth Tube Company	Plymouth Tube Company.
20002510	Behrman Capital II, L.P	Flashcom, Inc	Flashcom, Inc.
20002521	Medical Manager Corporation	Medical Mutual of Ohio	Medical Mutal of Ohio.
20002524	URM Stores, Inc	Rosauers Employee Stock Ownership Trust.	Rosauers Supermarkets, Inc.
20002550	CGW Southeast Partners III, L.P	Printmasters, Inc	Printmasters, Inc.
20002551	David Bing	Lear Corporation	Lear Corporation.
20002552	Radio One, Inc	William G. Mays	IBL L.L.C.
20002556	Z-Tel Technologies, Inc.	Touch 1, Inc	Touch 1, Inc.
20002562	Avnet, Inc	Savior Technology Group, Inc	Savior Technology Group, Inc.
20002563	Arbella Mutual Insurance Company	Hellman & Friedman Capital Partners III, L.P.	The Covenant Group, Inc.

Trans No.	Acquiring	Acquired	Entities
20002565	24/7 Media, Inc	Exactis.com, Inc	Exactis.com, Inc.
20002569	Softbank Technology Ventures V, L.P ...	TeraBeam Corporation	TeraBeam Corporation.
20002570	Corman Foundation, Inc.	Z-Tel Technologies, Inc	Z-Tel Technologies, Inc.
20002630	Marmon Holdings, Inc	Hampshire Equity Partners II, L.P	Streater, Inc.
20002647	Royal Bank of Canada	Prism Financial Corporation	Prism Financial Corporation.
20002679	John F. Allen	U.S. Bancorp	U.S. Bancorp.
	Transactions Granted Early Termination—04/11/2000		
20002522	Brentwood Associates Private Equity III, L.P.	Thomas Melk	Outer Circle Products, Ltd.
20002534	Westgage International Limited	Illinois Superconductor Corporation	Illinois Superconductor Corporation.
20002537	Elliott Associates, L.P	Illinois Superconductor Corporation	Illinois Superconductor Corporation.
20002571	Cendant Corporation	FundsXpress, Inc	FundsXpress, Inc.
20002573	Gulftech International, Inc	Luthi Machinery & Engineering Co., Inc	Luthi Machinery & Engineering Co., Inc.
20002577	TPG Partners III, L.P	Convergent Communications, Inc	Convergent Communications, Inc.
20002580	Cox Enterprises, Inc	Marlin Broadcasting, Inc	Marlin Broadcasting, Inc.
20002581	Wells Fargo & Company	Gabriel Communications, Inc	Gabriel Communications, Inc.
20002586	Paul G. Allen	National Discount Brokers Group, Inc	National Discount Brokers Group, Inc.
20002589	Apostolos Allamanis	Ogden Corporation	Ogden Park Management, Inc., Jazzland, Inc.
20002590	Gateway, Inc	eSoft, Inc	eSoft, Inc.
20002592	Paul G. Allen	Rosetta Inpharmatics, Inc	rosetta Inphamatics, Inc.
20002593	Stephen Adams	The Trident Partnership, L.P	Affinity Group Plans, Inc.
20002594	Clayton, Dubilier & Rice Fund VI Limited Partnership.	Complete Business Solutions, Inc	Complete Business Solutions, Inc.
20002596	The SKM Equity Fund II, L.P	Murray Nadel	Nadel LLC.
20002602	Amkor Technology, Inc	Anam Semiconductor, Inc	Anam Semiconductor, Inc.
20002603	Trinity Industries, Inc	YSD Industries, Inc	YSD Industries, Inc.
20002606	Thomas H. Lee Equity Fund IV, L.P	Digital Broadband Communications, Inc	Digital Broadband Communications, Inc.
20002608	Solectron Corporation	American Wireless Services, Inc	American Wireless Services, Inc.
20002610	Bell Microproducts, Inc	Herbert F. Rorke	Rorke Data Incorporated.
20002613	California Almond Growers Exchange	Campbell Soup Company	MacFarms of Hawaii, Inc.
20002624	Jemison Investment Co., Inc	Braselle Corp. d/b/a Demsey and Associates.	Brasell Corp. d/b/a Demsey and Associates.
20002625	ACT Manufacturing, Inc	GSS Array Technology Public Company Limited.	GSS Array Technology Public Company Limited.
20002639	Vector Industries Inc	Wolseley plc	Diemold Service Co. Inc. and Riverside Tractor Co. Inc. GOS Investments Limited and Calumet International, Inc
20002640	Koninklijke Ahold NV	E. Philip Saunders	Tops Markets, Inc.
20002641	Peco Energy Company	Dashiell Corporation	Dashiell Corporation.
20002643	Leggett & Platt, Incorporated	Carmine E. and Rosina Guastafeste	Edron Fixture Corp., Royal Store Fixtures Corp. Florida Plating & Finishing Corp.
20002645	TCV III (Q), L.P	Emerald-Delaware, Inc	Emerald-Delaware, Inc.
	Transactions Granted Early Termination—04/13/2000		
19992774	BP Amoco p.l.c	Atlantic Richfield Company	Atlantic Richfield Company.
20001242	Deere & Company	Metso Corporation	Timberjack Corporation. Timberjack Group Oyj, Timberjack Oy, Timberjack Sales Oy. Timberjack Holding AB, Timberjack AB, *et al.*
20002377	ColArt Investments Ltd	Voting Trust dated December 4, 1968 of v/s of Hallmark Cards.	Binney & Smith Inc.
20002489	American Home Products Corporation ...	Aviron	Aviron.
20002507	Orbital Sciences Corporation	Acxiom Comporation	DataQuick Information Systems.
20002527	GS Capital Partners III, L.P	Gabriel Communications, Inc	Gabriel Communications, Inc.
20002535	GS Capital Partners III Offshore, L.P	Gabriel Communications, Inc	Gabriel Communications, Inc.
20002584	Aruthur T. Shorin	The Topps Company, Inc	The Topps Company, Inc.
20002621	Microsoft Corporation	Roy Watterstrom	Plural Inc.
	Transactions Granted Early termination—04/14/2000		
20002500	El Paso Energy Corporation	VeloCom Inc	VeloCom Inc.
20002519	Texas Utilities Company, doing Business as TXU Corp.	Fort Bend Communication Companies, Inc.	Fort Bend Communication Companies, Inc.
20002530	Heritage Fund II, L.P	Will Holdings, Inc	Will Holdings, Inc.
20002533	Softbank Corporation	America West Holdings Corporation	National Leisure Group, Inc.
20002582	Rieter Holding Ltd	Bernard Terrat	ICBT Groupe S.A.

Trans No.	Acquiring	Acquired	Entities
20002607	Cooper Industries, Inc	Sigma-Aldrich Corporation	B-Line Systems Manufacturing, Inc. B-Line Systems, Inc. Sigma-Aldrich Corporation.
20002609	James H. Clark	The Kiva Genetics Partnership, Inc	The Kiva Genetics Partnership, Inc.
20002623	Linc.net, LLC	Irvin L. Gunter	Utility Consultants, Inc.
20002628	Bernard Arnault	Paul G. Allen	Mercata, Inc.
20002632	Linc.net, LLC	Thomas E. Murrell	George M. Construction, Inc.
20002637	MCT of Russia, L.P	MediaOne Group, Inc	RTDC Holdings, Inc.
20002648	Enron Corp	Quanta Services, Inc	Quanta Services, Inc.
20002652	Gerald R. Forsythe	Black Hills Corporation	Black Hills Corporation.
20002653	Black Hills Corporation	Gerald R. Forsythe	Indeck Capital, Inc.
20002656	Mestek, Inc	Met-Coil Systems Corporation	Met-Coil Systems Corporation.
20002658	ITC∧DeltaCom, Inc	James V. Martin	Bay Data Consultants, Inc.
20002659	James V. Martin	ITC∧DeltaCom, Inc	ITC∧DeltaCom, Inc.
20002662	Duke Energy Corporation	Exxon Mobil Corporation	Mobile Europe Gas Inc.
20002663	Quad-C Partners V, L.P	Pulaski Furniture Corporation	Pulaski Furniture Corporation.
20002666	Wolseley plc	Anderson Lumber Company	Anderson Lumber Company.
20002669	Comverse Technology, Inc	Loronix Information Systems, Inc	Loronix Information Systems, Inc.
20002670	Dofasco, Inc	Stronach Trust	Cosma Powerlasers Corporation. Cosma Powerlasers Limited.
20002671	J.W. Childs Equity Partners II, L.P	Pharmacia Corporation	Pharmacia Corporation.
20002674	AT&T Corp	Ledcor Inc	380networks, Inc.
20002675	ConAgra, Inc	Elizabeth L. and William H. Kapavik	Associated Beef City, Inc.
20002676	Edward Eskandarian	Havas Advertising S.A	Havas Advertising S.A.
20002678	Havas Advertising S.A	Synder Communications, Inc	Synder Communications, Inc.
20002682	HealthCentral.com	Robert M. Haft	Vitamins.com, Inc.
20002683	Robert M. Haft	Health Central.com	HealthCentral.com.
20002689	Forvaltnings AB Ratos	Farr Company	Farr Company.
20002691	Credence Systems Corporation	TMT, Inc	TMT, Inc.
20002692	Sandler Capital Partners IV, L.P	Convergent Communications, Inc	Convergent Communications, Inc.
20002699	CHB Capital Partners II, L.P	Harding Lawson Associates Group, Inc	Harding Lawson Associates Group, Inc.
20002701	Oak Investment Partners VIII, L.P	Campus Pipeline, Inc	Campus Pipeline, Inc.
20002703	Safeguard Scientifics, Inc	eMerge Interactive, Inc	eMerge Interactive, Inc.
20002704	Meggitt PLC	S-TEC Corporation	S-TEC Corporation.
20002705	Britax International, plc	Hexcel Corporation	Hexcel Corporation.
20002708	Take-Two Interactive Software, Inc	Gathering of Developers, Inc	Gathering of Developers, Inc.
20002710	Charles W. Ergen	iSky, Inc	iSky, Inc.
20002711	Deutsche Bank AG	Saturn Acquisition Corporation	Saturn Acquisition Corporation.
20002717	DEL 1995 Trust	James H. Long	Allstar Systems, Inc.
20002725	GS Capital Partners II Offshore, L.P	GS Capital Partners II, L.P	MCG Credit Corporation.
20002733	Welsh, Carson, Anderson & Stowe VIII,	James Martin Worldwide, plc	James Martin Worldwide, plc.

Transactions Granted Early Termination—04/18/2000

20001478	Metso Oyl	Harnischfeger Industries, Inc., Debtor-in-Possession.	Beloit Corporation.
20002042	Phillips Petroleum Company	Chevron Corporation	Chevron Corporation.
20002043	Chevron Corporation	Phillips Petroleum Company	Phillips Petroleum Company.
20002587	HomeGold Financial, Inc	Ronald J. Sheppard	HomeSense Financial Corp.
20002588	Ronald J. Sheppard	HomeGold Financial, Inc	HomeGold Financial, Inc.
20002595	Lafarge S.A	Tod F. Kingsland	La Habra Products, Inc.
20002620	MedicaLogic, Inc	Medscape, Inc	Medscape, Inc.
20002651	CBS Corporation	MedicaLogic, Inc	MedicaLogic, Inc.
20002655	Brooks Automation, Inc.	Irvine Optical Company, LLC	Irvine Optical Company, LLC.
20002673	Exodus Communications, Inc	VBI Corporation	Mirror Image Internet, Inc.
20002695	Sema Group plc	LHS Group, Inc	LHS Group, Inc.
20002706	TALK.com Inc	Access One Communications Corp	Access One Communications Corp
20002713	Ralcorp Holdings, Inc	Edward A. Smith	James P. Linette, Inc.
20002734	James T. Martin, a natural person	Welsh, Carson, Anderson & Stowe VIII, L.P.	Newco.

Transactions Granted Early Termination—04/20/2000

20002604	The News Corporation Limited	The News Corporation Limited	FIT TV Partnership.
20002633	S.C.R.-Sibelco S.A	Sud-Chemie AG	Sud-Chemie AG.
20002719	Odyessey Investment Partners Fund, L.P.	Dayton Superior Corporation	Dayton Superior Corporation.
20002721	Wellspring Capital Partners, II, L.P	William S. Everitt	Brook Mays Music Company.
20002723	CBS Corporation	Bernard Waterman	Waterman Broadcasting Corporation of Texas.
20002727	Robert L. Johnson	Vanguarde Holdings, Inc	Vanguarde Holdings, Inc.
20002731	Consolidated Engineering Services Partnership.	Richard Mooney	Hayes Mechanical, Inc.

Trans No.	Acquiring	Acquired	Entities
20002732	Consolidated Engineering Services Partnership.	John D. Mooney	Hayes Mechanical, Inc.
20002745	Tele Atlas B.V	Sony Corporation	Etak, Inc.
20002748	The Hearst Trust	Women.com Networks, Inc	Women.com Networks, Inc.
20002754	Toyoda Automatic Loom Works, LTD	BT Industries AB	BT Industries AB.
Transactions Granted Early Termination—04/21/2000			
20002171	Therma-Tru-Corp	General Products Company, Inc	General Products Company, Inc.
20002554	Randall L. Moffat	Leonard Miller	Strategic Technologies, Inc.
20002635	Partners HealthCare System, Inc	Brigham Surgical Group Foundation, Inc	Brigham Surgical Group Foundation, Inc.
20002646	North Castle Partners II, L.P	Mario and Cherly Tricoci	Tricoci, Inc.
20002654	Amsung Corp	Physicians Resource Group, Inc	Physicians Resource Group, Inc.
20002718	Heritage Fund II, L.P	Jerry Seligsohn	FADA Industries, Inc.
20002722	Motorola, Inc	GMP Companies, Inc	GMP Companies, Inc

For Further Information Contact: Sandra M. Peay or Parcellena P. Fielding, Contract Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–12126 Filed 5–12–00; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General of the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION, 04/24/2000–05/05/2000

Transaction No.	Acquiring person	Acquired person	Acquired entities
Transactions Granted Early Termination—04/24/2000			
20002234	Fleet Boston Corporation	Choice One Communications, Inc	Choice One Communications, Inc.
20002514	United Microelectronics Corporation	PixTech, Inc	PixTech, Inc.
20002726	Leggett & Platt, Incorporated	TransPro, Incorporated	Crown North America Division. Crown-VMS Canada Ltd.
20002736	Warner W. Henry	The Gibson-Homans Company	The Gibson-Homans Company.
20002741	Dollar Tree Stores, Inc	Dollar Express, Inc	Dollar Express, Inc.
20002742	Stora Enso Oyj	Consolidated Papers, Inc	Consolidated Papers, Inc.
20002744	Jack in the Box, Inc	Harshad D. Dharod	DFG Restaurants, Inc. Harshad & Nasir Corp. Sun Gir, Inc.
20002751	Urban Brands, Inc	TSG Capital Fund III, L.P	Urban Children's Stores, Inc.
20002752	TSG Capital Fund III, L.P	Urban Brands, Inc	Urban Brands, Inc.
20002789	Marathon Fund Limited Partnership IV.	Wayne T. Hamilton Trust u/a/d 2/27/85.	Manchester Stamping Corporation.
20002828	William L. Walker	Floyd Roger Hardesty	BizJet International Sales and Support, Inc.
Transactions Granted Early Termination—04/25/2000			
20002758	Allegheny Technologies Incorporated.	Baker Hughes Incorporated	Hughes Metallurgical Products Division.
20002760	GTE Corporation	GTE Corporation	Illinois RSA 1 Limited Partnership.
20002791	GTCR Fund VII, L.P	First Tennessee National Corporation.	First Horizon Home Loan Corporation.
20002807	Anthony Gartland	Modern Metal Products Co	Modern Metal Products Co.
Transactions Granted Early Termination—04/26/2000			
20002548	InterParking Incorporated	Security Capital U.S. Realty	Urban Growth Property Trust.
20002549	Security Capital U.S. Realty	InterParking Incorporated	InterParking Incorporated.

TRANSACTIONS GRANTED EARLY TERMINATION, 04/24/2000–05/05/2000—Continued

Transaction No.	Acquiring person	Acquired person	Acquired entities
20002564	VeriSign, Inc	Network Solutions, Inc	Network Solutions, Inc.
20002618	Orion Power Holdings, Inc	Constellation Energy Group, Inc	COSI Astoria, Inc. COSI Carr Street, Inc. COSI Coldwater, Inc. COSI Great Lakes, Inc.
20002619	Constellation Energy Group, Inc	Orion Power Holdings, Inc	Orion Power Holdings, Inc.
20002681	Premier, Inc	medibuy.com, Inc	medibuy.com, Inc.
20002684	GS Capital partners II Offshore, L.P	Orion Power Holdings, Inc	Orion Power Holdings, Inc.
20002685	GS Capital Partners II, L.P	Orion Power Holdings, Inc	Orion Power Holdings, Inc.
20002686	GS Capital Partners III, L.P	Orion Power Holdings, Inc	Orion Power Holdings, Inc.
20002730	PSINet, Inc	Metamor Worldwide, Inc	Metamor Worldwide, Inc.
20002743	George W. Mead	Stora Enso Oyj	Stora Enso Oyj.
20002761	Siemens AG	Siemens AG	White Oak Semiconductor Limited Partnership.
20002776	The Estee Lauder Companies Inc	Gloss.com, Inc	Gloss.com, Inc.
20002778	i2 Technologies, Inc	Aspect Development, Inc	Aspect Development, Inc.
20002798	VIAG AG	Sidney Tracy	Traco Labs, Incorporated.
20002872	Thoma Cressey Equity Partners Fund VI, L.P	SCIENTECH, Inc	SCIENTECH, Inc.
Transactions Granted Early Termination—04/27/2000			
20001061	BASF Aktiengesellschaft	AMCOL International Corporation (''AMCOL'').	AMCOL. Chemdal Asia Ltd. Chemdal Corporation. Chemdal Limited.
20002762	Sprout Capital VIII, L.P	GroceryWorks.com, Inc	GroceryWorks.com, Inc.
Transactions Granted Early Termination—04/28/2000			
19994662	Sumner M. Redstone	CBS Corporation	CBS Corporation.
20002622	The Southern Company	Participating Producers' Trust	Pan Alberta Gas Ltd.
20002642	Cendant Corporation	Apollo Investment Fund III, L.P	WMC Finance Co., NRT Incorporated.
20002700	LifePoint Hospitals, Inc	Columbia/HCA Healthcare Corporation.	Putnam Hospital, Inc.
20002712	Ralcorp Holdings, Inc	Russell S. McNeil	James P. Linette, Inc.
20002753	Joseph Sitt	Urban Brands, Inc	Urban Brands, Inc.
20002765	Plexus Corp	Eloy S. Vallina-Languera	Elamex, S.A. de C.V. Electronic las Torres, S.A. de C.V. Serviclos Administrativos.
20002771	Allied Waste Industries, Inc	Waste Management, Inc	Cocopah Landfill, Inc. Copper Mountain Landfill, Inc. Peerless Landfill Company. USA Waste of Kentucky, LLC. Waste Management of Kentucky, LLC. Waste Management of South Carolina, Inc.
20002792	Siebel Systems, Inc	OpenSite Technologies, Inc	OpenSite Technologies, Inc.
20002808	Flint Inc Corporation	Mr. Carlos Peralta	Alper Ink Group, LLC.
20002826	Carlton Communications Plc	Fred B. Tarter	Cinema Bilboard Network, LLC. Screenvision Cinema Network, LLC.
20002827	Carlton Communications Plc	Terry Laughren	Screenvision Cinema Network, LLC..
20002830	The Chase Manhattan Corporation	Christena Karen H. Durham Trust	Huntsman Packaging Corporation.
20002837	North Castle Partners, II, L.P	M.H. Zeigler & Sons, Inc	M.H. Zeigler & Sons, Inc.
20002861	Ernest L. Samuel	World Class Processing, Inc	World Class Processing, Inc.
Transactions Granted Early Termination—05–01–2000			
20002750	Bill Gross' Idealab!	Cooking.com, Inc	Cooking.com, Inc.
20002757	DLJ Merchant Banking Partners II, L.P.	Carl F. Booth and Katharine S. Booth.	Carl F. Booth & Co., Inc.
20002770	Tosco Corporation	N.V. Koninklijke Nederlandsche Petroleum Maatschappij.	Equilon Enterprises LLC. Shell Oil Company.
20002784	Citigroup, Inc	ITOCHU Corporation	Copelco Capital, Inc.
20002824	JT. Walker Industries, Inc	General Aluminum Corporation	General Aluminum Corporation.
20002871	Irvine Laidlaw	Neil Rackham	Huthwaite, Inc.
20002877	Global Private Equity III Limited Partnership.	Veeco Instruments, Inc	Veeco Instruments, Inc.
Transactions Granted Early Termination—05–02–2000			
20002772	Quilvest S.A	Pameco Corporation	Pameco Corporation.
20002773	Giant Eagle, Inc	Buckeye Village Market, Inc	Buckeye Village Market, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION, 04/24/2000–05/05/2000—Continued

Transaction No.	Acquiring person	Acquired person	Acquired entities
20002775	Ronald M. Cameron	P. Coleman Townsend, Jr	Central Grain, Inc. Townsend Farms, Inc. Townsends, Inc.
20002777	Fairchild Semiconductor International, Inc.	Recovery Equity Investors, L.P	QT Optoelectronics, Inc.
20002779	Dr. Romesh Wadhwani	i2 Technolgies, Inc	i2 Technolgies, Inc.
20002782	Electronic Data Systems Corporation.	Software Technologies Corporation	Software Technologies Corporation.
20002788	Sanmina Corporation	InterWorks Computer Products	InterWorks Computer Products.
20002790	Quantum Industrial Holdings Ltd	Talk.com Inc	Talk.com Inc.
20002813	Aggregate Industries plc	James A. Klett and Andrea Klett, Husband and Wife.	Klett Construction Company.
20002948	Pfingsten Executive Fund II, L.P	William W. Winspear	The UltraCraft Company.
20002949	Eni SpA	Britsh-Borneo Oil & Gas plc	British-Borneo Oil & Gas plc.
Transactions Granted Early Termination—05/03/2000			
20002804	CBS Corporation	MarketWatch.com, Inc	MarketWatch.com, Inc.
20002809	Johnson & Johnson	Mitsubishi Chemical Corporation	Mitsubishi-TokyoPharmaceuticals, Inc.
20002822	FCP Investors V, L.P	Spectrum Acquisitions, Inc	Spectrum Acquisitions, Inc.
Transactions Granted Early Termination—05/04/2000			
20002688	Clear Channel Communications, Inc	SFX Entertainment, Inc	SFX Entertainment, Inc.
20002737	General Electric Company	John Ellison, Jr	Ellison Windows and Doors Division. VES, Inc., d/b/a Ellison Extrusion Systems.
20002738	John Ellison, Jr	General Electric Company	D and W Holdings, Inc.
20002739	Vodafone AirTouch Plc	Central Iowa Cellular, Inc	Central Iowa Cellular, Inc.
20002780	Spectrum Equity Associates III, L.P	NT Corporation	NT Corporation.
20002797	General Atlantic Partners 52, L.P	Prime Response, Inc	Prime Response, Inc.
20002823	TPG Partners III, L.P	Yazam.com Inc	Yazam.com Inc.
20002829	Internet Capital Group, Inc	International Business Machines Corporation.	International Business Machines Corporation.
20002831	International Business Machines Corporation.	Internet Capital Group, Inc	ICG Patent, Inc.
20002836	Technology Crossover Ventures II, L.P.	Inventa Corporation	Inventa Corporation.
20002838	TCV II(Q), L.P	Inventa Corporation	Inventa Corporation.
20002840	Bradford Equities Fund, L.P	Manuel Teixeira	Teixeira Brothers Bakery and Restaurant, Inc.
20002845	Summit Ventures V, L.P	John and Susan Ocampo	Stanford Microdevices, Inc.
20002848	Nelvana Limited	Klutz, Inc	Klutz, Inc.
20002849	Lindberg Corporation	Thermo Electron Corporation	Thermo Terra Tech, Inc.
20002852	Sumner M. Redstone	MedicaLogic, Inc	MedicalLogic, Inc.
20002853	Deutsche Bank AG	Computer Outsourcing Services, Inc	Computer Outsourcing Services, Inc.
20002854	Sandler Capital Partners IV, L.P	Computer Outsourcing Services, Inc	Computer Outsourcing Services, Inc.
20002859	Carl C. Icahn	Seagate Technology, Inc	Seagate Technology, Inc.
20002860	Carl C. Icahn	J.C. Penney Company, Inc	J.C. Penney Company, Inc.
20002863	Michael W. Lynch	Thyssen-Bornemisza Continuity Trust.	Extruded Metals, Inc.
20002873	First Security Bancorp	Crews & Associates, Inc	Crews & Associates, Inc.
20002874	Paul M. Montrone	Janice R. Smith, Executrix of the Estate of Johnny F. Smith.	Fini Enterprises, Inc.
20002883	Gerald W. Schwartz	Donald C. Hayden	E. and L. Transport Company L.L.C. Florida Leasco Company L.L.C. Transportation Releasing L.L.C.
20002897	Reed International P.L.C	Susan P. Hall	Lawyers Weekly, Inc.
20002898	Elsevier N.V	Susan P. Hall	Lawyers Weekly, Inc.
20002919	Tootsie Roll Industries, Inc	Klaus J. Jacobs	Andes Candies, Inc.
20002921	Madison Dearborn Capital Partners III, L.P.	X.com Corporation	X.com Corporation.
20002922	The Reynolds and Reynolds Company.	J. Eustace Wolfington	HAC Group, LLC.
20002923	The Reynolds and Reynolds Company.	Eustace Mita	HAC Group, LLC.
20002924	Eustace Mita	The Reynolds and Reynolds Company.	The Reynolds and Reynolds Company.
20002930	Deutsche Bank AG	Pedestal Inc	Pedestal Inc.
Transaction Granted Early Termination—05/05/2000			
20002857	Peter A. & Joanne Leedom-Ackerman.	Equity Marketing, Inc	Equity Marketing, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION, 04/24/2000–05/05/2000—Continued

Transaction No.	Acquiring person	Acquired person	Acquired entities
20002858	Q-Media Services Corporation	Estate of Pierre Peladeau	Print Northwest L.P.
20002862	IT Group, Inc	W&H Pacific, Inc	W&H Pacific, Inc.
20002864	Welsh, Carson, Anderson & Stowe VIII, L.P.	Politic Acquisition Corp	Politic Acquisition Corp.
20002865	WCAS Capital Partners III, L.P	Politic Acquisition Corp	Politic Acquisition Corp.
20002866	Science Applications International Corporation.	VeriSign, Inc	VeriSign, Inc.
20002892	National Bank of Egypt	Arab American Bank	Arab American Bank
20002895	Berkshire Fund V, Limited Partnership.	USA Jet Airlines, Inc	USA Jet Airlines, Inc.
20002902	Einhorn Verwaltungsgesellschaft	Gerald L. Lennard	PGP Industries, Inc.
20002908	International Business Machines Corporation.	Scott A. Blum Separate Property Trust U/D/T 8/2/95.	eDevelopments.com Inc.
20002916	Prime 66 Partners, L.P	The Warnaco Group, Inc	The Warnaco Group, Inc.
20002917	Centennial Fund IV, L.P	24/7 Media, Inc	24/7 Media, Inc.
20002918	Great Plains Software, Inc	Solomon Software, Inc	Solomon Software, Inc.
20002925	Activated Communications Limited Partnership.	Mr. Arthur Liu	Way Broadcasting, Inc.
20002926	Mr. Arthur Liu	Activated Communications Limited Partnership.	Activated Communications Limited Partnership.
20002929	Agfa-Gevaert N.V	Emerson Electric, Co	Krautkramer-Branson.
20002935	HNC Software, Inc	Simon B. Ruddick	High Touch Technologies.
20002939	eGain Communications Corporation	Inference Corporation	Inference Corporation.
20002944	GS Capital Partners III, L.P	SiPix Group Limited	SiPix Group Limited.
20002955	Dial Corporation (The)	Procter & Gamble Company, (The)	Procter & Gamble Company, (The).

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–12127 Filed 5–12–00; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00083]

National Trauma Information and Exchange Program; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of funds in Fiscal Year (FY) 2000 for a grant to develop a National Trauma Information and Exchange Program (TIEP).

The purpose of TIEP is to make data and information on trauma care in the United States more accessible to a broad spectrum of individuals and organizations, including trauma care professionals and professional associations, trauma centers and other acute care hospitals, trauma care systems, emergency medical services (EMS) systems, injury researchers and research organizations, public health agencies, health care payers, and the general public. CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2010.''

This announcement is related to Injury and Violence Prevention focus areas.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and Federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

C. Availability of Funds

Approximately $387,500 is available in FY 2000 to fund one new award. It is expected that the award will begin on or about September 30, 2000, and will be made for a 12-month budget period within a project period of up to 3 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.

D. Program Requirements

In conducting the activities to achieve the purpose of this program, the recipient will be responsible for the following activities:

1. Provide a full-time director/coordinator with authority and responsibility to carry-out the requirements of the program.

2. Provide qualified staff, other resources, and knowledge to implement the components of the program.

3. Develop and implement a comprehensive plan to periodically update a detailed description of trauma centers in the United States, including key personnel, as well as their capabilities.

4. Develop and implement a plan that enables an exchange of information among trauma centers and trauma organizations nationwide.

5. Develop and implement a plan for a uniform surveillance system for trauma centers that will enable researchers and research organizations to conduct research on quality of trauma care and trauma center and trauma system effectiveness.

6. Develop and implement a plan for the dissemination of available information on trauma, trauma centers, and trauma care systems to the public, researchers and healthcare practitioners.

E. Application Content

Use the information in the Program Requirement, 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. The narrative should be no more than 30 pages double-spaced, printed on one side, with one inch margins, and unreduced font. The application must include a one-page abstract and summary of the proposed effort.

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 July 14, 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 an independent review. (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. Background and Need (40 percent)

The extent to which the applicant describes the background and need for a comprehensive trauma information program including; development, current challenges in organizing and delivering trauma care, challenges of developing and maintaining trauma systems, implementation and evaluation of a plan to periodically update a detailed description of trauma centers in the United States, development of a plan to exchange information and link resources of trauma centers and a plan for a uniform surveillance program.

2. Methods (30 percent)

The extent to which the applicant provides a detailed description of all proposed activities required to implement a comprehensive trauma information and exchange program including letters of support and collaboration needed to achieve each objective and the overall program goal(s). The extent to which the applicant provides a reasonable, logically sequenced and complete schedule for implementing all activities. The extent to which position descriptions, lines of command, and collaborations are appropriate to accomplishing the program goal(s) and objectives. The extent to which the applicant describes a plan and implementation dissemination of available trauma information.

3. Evaluation (10 percent)

The extent to which the proposed evaluation plan is detailed and capable of documenting program process and outcome measures. The extent to which the applicant demonstrates staff and/or collaborator availability, expertise, and capacity to perform the evaluation.

4. Staff and Resources (20 percent)

The extent to which the applicant can provide adequate facilities, staff and/or collaborators, including a full-time coordinator and resources to accomplish the proposed goal(s)and objectives during the project period. The extent to which the applicant demonstrates staff and/or collaborator availability, expertise, previous experience, and capacity to perform the undertaking successfully.

5. Budget and Justification (not scored)

The extent to which the applicant provides a detailed budget and narrative justification consistent with the stated objectives and planned program activities. CDC may not approve or fund all proposed activities. The applicant should be precise about the program purpose of each budget item. Proposed contracts should identify the name of the contractor, if known; describe the services to be performed; provide an itemized budget and justification for the estimated costs of the contract; specify the period of performance, and method of selection.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semi-annual progress reports;

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. (List all applicable requirements by number and title. The Grants Management Branch will include the applicable descriptions in the application kit.)

AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–13 Prohibition on Use of CDC Funds for Certain Gun Control Activities
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a), 317(k)(2), 391, 392, 394, and 394A (42 U.S.C. 241(a), 247b(k)(2), 280b, 280b–1, 280b–2, 280b–3) of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.136.

J. Where to Obtain Additional Information

See the CDC home page on the Internet: http://www.cdc.gov for this and other program announcements, click on funding.

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. Please refer to Program Announcement 00083 when you request information. After reviewing the Program Announcement for business management assistance contact: Sheryl Heard, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 00083, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Suite 3000, Atlanta, GA, 30341–4146, Telephone (770) 488–2723, Email address: Sheard@cdc.gov

For program technical assistance contact: Paul Burlack Centers for Disease Control and Prevention (CDC), National Center for Injury Prevention and Control, 4770 Buford Highway NE, Mailstop F–41, Atlanta, GA, 30341–3724, Telephone (770) 488–4031, Email address: pburlack@cdc.gov.

Dated: May 9, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–12107 Filed 5–12–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1219]

Biological Products; Bacterial Vaccines and Related Biological Products; Implementation of Efficacy Review; Proposed Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing a proposed order to accept the conclusions and recommendations of advisory review panels concerning the safety, effectiveness, and labeling of certain bacterial vaccines and related biological products that were previously classified into Category IIIA (remaining on the market pending further studies in support of effectiveness). On the basis of the advisory review panel findings, FDA is proposing to reclassify the relevant Category IIIA products into Category I (safe, effective, and not misbranded) or Category II (unsafe, ineffective, or misbranded). This action is being taken under the reclassification procedures.

DATES: Submit written comments on this proposed order and the reclassification of products should be submitted by August 13, 2000. Data and information submitted to FDA in connection with these reclassified products will be made publicly available after June 14, 2000. Comments concerning confidentiality should be received by FDA before June 14, 2000.

ADDRESSES: Submit written comments on the proposed order to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments may also be submitted electronically at www.fda.gov/ohrms/dockets. Copies of the reports from the Vaccines and Related Biological Products Advisory Committee (April 1984) and the Panel on Review of Allergenic Extracts (December 1983) can be obtained from the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Requests for copies that are accompanied by a self-addressed adhesive label will assist that office in processing your requests. The documents may also be obtained by mail either by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800 or by submitting a request electronically at www.CBER__INFO@CBER.FDA.GOV, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844.

FOR FURTHER INFORMATION CONTACT: Steven Falter, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6343.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Review Procedures (21 CFR 601.25)

On July 1, 1972, responsibility for regulating biological products under section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262) was transferred from the National Institutes of Health to FDA (37 FR 12865, June 29, 1972). Section 351 of the PHS Act provides statutory authority to license biological products. In 1973, FDA established a procedure to review the safety, effectiveness, and labeling of all biological products licensed prior to July 1, 1972 (38 FR 4319, February 13, 1973). This process was eventually codified in § 601.25 (21 CFR 601.25) (38 FR 32048 at 32052, November 20, 1973). Under § 601.25, the Commissioner of Food and Drugs assigned responsibility for the initial review of all biological products licensed prior to 1972 to nine independent advisory review panels. These panels consisted of qualified nonFDA experts in order to ensure public confidence in, and objectivity of the reviews. Each of the advisory review panels was assigned to review a specific category of biological products.

In the **Federal Register** of June 19, 1974 (39 FR 21176), FDA eliminated three previously planned panels (The Panel on Review of In Vitro Diagnostic Reagents; The Panel on Review of Immune Serums, Antitoxins, and Antivenins; and the Panel on Review of Miscellaneous Biological Products) and reassigned the review of the biological products originally intended for review by these three panels to the remaining six advisory review panels: The Panel on Review of Bacterial Vaccines and Toxoids with Standards of Potency, The Panel on Review of Bacterial Vaccines and Bacterial Antigens with ''no U.S. Standards of Potency,'' the Panel on Review of Skin Test Antigens, The Panel on Review of Allergenic Extracts, The Panel on Review of Viral and Rickettsial Vaccines, and the Panel on Review of Blood and Blood Derivatives. The advisory review panels for bacterial vaccines and bacterial antigens with ''no U.S. standard of potency,'' bacterial vaccines and toxoids with standards of potency, and skin test antigens reviewed the products that are the subject of this notice.

Under the review and classification procedures specified in § 601.25, each advisory review panel was charged with preparing a report to the agency that: (1) Evaluated the safety and effectiveness of the biological product; (2) reviewed the labeling of the biological product; and (3) advised FDA on which biological products under review were safe, effective, and not misbranded. Each advisory review panel report was to include a statement classifying the products into Category I, Category II, or Category III. Category I designated those biological products determined to be safe, effective, and not misbranded. Category II designated those biological products determined to be unsafe, ineffective or misbranded. Category III designated those biological products that did not fall within either Category I or Category II because of insufficient data and for which further testing was therefore required. Category III products were assigned to one of two subcategories. Category IIIA products were those that would be permitted to remain on the market pending the completion of further studies. Category IIIB products were those for which the panel report recommended license revocation on the basis of the panel's assessment of potential risks and benefits.

After reviewing the conclusions and recommendations of the panels, FDA would publish in the **Federal Register** a proposed order containing: (1) A statement designating the biological products reviewed into Categories I, II, IIIA or IIIB; (2) a description of the testing necessary for Category IIIA biological products; and (3) the complete panel report. Under the proposed order, FDA would revoke the licenses of those products designated into Category II and Category IIIB. After reviewing public comments, FDA would publish a final order on the matters covered in the proposed order.

B. Section 601.25 and Products Subject to This Proposed Order

1. The Panels on Review of Skin Test Antigens and Bacterial Vaccines and Bacterial Antigens with ''No U.S. Standard of Potency''

In the **Federal Registers** of September 30, 1977 (42 FR 52674), and November 8, 1977 (42 FR 58266), FDA published proposals for the implementation of the efficacy reviews for skin test antigens and bacterial vaccines and antigens with ''no U.S. standard of potency,'' respectively. These proposals were in response to the reports of The Panel on Review of Skin Test Antigens, and the Panel on Review of Bacterial Vaccines and Antigens with ''no U.S. standard of potency,'' and contained each Panel's findings and recommendations to designate each of the products reviewed into Categories I, II, IIIA or IIIB. In these proposed orders, FDA agreed with each Panel's findings and recommendations, and in accordance with §§ 601.5(b) (21 CFR 601.5(b)) and 601.25(f)(3), notified manufacturers of those products identified for classification into Category II or Category IIIB of the agency's intent to publish a notice of an opportunity for hearing to revoke the licenses for these products. Additionally, in accordance with § 601.25(f)(3), FDA proposed that those products identified for classification into Category IIIA remain on the market and that their licenses remain in effect on an interim basis pending completion of scientifically sound studies to demonstrate efficacy in humans. In the **Federal Registers** of October 28, 1977 (42 FR 56800), and December 9, 1977 (42 FR 62162), under 21 CFR 12.21(b), FDA published notices of opportunity to request hearings, submit additional data, and comment on the proposed revocation of licenses for certain skin test antigens and bacterial vaccines and antigens with ''no U.S. standard of potency,'' respectively. Through these FR notices, manufacturers of skin test antigens and bacterial vaccines and antigens with ''no U.S. standard of potency'' previously identified for classification into Category II or Category IIIB were offered an opportunity for a hearing on the proposed revocation of existing licenses for products placed in Category II or IIIB.

The manufacturers of skin test antigens and bacterial vaccines and antigens with ''no U.S. standard of potency,'' whose products were identified as Category II or Category IIIB either: (1) Did not request a hearing, (2) requested a hearing but submitted no data, (3) requested a hearing and submitted additional data that justified reclassification of products without the need for the requested hearing, or (4) requested that their product licenses be revoked. Therefore, FDA published in the **Federal Register** of October 27, 1978 (43 FR 50247), a notice reclassifying one bacterial vaccine with ''no U.S. standard of potency'' from Category IIIB into Category IIIA, and revoking the product licenses for the remaining bacterial vaccines and bacterial antigens with ''no U.S. standard of potency'' classified in Category II or Category IIIB. In the **Federal Register** of October 27, 1978, FDA also published a notice reclassifying certain skin test antigens from Category IIIB into Category IIIA, and revoking the product licenses for the remaining skin test antigens classified as Category IIIB (43 FR 50250).

2. The Panel on Review of Bacterial Vaccines and Toxoids with Standards of Potency

In the **Federal Register** of December 13, 1985 (50 FR 51002), FDA published a proposed rule containing the implementation of the efficacy review for bacterial vaccines and toxoids with standards of potency (hereinafter referred to as the December 1985 proposal). The December 1985 proposal was in response to the report of The Panel on Review of Bacterial Vaccines and Toxoids with Standards of Potency, and contained the Panel's findings and recommendations to designate each of the products reviewed into Categories I, II, IIIA or IIIB. In the December 1985 proposal, FDA: (1) Disagreed with the Panel's findings and recommendations to classify some products as Category IIIB, and reclassified these products into Category I, (2) agreed with the Panel's recommendations to classify the remaining products into Category II or Category IIIB, and (3) provided notice that licenses for several products recommended by the Panel for classification into Category IIIB and the license for the single product recommended for classification into Category II were voluntarily revoked at the request of the manufacturers prior to publication of the proposed order.

Subsequent to the Panel's review but prior to the publication of the December 1985 proposal, the regulations were revised and reclassification review procedures were established under § 601.26 (21 CFR 601.26) (47 FR 44062 at 44071, October 5, 1982). Therefore, the classification process for bacterial vaccines and toxoids with standards of potency will be completed in accordance with § 601.26 as described below.

II. Reclassification Procedures (Section 601.26)

A. The Reclassification Process

In 1982, FDA issued a regulation that established procedures to reclassify those products in Category IIIA into either Category I or Category II (47 FR 44062, October 5, 1982). This regulation was codified in § 601.26. According to § 601.26, Category IIIA products that would be reclassified included: (1) Products that an advisory panel had recommended be assigned to Category IIIA, (2) products that FDA had proposed to place in Category IIIA, or (3) products for which FDA had issued a final order reclassifying the products into Category IIIA. Under § 601.26, advisory review panels would review all Category IIIA products and make recommendations concerning each product's reclassification. During the advisory panel reclassification review process, interested persons were permitted to attend meetings, appear before the advisory review panels, and submit data to the panels for review. The advisory review panels would then submit a report to FDA that recommended the reclassification of each Category IIIA product into either Category I or II. After reviewing the conclusions and recommendations of the advisory panels, FDA would publish in the **Federal Register** a proposed order containing the following: (1) A statement designating the products as Category I or Category II, (2) a notice of availability of the full panel report, (3) a proposal to accept or reject the findings of the advisory review panels, and (4) a statement identifying those products that FDA proposes should be permitted to remain on the market because of a compelling medical need and no suitable alternative exists as described in § 601.26(d)(4).

B. Section 601.26 and the Products Subject to this Proposed Order

FDA assigned the reclassification review of bacterial vaccines and related biological products previously classified into Category IIIA by FDA based on the recommendations of the Panel on Review of Bacterial Vaccines and Antigens with ''no U.S. Standard of Potency'' and the Panel on Review of Skin Test Antigens to the Vaccines and Related Biological Products Advisory Committee (VRBPAC). FDA also assigned the reclassification review of vaccines and related biological products previously recommended for classification into Category IIIA by the Panel on Review of Bacterial Vaccines and Toxoids with Standards of Potency to the VRBPAC. In accordance with the

procedures specified above, FDA is notifying the public through this **Federal Register** notice of the agency's proposed reclassification of the Category IIIA products reviewed by the VRBPAC.

This proposed order contains notice of FDA's intent to revoke the licenses of certain vaccines and related biological products, listed below, that FDA proposes, based on VRBPAC recommendations, to reclassify from Category IIIA to Category II. The public may submit comments to FDA concerning this proposed order. After the end of the comment period, if FDA determines to go forward with the license revocation proceedings, the agency will publish a notice of opportunity for hearing (NOOH) on the revocation of the license of each product in Category II. After reviewing the comments on the proposed order, FDA will issue a final order on the matters covered in the proposed order. Depending upon whether a manufacturer requests a hearing on the revocation of its biologics license, FDA may consolidate the final order with license revocations.

III. Identification of Category IIIA Products Subject to Reclassification

A. Review and Reclassification Procedures, Bacterial Vaccines and Toxoids With Standards of Potency. (Bacterial Vaccines and Toxoids with Standards of Potency, Antitoxins, and Immune Globulins)

In the December 1985 proposal, FDA identified those products that were originally recommended for classification into Category IIIA and that were now subject to review by the VRBPAC under § 601.26.

Several bacterial vaccines and toxoids with standards of potency were classified into two categories based upon their use as a primary immunogen or as a booster. For example, a vaccine product could be assigned a Category IIIA designation for use as a primary immunogen but could be designated as Category I for booster use. The classifications were different because the potency tests for diphtheria and tetanus toxoids were found suitable for determining the acceptability of the toxoids for booster use, but not for determining the acceptability of the toxoids for use in primary immunization. Products listed in Table 1 were those recommended by the Panel on Review of Bacterial Vaccines and Toxoids With Standards of Potency for classification into Category I when used for booster immunization, and classification into Category IIIA when used for primary immunization. In addition, two immune globulins were recommended by the Panel for classification into Category IIIA (Table 2).

TABLE 1.—BACTERIAL VACCINES AND TOXOIDS RECOMMENDED FOR CLASSIFICATION IN CATEGORY I FOR BOOSTER IMMUNIZATION AND CATEGORY IIIA FOR PRIMARY IMMUNIZATION BY THE PANEL ON REVIEW OF BACTERIAL VACCINES AND TOXOIDS WITH STANDARDS OF POTENCY

Manufacturer/License Number	Product(s)
Istituto Sieroterapico Vaccinogeno Toscano (Sclavo), No. 238	Tetanus Toxoid
Lederle Laboratories, Division, American Cyanamid Co., No 17	Diphtheria and Tetanus Toxoids Adsorbed
	Diphtheria and Tetanus Toxoids and Pertussis Vaccine Adsorbed
	Tetanus and Diphtheria Toxoids Adsorbed (Adult Use)
	Tetanus Toxoid
	Tetanus Toxoid Adsorbed
Merck Sharp & Dohme, Division of Merck & Co., Inc., No. 2	Tetanus Toxoid Adsorbed
Connaught Laboratories, Inc., No. 711.	Tetanus and Diphtheria Toxoids Adsorbed (Adult Use)
	Tetanus Toxoid
	Tetanus Toxoid Adsorbed
Michigan Department of Public Health, No. 99	Diphtheria and Tetanus Toxoids Adsorbed
	Tetanus Toxoid Adsorbed
Swiss Serum and Vaccine Institute Berne, No. 21	Tetanus Toxoid Adsorbed
Wyeth Laboratories, Inc., No. 3	Diphtheria and Tetanus Toxoids Adsorbed
	Diphtheria and Tetanus Toxoids and Pertussis Vaccine Adsorbed
	Tetanus and Diphtheria Toxoids Adsorbed (Adult Use)
	Tetanus Toxoid
	Tetanus Toxoid Adsorbed

TABLE 2.—IMMUNE GLOBULINS RECOMMENDED FOR CLASSIFICATION IN CATEGORY IIIA FOR PASSIVE IMMUNIZATION BY THE PANEL ON REVIEW OF BACTERIAL VACCINES AND TOXOIDS WITH STANDARDS OF POTENCY

Manufacturer/License Number	Product(s)
Hollister-Stier, a Division of Cutter Laboratories, No. 8	Pertussis Immune Globulin (Human)
Travenol Laboratories Inc., Hyland Therapeutics Division, No. 140	Pertussis Immune Globulin (Human)

B. Review and Reclassification Procedures, Bacterial Vaccines and Bacterial Antigens with ''No U.S. Standard of Potency''

In the **Federal Register** of January 5, 1979 (44 FR 1544), FDA issued a final rule classifying Bacterial Vaccines and Bacterial Antigens with ''no U.S. standard of potency'' based on the review and recommendation of the Panel on Review of Bacterial Vaccines and Bacterial Antigens with ''no U.S. Standard of Potency.'' In the January 1979 final rule, FDA classified the products listed in Table 3 into Category IIIA.

TABLE 3.—BACTERIAL VACCINES AND BACTERIAL ANTIGENS WITH ''NO U.S. STANDARD OF POTENCY'' CLASSIFIED INTO CATEGORY IIIA

Manufacturer/License Number	Product(s)
Eli Lilly and Co., No. 56	Respiratory UBA (UBA–32) [1]
Hollister-Stier, a Division of Cutter Laboratories, No. 8	Bacterial Vaccines Mixed Respiratory (MRV or MRVI; licensed as Polyvalent Bacterial Vaccines with No U.S. Standard of Potency) Bacterial Vaccines for Treatment, Special Mixtures containing only the following organisms—*Staphylococcus* (*aureus*and *albus*), *Streptococcus* (*viridans* and *nonhemolytic*), *Di plococcus pneumoniae*, *Neisseria catarrhalis*, *Klebsiella pneumoniae*, *Haemophilus influenzae* (licensed as Polyvalent Bacterial Vaccines with No U.S. Standard of Potency)
Sclavo Istituto Sieroteraico Vaccinogeno Toscano (Sclavo), No. 238	Staphylococcus Toxoid [2]
Lederle Laboratories Division, No. 17	Staphylococcus Toxoid; Formalinized: Dilution No. 1, Dilution No. 2; Digest-Modified [3]
Delmont Laboratories, Inc., No. 299	Polyvalent Bacterial Antigens with ''No U.S. Standard of Potency'' Staphage Lysate (SPL) Types I and III [4]

[1] Respiratory UBA, Lilly, was not reviewed by the Reclassification Committee. However, the license to manufacture this product was revoked at the request of the manufacturer on December 2, 1985. Therefore, no further regulatory action was required.
[2] The license for Staphylococcus Toxoid, Sclavo, was revoked on May 9, 1979, at the request of the manufacturer and was not, therefore, subject to reclassification.
[3] The licenses for Staphylococcus Toxoid, Lederle Laboratories, were revoked on April 3, 1979, and May 21, 1980, at the request of the manufacturer and were not, therefore, subject to reclassification.
[4] This product was originally placed in Category IIIB. However, additional data submitted by the firm were found to be adequate to reclassify the product from Category IIIB to IIIA (43 FR 50247, October 27, 1978).

C. Review and Reclassification Procedures, Skin Test Antigens

In the **Federal Register** of July 10, 1979 (44 FR 40284), FDA issued a final rule classifying skin test antigens into category IIIA based on the review and recommendations of the Panel on Review of Skin Test Antigens (hereinafter referred to as the July 1979 final rule. The July 1979 final rule placed the products listed in Table 4 into Category IIIA.

TABLE 4.—SKIN TEST ANTIGENS CLASSIFIED INTO CATEGORY IIIA

Manufacturer/License Number	Product
Michigan Department of Public Health, No. 99	Histoplasmin [1]
Hollistier-Stier, a Division of Cutter Laboratories, No. 8	Coccidioidin [2]
Iatric Corp., No. 416	Coccidioidin [3]
Massachusetts Public Health Biologic Laboratories, No. 64	Diphtheria Toxin for Schick Test [4]
Eli Lilly & Co., No. 56	Mumps Skin Test Antigen

[1] The license for Histoplasmin, Michigan Department of Public Health was revoked at the request of the manufacturer on July 30, 1979. Therefore, the product was not subject to reclassification.
[2] The license for Coccidiodin, Hollistier-Stier, was revoked at the request of the manufacturer on November 1, 1979. Therefore, the product was not subject to reclassification.
[3] Coccidiodin, Iatric, was not reviewed by the Reclassification Panel. However, the license for Coccidiodin was revoked on June 25, 1997, at the request of the manufacturer. Therefore no further regulatory action on this product is required.
[4] Diphtheria Toxin for Schick Test manufactured by Massachusetts Public Health Biologic Laboratories was reclassified from Category IIIA into Category I by FDA in a FEDERAL REGISTER publication of October 16, 1981 (46 FR 51036). This action was based on the manufacturer's completion of studies and submission of data to FDA supporting the effectiveness of the product. Accordingly, the product was not subject to reclassification.

IV. Proposed Reclassification of Category IIIA Products

In the December 1985 proposal, FDA assigned the VRBPAC, as an advisory review panel, to review all bacterial vaccines and related biological products previously classified into Category IIIA or recommended for classification into Category IIIA, and to reclassify such products into either Category I (safe, effective, and not misbranded) or Category II (unsafe, ineffective, or misbranded).

The VRBPAC reviewed bacterial vaccines and related biological products in Category IIIA, including those products in Category IIIA for a particular use and in Category I for another use. For example, the Committee reviewed the use of vaccines for primary immunization, but did not review their use for booster immunization in cases where they were classified in Category IIIA and Category I, respectively. The VRBPAC reviewed all Category IIIA products, that FDA assigned to it, for effectiveness only; all such products were previously found to be safe.

The VRBPAC held reclassification meetings on January 20 and 21, 1983, June 9 and 10, 1983, and September 19, 1983, and submitted a final report, dated April 1984, to FDA.

The VRBPAC's recommendations for product classifications and FDA's responses to the recommendations are discussed below.

A. Category I. (Biological Products Determined to be Safe and Effective and Not Misbranded)

Products recommended by the VRBPAC for classification into Category I for both primary and booster immunization are listed in Table 5.

TABLE 5.—PRODUCTS RECOMMENDED BY THE VRBPAC FOR CATEGORY I CLASSIFICATION FOR BOTH PRIMARY AND BOOSTER IMMUNIZATION

Manufacturer/License Number	Product(s)
Aventis Pasteur, Inc., No. 1277	Tetanus and Diphtheria Toxoids Adsorbed (Adult Use) Tetanus Toxoid Adsorbed[1]
Lederle Laboratories Division, American Cyanamid Co., No. 17	Diphtheria and Tetanus Toxoids Adsorbed Diphtheria and Tetanus Toxoids and Pertussis Vaccine Adsorbed Tetanus and Diphtheria Toxoids Adsorbed (Adult Use) Tetanus Toxoid Tetanus Toxoid Adsorbed
Wyeth Laboratories, Inc., No. 3	Diphtheria and Tetanus Toxoids and Pertussis Vaccine Adsorbed Tetanus Toxoid Adsorbed

[1] The licenses for these products were transferred from Connaught Laboratories, Inc., No. 711, to Aventis Pasteur Inc., No. 1277 on December 9, 1999.

After reviewing previously submitted data and additionally submitted data for the products listed in Table 5, the VRBPAC concluded that these products are effective for primary immunization and for booster immunization. The Committee recommended that these products be classified as Category I.

FDA agrees with the VRBPAC's conclusions and recommendations concerning the Category I classifications of the products listed in Table 5. FDA therefore proposes to designate these products as safe, effective, and not misbranded, and to accept the VRBPAC's findings.

In its final report to FDA, the VRBPAC recommended that three products be classified into Category II for primary immunization, and Category I for booster immunization. This recommendation was based on the fact that the manufacturers of these products did not submit data demonstrating the efficacy of the products for use in primary immunization. However, subsequent to the completion of the VRBPAC's review and submission of the final report to FDA, additional data were submitted to the agency in support of the efficacy of the use of these products for primary immunization. Therefore, FDA proposes to reclassify these products as safe, effective, and not misbranded for both primary and booster immunization. These products are listed in Table 6 followed by a detailed discussion.

TABLE 6.—PRODUCTS RECOMMENDED BY THE VRBPAC FOR CATEGORY II CLASSIFICATION FOR PRIMARY IMMUNIZATION AND CATEGORY I FOR BOOSTER IMMUNIZATION, WHICH FDA PROPOSES TO CLASSIFY INTO CATEGORY I FOR BOTH PRIMARY AND BOOSTER IMMUNIZATION

Manufacturer/License Number	Product(s)
Wyeth Laboratories, Inc., No. 3	Tetanus Toxoid Diphtheria and Tetanus Toxoids Absorbed
Swiss Serum and Vaccine Institute Berne, No. 21	Tetanus Toxoid Adsorbed

The VRBPAC in its initial reclassification report placed Tetanus Toxoid and Diphtheria and Tetanus Toxoids Adsorbed, manufactured by Wyeth Laboratories, Inc. (Wyeth), in Category II for primary immunization because no additional data had been submitted. However, on April 4, 1986, Wyeth submitted clinical study reports to FDA regarding the use of both Tetanus Toxoid and Diphtheria and Tetanus Toxoids Adsorbed for primary immunization. These data were reviewed by FDA and medical consultants from the VRBPAC. Both FDA and the VRBPAC consultants agreed that the clinical study data submitted by Wyeth supported reclassification of Wyeth's Tetanus Toxoid and Diphtheria and Tetanus Toxoids Adsorbed into Category I for both primary and booster immunization. Therefore, FDA proposes to designate these products as safe, effective, and not misbranded.

The VRBPAC in its initial reclassification report also placed Tetanus Toxoid Adsorbed, manufactured by Swiss Serum and Vaccine Institute Berne in Category II because no efficacy data had been submitted. However, on June 18, 1991, FDA approved a license supplement from Swiss Serum and Vaccine Institute Berne to update the firm's product license application for Tetanus Toxoid Adsorbed. The supplement included serologic data in support of primary immunization.

B. Category I for Booster Immunization and Category II for Primary Immunization. (Biological Products Determined to be Safe and Effective and Not Misbranded When Indicated for Booster Use Only)

Products recommended by the VRBPAC for classification in Category I for booster immunization and Category II for primary immunization are listed in Table 7.

TABLE 7.—PRODUCTS RECOMMENDED BY THE VRBPAC FOR CLASSIFICATION IN CATEGORY I FOR BOOSTER IMMUNIZATION AND CATEGORY II FOR PRIMARY IMMUNIZATION

Manufacturer/License Number	Product(s)
Aventis Pasteur, Inc., No. 1277	Tetanus Toxoid[1]
Merck Sharp & Dohme, Division of Merck & Co., No. 2	Tetanus Toxoid Adsorbed[2]
BioPort Corp., No. 1260	Diphtheria and Tetanus Toxoids Adsorbed[3] Tetanus Toxoid Adsorbed
Istituto Sieroterapico Vaccinogeno Toscano (Sclavo), No. 238	Tetanus Toxoid[4]

TABLE 7.—PRODUCTS RECOMMENDED BY THE VRBPAC FOR CLASSIFICATION IN CATEGORY I FOR BOOSTER IMMUNIZATION AND CATEGORY II FOR PRIMARY IMMUNIZATION—Continued

Manufacturer/License Number	Product(s)
Wyeth Laboratories, Inc., No. 3	Tetanus and Diphtheria Toxoids Adsorbed (Adult Use)

[1] The license for this product was transferred from Connaught Laboratories, Inc., No. 711, to Aventis Pasteur, Inc., No. 1277 on December 9, 1999.
[2] The license for Tetanus Toxoid Adsorbed, Merck, was revoked at the request of the manufacturer on January 31, 1986. Therefore, no further regulatory action on this product was required.
[3] The licenses for these products were transferred from Michigan Department of Public Health, No. 99, to BioPort Corp., License No. 1260 on November 12, 1998.
[4] The license for Tetanus Toxoid Vaccine, Sclavo, was revoked at the request of the manufacturer on July 27, 1993. Therefore, no further regulatory action on this product was required.

After reviewing available data, the VRBPAC recommended that the products in Table 7 be reclassified from Category IIIA to Category II for primary immunization until additional information to support effectiveness becomes available. For each of these products, either no additional information was submitted by the manufacturer or the VRBPAC found the additional information submitted was inadequate to support the effectiveness of the vaccine for primary immunization (Final Report: Addendum to Previous Panel Reports for the Reclassification of Category IIIA Biologics, April 1984).

FDA agrees with the VRBPAC's conclusions and recommendations concerning the Category II classification for primary immunization. FDA therefore proposes to designate these products as ineffective and misbranded for primary immunization and accept the VRPBAC's findings. If FDA classifies these products, under a final order, as Category II for primary immunization, it will be necessary for the agency to remove the primary immunization use from the license for each product. FDA can accomplish this if a manufacturer submits a supplement to its license that deletes the primary immunization use while maintaining the booster immunization use in the license. In order to change the license of each product in a timely manner given the required procedures of this § 601.26 reclassification process, FDA recommends that a manufacturer submit a license supplement to the agency prior to FDA publishing an NOOH on the proposed revocation of the products in Category II, which could publish as early as 30 days after the close of the comment period of this proposed order. If a manufacturer does not wish to remove the primary immunization use from its license at this time, FDA will publish an NOOH on the revocation of that use from the license after the comment period ends. In this proposed order FDA hereby offers notice of its intent to revoke the primary immunization use from the licenses of those products that have been classified as Category II for that use.

Furthermore, if a manufacturer wishes to market its product, listed in Table 7 above, for booster immunization after FDA issues a final order that classifies the product in Category II for primary immunization, the manufacturer must change its product labeling to reflect only the approved booster immunization use. Therefore, FDA is proposing that the container and package labels and the package insert include the statement ''For Booster Use Only''. This statement should be placed immediately following the proper name of the product and in the same size type print as the proper name. Also, any labeling references for use as a primary immunogen should be deleted. To make such a labeling revision, a manufacturer should submit a Changes Being Effected (CBE) supplement to their license in accordance with 21 CFR 601.12(c)(5) and (f)(2). FDA suggests that a manufacturer submit its labeling supplement in a timely manner so that the manufacturer may be able to market its product with appropriate labeling after a final order classifying the product in Category II for primary immunization.

C. Category II. (Biological Products Determined to be Unsafe, Ineffective or Misbranded)

The VRBPAC and the Panel on Review of Allergenic Extracts recommended that the following products listed in Table 8 be reclassified into Category II.

TABLE 8.—PRODUCTS RECOMMENDED BY THE VRBPAC AND THE PANEL ON REVIEW OF ALLERGENIC EXTRACTS FOR CATEGORY II CLASSIFICATION

Manufacturer/License Number	Product(s)
Hollister-Stier Laboratories LLC, No. 1272	Polyvalent Bacterial Vaccines with ''No U.S. Standard of Potency'' (Bacterial Vaccines Mixed Respiratory (MRV or MRVI, Bacterial Vaccines for Treatment, Special Mixtures) [1]
Delmont Laboratories, Inc., No. 299	Polyvalent Bacterial Antigens with ''No U.S. Standard of Potency'' (Staphage Lysate)
Eli Lilly and Company, No. 56	Mumps Skin Test Antigen [2]
Hollister-Stier, a Division of Cutter Laboratories, No. 8	Pertussis Immune Globulin (Human) [3]
Travenol Laboratories, Inc., Hyland Therapeutics Division, No. 140	Pertussis Immune Globulin (Human) [4]

[1] The licenses for these products were transferred from Bayer, Inc. No. 8 (formerly Hollister-Stier, a Division of Cutter Laboratories, No. 8), to Hollister-Stier, LLC, No. 1272 on June 2, 1999. These products were reviewed by the Panel on Review of Allergenic Extracts.
[2] The license for Mumps Skin Test Antigen, Lilly, was revoked on December 2, 1985, at the request of the manufacturer. Therefore no further regulatory action on this product was required.
[3] The license for Pertussis Immune Globulin, Hollistier-Stier, was revoked on August 18, 1988, at the request of the manufacturer. Therefore no further regulatory action on this product was required.
[4] The licenses for Pertussis Immune Globulin, Travenol, were revoked on April 9, 1982, and July 27, 1995, at the request of the manufacturer. Therefore no further regulatory action on this product was required.

1. Staphage Lysate

The original Panel on Review of Bacterial Vaccines and Bacterial Antigens with ''no U.S. Standard of Potency,'' reviewed SPL manufactured by Delmont Laboratories, Inc. (Delmont). This Panel recommended that SPL be placed in Category IIIB, and that the license be revoked because: (1) There was no evidence of efficacy; and (2) if SPL was to be recommended for use as a stimulator of cell mediated immunity, either specific or general, this new ''function'' would require evaluation as a new biological product.

In 1978, Delmont requested a hearing in response to initiation of revocation proceedings and submitted information resulting in reclassification of SPL from Category IIIB to Category IIIA (43 FR 50247). Following this reclassification and prior to the meeting of the VRBPAC in January 1983, Delmont submitted additional information concerning SPL to the VRBPAC. This information consisted of a series of letters from physicians and patients of a testimonial nature supporting the effectiveness of SPL. These letters were accompanied by several reprints and exhibits of uncontrolled case reports and papers regarding the effectiveness and use of SPL in a variety of clinical conditions ranging from warts to hidradenitis suppurativa (HS), to chronic and progressive disorders such as multiple sclerosis (MS) and Crohn's disease.

The VRBPAC reviewed the information that Delmont submitted for the use of SPL in the treatment of the conditions described above. In addition, the VRBPAC reviewed data regarding the nonspecific stimulation of the immune response in animals. The VRBPAC noted that the information from the completed studies that were submitted indicated that the studies were insufficiently designed to support claims of SPL's effectiveness for treatment of warts, MS, Crohn's disease or nonspecific stimulation of the immune response. At the time of the VRBPAC meeting in 1983, the committee noted that two controlled trials for the use of SPL in treatment of recurrent furunculosis and HS were either in the recruitment phase or in progress. The VRBPAC noted that it would likely take additional time for the sponsors to complete these trials. However, the VRBPAC concluded that ''it could not reasonably continue to defer recommendations on the classification of SPL owing to uncertainty when the two existing controlled trials would be completed, and uncertainty as to whether the results, when finally presented, would be clearly interpretable, owing to lack of comparability among patient groups'' (VRPBAC Final Report: Addendum to Previous Reports for the Reclassification of Category IIIA Biologics, April 1984).

As a result of its review, the VRBPAC found that it was not able to determine that there was substantial evidence of efficacy for SPL. In its final report to the agency submitted in April of 1984, the VRBPAC recommended that SPL be placed in Category II and that''licensure be revoked until additional data to support its reclassification became available.''

2. Polyvalent Bacterial Vaccines with ''no U.S. Standard of Potency''

Product licenses for Polyvalent Bacterial Vaccines with ''no U.S. Standard of Potency,'' (MRV, MRVI, and Bacterial Vaccines for Treatment, Special Mixtures) manufactured by Hollister-Stier, Division of Cutter Laboratories, were transferred to Miles Laboratories, Inc., on February 18, 1983, were transferred to Bayer, Inc. on May 24, 1995, and were again transferred to Hollister-Stier LLC on June 2, 1999. The original Panel on Review of Bacterial Vaccines and Antigens recommended that these products (MRV, MRVI, and Bacterial Vaccines for Treatment, Special Mixtures) be classified as Category IIIA and could remain on the market, and their license remain in effect on an interim basis provided that: (1) Group A streptococcal organisms and their derivatives, where present, were removed, and (2) satisfactory potency standards were developed and acceptable data based on scientifically sound studies which demonstrated efficacy in humans be submitted to FDA. At the time the agency established the § 601.26 reclassification panels, FDA, based on a recommendation of the VRBPAC, referred these three products to the Panel on Review of Allergenic Extracts for reclassification based on the products' attributed mode of action.

The Panel on Review of Allergenic Extracts (the Allergenics Panel) held reclassification meetings on November 19 and 20, 1982, February 18 and 19, 1983, and June 3 and 4, 1983, and a final report was submitted to FDA in December of 1983. In this report, the Allergenics Panel noted that the manufacturer had removed group A streptococcal organisms from MRV, MRVI, and Bacterial Vaccines, Special Mixtures, and had initiated preliminary studies as recommended by the original Panel. However, the Allergenics Panel found that ''there has been no better definition of indications for the use of this product. Neither are there recognizable criteria for selection of patients or dosage. No double-blinded controlled studies have been performed or started since the original Panel made its recommendations in 1977'' (Food and Drug Administration Panel on Review of Allergenic Extracts Category IIIA Reclassification, Final Report, December 1983). Based on the lack of efficacy studies submitted in support of these products, the Allergenics Panel recommended that these products be reclassified into Category II for both diagnosis and immunotherapy.

FDA agrees with the conclusions and recommendations of the VRBPAC to reclassify SPL into Category II. FDA therefore proposes to designate SPL as ineffective and misbranded and to accept the findings of the VRBPAC concerning SPL. FDA also agrees with the conclusions and recommendations of the Panel on Review of Allergenic Extracts to reclassify Hollister-Stier LLC's Polyvalent Bacterial Vaccines with ''no U.S. Standard of Potency'' (MRV, MRVI, and Bacterial Vaccines for treatment, Special Mixtures) into Category II. FDA proposes to designate Polyvalent Bacterial Vaccines with ''no U.S. Standard of Potency'' (MRV, MRVI, and Bacterial Vaccines for treatment, Special Mixtures) as ineffective and misbranded, and FDA proposes to accept the findings of the Panel on Review of Allergenic Extracts.

In this proposed order FDA hereby offers notice of its intent to revoke the licenses of SPL and Polyvalent Bacterial Vaccines with ''no U.S. Standard of Potency'' (MRV, MRVI, and Bacterial Vaccines for treatment, Special Mixtures) as Category II products. After the end of the comment period for this proposed order, FDA will subsequently issue a notice of opportunity for a hearing on the revocation of the license of both SPL and Polyvalent Bacterial Vaccines with ''no U.S. Standard of Potency'' (MRV, MRVI, and Bacterial Vaccines for treatment, Special Mixtures).

Section 601.26(d)(4) requires FDA to publish in a proposed order, concerning Category IIIA reclassification, a statement identifying those products that the agency proposes should be permitted to remain on the market pending further testing because there is a compelling medical need and no suitable alternative. No such products were identified by the VRBPAC for the purposes of this proposed order.

V. Availability of Reports and Public Comments

In accordance with § 601.26(d)(2), FDA is announcing the availability of the final reports of the Vaccines and Related Biological Products Advisory

Committee, dated April 1984, and the Panel on Review of Allergenic Extracts, dated December 1983, that are the subject of this proposed order. Copies of these reports can be obtained from the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. By sending a self-addressed adhesive label, you will assist that office in processing your requests more quickly. The documents may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844, or by mail by contacting CBER electronically at www.CBER__INFO@CBER.FDA.GOV.

Interested persons may, on or before August 13, 2000 submit written comments regarding this proposal to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Two copies of any comments should be submitted, except that individuals should submit one copy. Comments may also be submitted electronically at www.fda.gov/ohrms/dockets. Comments should be identified with the docket number found in brackets in the heading of this document. Data and information submitted to FDA that fall within the confidentiality provisions of 18 U.S.C. 1905, 5 U.S.C. 552(b), or 21 U.S.C. 331(j) are not available for public disclosure. Consistent with the provisions of § 601.25(b), when FDA publishes this proposed order and the Reclassification Committee's reclassification findings, data and information submitted to FDA in connection with these reclassified products will be made publicly available after June 14, 2000, and may be viewed at the Dockets Management Branch (address above). Data and information submitted and shown to fall within the confidentiality provisions of one or more of the above statutes will not be disclosed. Comments concerning confidentiality should be received by FDA by June 14, 2000. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

After review of the public comments received in response to this proposed order and in consideration of the results of hearings, if any, FDA intends to issue in the **Federal Register** a final order announcing its final conclusions and revoking those licenses which are placed in Category II by the final order.

Dated: May 3, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–12116 Filed 5–12–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0228]

Determination of Regulatory Review Period for Purposes of Patent Extension; Neuro Cybernetic Prosthesis (NCP®) System; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending a previous determination regarding the regulatory review period for the Neuro Cybernetic Prosthesis (NCP®) System that appeared in the **Federal Register** of November 10, 1998 (63 FR 63066). FDA is amending the notice because the agency agrees with the information provided in a request from the applicant for revision of the regulatory review period (Request) (Docket No. 98E–022 8/PRC 1, dated and received on January 8, 1999).

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

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Regulatory Policy Staff (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: In its original application for patent term extension, the applicant claimed December 16, 1991, as the date the premarket approval application (PMA) for the Neuro Cybernetic Prosthesis (NCP®) System (PMA 910070) was initially submitted. FDA first determined that the PMA was initially submitted on January 27, 1997, because FDA records indicated that the PMA submitted on December 16, 1991, had not been filed, but an amended PMA, renumbered as PMA 970003, was the PMA for the approved product.

The applicant later claimed in its request that FDA's determination of the regulatory review period failed to take into account an approved amendment to the applicant's originally submitted PMA. Therefore, the applicant requested that the agency correct the date the PMA was initially submitted to June 1, 1993, the date the approved amendment to the PMA was received by FDA.

FDA reviewed its records and confirmed that the amended PMA, received on June 1, 1993, was filed by the agency based on a threshold determination that the amended PMA was sufficiently complete to permit a substantive review. FDA later determined that additional studies were required and issued a major deficiency letter dated September 30, 1994, requesting that additional clinical studies be performed. The applicant submitted a second amendment to the PMA, which the agency received on January 27, 1997. FDA reviewed the amendment and determined that the second amendment sufficiently responded to the September 30, 1994, deficiency letter, and filed the newly amended PMA on the date of the receipt of the completed PMA, January 27, 1997. For administrative reasons, the second amendment to the PMA was considered a resubmission of the PMA, and it was assigned a new PMA number, P970003, which is the PMA number of the approved PMA for the product.

In the past, FDA has determined that the start of the approval phase began with the submission of the first filed PMA for an approved product, even if the original filed PMA was later withdrawn and filed under a new number. For this reason, FDA now accepts the date of June 1, 1993, submitted by the applicant in its request, as the date the first PMA was filed for the product and the date that the PMA was initially submitted.

Therefore, the applicable regulatory review period for the Neuro Cybernetic Prosthesis (NCP®) System is 3,237 days. Of this time, 1,730 days occurred during the testing phase of the regulatory review period, while 1,507 days occurred during the approval phase.

These periods of time were derived from the following dates, summarized from the November 10, 1998, notice and modified by this technical amendment:

1. *The date a clinical investigation involving this device was begun:* September 6, 1988.

2. *The date an application was initially submitted with respect to the device under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e):* June 1, 1993.

3. *The date the application was approved:* July 16, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several

statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,761 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 14, 2000, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 13, 2000, for a determination on whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 6, 2000.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 00–12117 Filed 5–12–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Children's Hospital Graduate Medical Education Program—New

Public Law Number 106–129 amended the Public Health Service Act to establish a new program to support graduate medical education (GME) in children's hospitals. The provision authorizes payments in FY 2000 and FY 2001 for direct and indirect expenses associated with operating approved GME programs. Section 340E(c)(1) states that the amount determined under this subsection for payments for direct medical expenses for a fiscal year is equal to the product of (A) the updated per resident amount as determined, and (B) the average number of FTE residents in the hospital's approved graduate medical residency training programs as determined under section 1886(h)(4) of the Social Security Act during the fiscal year. The statute directs the Secretary to take into account factors identified in section 340E(b)(1)(B) and 340E(d)(2) '' case mix, number of FTE residents, treatment of more severely ill patients and the additional costs related to teaching residents.

Administration of the Children's Hospital Graduate Medical Education Program relies on the reporting of the number of full-time equivalent residents in applicant children's hospital training programs to determine the amount of direct and indirect expense payments to participating children's hospitals. Indirect expense payments will also be derived from a formula that requires the reporting of case mix index information from participating children's hospitals.

Hospitals will be requested to submit such information in an annual application. The statute also requires reconciliation of the estimated numbers of residents with the actual number determined after the close of the fiscal year. Participating children's hospitals would be required to complete an adjusted report to correct such information on an annual basis.

ESTIMATES OF ANNUALIZED HOUR BURDEN

Form name	Number of respondents	Responses per respondent	Total responses	Hrs. per response	Total hour burden
Form E (Short)	42	1	42	*99.9	4,194
Form E (Long)	12	1	12	*46.7	560
Form F (Short)	42	1	42	8	336
Form F (Long)	12	1	12	8	96
IME Data*	54	1	54	14	756
Required GPRA Tables	54	1	54	28	1,512
Total	54				7,454

*The hours per response are paradoxically greater for the short form because of the relatively large number of hospitals which have been reporting residency counts to Medicare but expect considerable work in translating resident counts based on hospital cost-reporting years to counts, in part prospective, based on Federal fiscal years, including obtaining interim counts from other hospitals of incoming rotations.

HRSA is requesting from OMB an emergency review and approval of this data collection within 40 days from the date of publication of this notice, with a 180-day approval period. During this 180-day approval period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day review and public comment period on the data collection activity.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, 725 17th St., NM, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 8, 2000.

Claude Earl Fox,

Administrator.

[FR Doc. 00–11893 Filed 5–12–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of a Cooperative Agreement With the National Association of County and City Health Officials

In anticipation of Fiscal Year (FY) 2001 funding, the Health Resources and Services Administration (HRSA) announces its intention to award a cooperative agreement with the National Association of County and City Health Officials (NACCHO) to increase access and eliminate disparities in health care for the underserved/uninsured by strengthening the local public health systems and supporting programs that assist local communities.

The purpose of this project is to: (1) Address the health care needs of the underserved and vulnerable populations, the needs of health care providers who serve vulnerable populations, and related public health issues; and (2) assist NACCHO in developing and convening national and regional policy forums and provide educational and resource materials emanating from these forums for county and city policymakers on the above areas.

There is no other ongoing group that can convene the high-ranking decision-makers representing county and city health officials' interests around an issue of importance to HRSA. This group will facilitate communication on current and emerging strategies addressing common priorities, and will enable HRSA to better leverage limited resources by improving planning and program design to complement other public and private sector initiatives serving the needs of the same populations.

Authorizing Legislation

This program is authorized under section 301 of the Public Health Service Act [42 U.S.C. 241], as amended.

Eligible Applicants

Assistance will be provided only to the National Association of County and City Health Officials (NACCHO). No other applications are solicited.

The NACCHO is the only nonprofit membership organization serving all of the nearly 3,000 local health departments nationwide—in cities, counties, townships, and districts.

Availability of Funds

Approximately $100,000 is available in FY 2001 to fund this award. It is expected the award will begin on or after October 1, 2000, and will be for a 12-month budget period with a project period of 5 years. Funding estimates may vary and are subject to 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.

Program Requirements

This project will provide an Agency-level cooperative agreement with NACCHO to address cross-cutting publicly-funded public health program integration and health care access issues identified by county and city public health officials. Through this project, NACCHO will provide assistance to HRSA and HRSA grantees, such as states and local governments, health centers, Maternal and Child Health programs, and rural health offices, to evaluate the effectiveness of their programs and initiatives to address the needs of the underserved and targeted populations. It will include activities that are mutually agreed to by HRSA and NACCHO, including addressing HRSA priority issues.

Specifically, HRSA's role in the cooperative agreement will include participating in the planning of the forums conducted during the period of the cooperative agreement, including developing the agendas and identifying participants who should be invited to address issues of importance from the Federal perspective at these forums, providing consultation and technical assistance in planning, operating, and evaluating program activities, facilitating collaboration with NACCHO staff and other county and city health agencies to reach the target population, facilitating efforts in the provision of technical assistance and training to specified individuals and organizations, and maintaining an ongoing dialogue with the applicant concerning program plans, policies, and other issues which may have major implications for any activities undertaken by the applicant under the cooperative agreement.

The recipient shall be responsible for carrying out activities to support the following:

(1) Developing, printing, and distributing articles, reports, or other documents relating to health care access, unmet population needs, provider capacity, the uses of existing data systems within counties and cities to address health care needs of the population, and the complexity of private sector initiatives for use by county and city health officials.

(2) Convening regional or national meetings of county and city health officials and others, as appropriate, for discussion of public and private sector strategies and best practices in HRSA priority issues to include appropriate topics and audiences to exchange information. Some of these priority issues include: (a) Infrastructure building; (b) capacity to assure provision of essential public health services; (c) providing an opportunity for HRSA stakeholders to comment on HRSA's performance; (d) building upon integrated public health infrastructures which use data to address public health issues of the counties and cities; (e) improving the health status of vulnerable populations; (f) assisting in the development of work force information systems; and (g) advising on the development of a Legislative Handbook on Public Health (review, solicit input from NACCHO members, summarize comments, and work closely with National Conference for State Legislatures' staff as the Handbook is drafted).

(3) Participating in HRSA-sponsored meetings and events, as appropriate.

(4) Coordinating activities with county and city health department contacts, including public health experts, to ensure that NACCHO members are aware of public health programs and activities in their local area.

Where To Obtain Additional Information

Diane Rodill, Ph.D., Project Officer, Center for Public Health Practice, Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room14–15 Parklawn Building, Rockville, MD 20857, Telephone: (301) 443–4034, E-mail: *drodill@hrsa.gov*

Dated: May 9, 2000.

Claude Earl Fox,

Administrator.

[FR Doc. 00–12059 Filed 5–12–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–910–00–1020–PB]

New Mexico Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of council meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory

Committee Act of 1972 (FACA), 5 U.S.C. appendix 1, The Department of the Interior, Bureau of Land Management (BLM), announces a meeting of the New Mexico Resource Advisory Council (RAC). The meeting will be held on June 14–16, 2000, at the Quality Inn, 1043 Camino del Pueblo Sur, Taos, NM.

There will be an optional all day field trip on Wednesday, June 14, 2000, to the Wild Rivers area to look at vegetation and on the ground events. The optional tour will start at the Quality Inn, in Taos, NW, at 8 am and end back in Taos, NM, about 5 pm. Transportation will be provided for RAC members.

The meeting on Thursday, June 15, 2000, starts at 8 a.m. and will end about 5 pm. The three established RAC Subcommittees may have late afternoon or evening meetings on this day. The exact time and location of the Subcommittee meeting will be established by the Chairperson of each Subcommittee earlier in the day during the RAC meeting. The meeting on Friday, June 16, 2000, starts at 8 a.m. and will end about 3 pm. The ending time of 3 p.m., for the meeting, may be changed depending on the work remaining for the RAC. The draft agenda for the RAC meeting includes an agreement on the meeting agenda, any RAC comments on the draft minutes of the last RAC meeting on April 26 through 28, 2000, in Lordsburg, NM, a check in from the RAC members (the following are planned presentations that also include discussions) a Standards and Guidelines update presentation, an update on the Lesser Prairie Chicken, Threatened and Endangered Species comprehensive approach on border issues, elk management on BLM, Forest Service, and private land, a Vermijo Park wildlife presentation, a Willow Flycatcher presentation, BLM Field Office Managers State of the Field Office presentations with emphasis on wildlife and the Willow Flycatcher, RAC Subcommittee reports from the Urban/Lands Subcommittee, the Oil and Gas Subcommittee, and the Roads and Trails Subcommittee, a public comment period to the RAC, RAC discussions and any RAC recommendations, develop draft agenda items and select a location for the next RAC meeting, and a RAC assessment on the current meeting. The time for the public to address the RAC is on Friday, June 16, 2000, from 10 a.m. to 12 noon. The RAC may reduce or extend the end time of 12:00 noon depending on the number of people wishing to address the RAC. Anyone wishing to address the RAC should be present at the 10:00 starting time. The length of time available for each person to address the RAC will be established at the start of the public comment period and will depend on how many people there are that wish to address the RAC. At the completion of the public comments the RAC may continue discussion on its agenda items.

FOR FURTHER INFORMATION CONTACT: Mary White, New Mexico State Office, Office of External Affairs, Bureau of Land Management, 1474 Rodeo Road, PO Box 27115, Santa Fe, New Mexico 87502–0115, telephone (505) 438–7404.

SUPPLEMENTARY INFORMATION: The purpose of the Resource Advisory Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Council's responsibilities include providing advice on long-range planning, establishing resource management priorities and assisting the BLM to identify State and regional standards for rangeland health and guidelines for grazing management.

Dated: May 9, 2000.

Michelle J. Chavez,

State Director.

[FR Doc. 00–12104 Filed 5–12–00; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA—31116 (supercedes AZA 28350)]

Notice of Availability for the Ray Land Exchange/Plan Amendment Record of Decision

AGENCY: Bureau of Land Management, Interior.

ACTION: Ray Plan Amendment Record of Decision and Notice of Decision for the Ray Land Exchange.

SUMMARY: The Bureau of Land Management (BLM) is amending the Phoenix and Safford District Resource Management Plans (RMPs) to allow the transfer of certain federal lands and mineral estate in Pinal and Gila counties (Arizona) for privately owned lands in Mohave and Pinal counties. BLM examined the lands and interests described below under the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716) (FLPMA) and through the planning process described in BLM regulations (43 CFR 1600). BLM determined the lands and interests therein as suitable for disposal by land exchange pursuant to Section 206 of FLPMA, as amended. The Record of Decision approving the plan amendment is now available.

Notice is hereby given that on April 27, 2000, Jesse Juen, Tucson Field Office Manager, Bureau of Land Management, issued a decision to approve a proposed land exchange with ASARCO, Incorporated, a New York Corporation. This Notice of Decision initiates a 45-day comment period on the decision to approve the land exchange.

Federal lands and mineral estate determined suitable for land exchange (total approximately 10, 976 acres) are described as:

Mineral Estate Only

Gila and Salt River Base and Meridian, Pinal County, Arizona

T.2 S., R.13 E., Section 35 (80 acres)
T.2 S., R.14 E., Section 31 (71 acres)
T.3 S., R.12 E., Section 24 (160 acres)
T.3 S., R.13 E., Sections 9, 10, 11, 12, 30 (1337 acres)
T.3 S., R.14 E., Sections 6, 7, 17, 18 (495 acres)
T.6 S., R.4 E., Sections 12, 23, 24 (637acres)

Comprising approximately 2,780 acres.

Full Fee Estate

Gila and Salt River Base and Meridian, Pinal and Gila Counties, Arizona

T.2 S., R.13 E., Section 34 (428 acres)
T.3 S., R.12 E., Sections 25, 26 (1,120 acres)
T.3 S., R.13 E., Sections 1, 2, 8, 10, 11, 13, 17, 19,20, 22, 23, 26, 27, 34, 35 (3,121 acres)
T.3 S., R.14 E., Sections 7, 18, 19, 20, 33, 34 (1,253 acres)
T.4 S., R.14 E., Sections 3, 4, 5, 8 (1,442 acres)
T.4 S., R.15 E., Sections 22, 27 (272 acres)
T.5 S., R.15 E., Sections 11, 28 (560 acres)

Comprising approximately 8,196 acres.

Non-federal lands (private land now owned by Asarco Incorporated) to be acquired (total approximately 7,300 acres) described as:

Gila and Salt River Base and Meridian, Mohave County, Arizona

Knisely Ranch, T.25 N., R.18 W., Sections 4, 17, 20 (160 acres)
McCracken Mtn.
T.14 N., R.14 W., Sections 19, 31 (1,266 acres)
T.14 N., R.15 W., Sections 3, 9, 11, 15, 23, 25, 27, 35 (5,118 acres)
Sacramento Valley, T.19 N., R.19 W., Section 23 (120 acres)
Tomlin Parcels, T.15 N., R.13 W., Sections 19, 35 (313 acres)

Comprising approximately 6,980 acres.

Gila and Salt River Base and Meridian, Pinal County, Arizona

Gila River/Cochran, T.4 S., R.12 E., Sections 6, 7 (320 acres)

Comprising approximately 320 acres.

The purpose of the Ray Land Exchange is to acquire the non-federal land parcels which have high public values for: wilderness inholdings in the Mt. Tipton Wilderness and parcels

adjacent to the Warm Springs Wilderness; checkerboard inholdings in the McCracken Mountains Area of Critical Environmental Concern; riparian zones along the Big Sandy and Gila Rivers; other habitat supporting threatened and endangered or special species; and cultural and recreation values. The public interest will be served by making the exchange.

The values of the lands to be exchanged are equal. Lands transferred from the United States to ASARCO will be subject to the following reservations, terms and conditions:

A right-of-way thereon for ditches or canals.

Three rights-of-way for the Arizona Highway Department, AZAR 04524, AZAR 04525, AZAR 024241.

Two rights-of-way for the Salt River Project, AZA 2146, AZPHX 086749.

A right-of-way for Southwest Gas Corporation, AZAR 02148.

Two rights-of-way for Arizona Public Service Company, AZA 8778, AZAR 033336.

Two rights-of-way for US West Communications Inc., AZA 6541, AZA 24678.

And a right-of-way for Pinal County Board of Supervisors, AZA 21389.

DATES: The publication of this Notice of Decision initiates a 45-day protest period on the Ray land exchange. Interested parties may submit comments or objections regarding the land exchange to the Tucson Field Office Manager, BLM, 12661 East Broadway, Tucson, AZ 85748–7208. Objections will be reviewed by the Arizona State Director who may sustain, vacate or modify this Notice of Decision. A copy of the Record of Decision may be obtained from the person/address that follows.

FOR FURTHER INFORMATION CONTACT: Shela McFarlin, Project Manager, BLM, Arizona State Office, 222 N. Central, Phoenix, AZ 85004, or by telephone (602) 417–9568.

Dated: April 27, 2000.

Jesse Juen,

Field Manager, Tucson.

[FR Doc. 00–12088 Filed 5–12–00; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of an Environmental Assessment for Proposed Lease Sale 178 in the Central Gulf of Mexico (2001)

AGENCY: Minerals Management Service.

ACTION: Preparation of an Environmental Assessment.

SUMMARY: The Minerals Management Service (MMS) is beginning preparation of an environmental assessment (EA) for proposed lease Sale 178 (scheduled for March 2001) in the Central Gulf of Mexico Planning Area. In August 1996, MMS issued a Call for Information and Nominations/Notice of Intent to Prepare an EIS (Call/NOI) for the five proposed Central Gulf of Mexico sales in the current 5-year leasing program. In 1997, MMS prepared a single environmental impact statement (EIS) for all five sales. The multisale Final EIS, filed in November 1997, included an analysis of a single, ''typical'' sale, and a cumulative analysis that included the effects of holding all five sales, as well as the cumulative effects of the long-term development of the planning area. The MMS stated in the EIS that an EA would be prepared for each lease sale after the first sale covered in the EIS (Sale 169).

The preparation of this EA is the first step in the prelease decision process for Sale 178. The proposal and alternatives for Sale 178 were identified by the Director of MMS in November 1996 following the Call/NOI and were analyzed in the Central Gulf multisale EIS, which is available from the Gulf of Mexico OCS Region's Public Information Office at 1–800–200-GULF. The proposed action analyzed in the multisale EIS was the offering of all available unleased acreage in the Central Gulf of Mexico Planning Area. The EA will also analyze alternatives to defer blocks south and within 15 miles of Baldwin County, Alabama, and to defer blocks containing topographic features with sensitive biological resources, as well as the no action alternative. The analysis in the EA will reexamine the potential environmental effects of the proposal and alternatives based on any new information regarding potential impacts and issues that was not available at the time the Final EIS was prepared.

The MMS requests interested parties to submit comments regarding any such new information or issues that should be addressed in the EA to Minerals Management Service, Gulf of Mexico OCS Region, Office of Leasing and Environment, Attention: Regional Supervisor (MS 5410), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394 by June 15, 2000. After completion of the EA, MMS will determine whether to prepare a Finding of No New Significant Impact (FONNSI) or a supplemental EIS. The MMS will then prepare and send consistency determinations to the affected States to determine whether the proposed sale is consistent with federally-approved State coastal zone management programs, and will send a proposed Notice of Sale to the Governors for their comments on the size, timing, and location of the proposed sale. The tentative schedule for the steps in the prelease decision process for Sale 178 is listed below:

Comments due to MMS, June 15, 2000;

EA/FONNSI or Supplemental EIS, October 2000;

Consistency Determinations sent to States, October 2000;

Proposed Notice of Sale sent to Governors, November 2000;

Final Notice of Sale in **Federal Register**, January 2001;

Sale, March 2001.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Mr. George Hampton, telephone (504) 736–2465.

Dated: May 9, 2000.

Charles J. Schoennagel,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 00–12108 Filed 5–12–00; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comments Request

ACTION: Notice of Information Collection Under Review; Visa Waiver Pilot Program Carrier Agreement.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The Proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until [Insert date of the 60th day from the date that this notice is published in the **Federal Register**].

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Visa Waiver Pilot Program Carrier Agreement.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–775. Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. The agreement between a transportation company and the United States is needed to assure the United States that the transportation company will remain responsible for the aliens that it transports to the United States under the Visa Waiver Pilot Program (8 U.S.C. 1187).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 responses at one (1) hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours.

If you have additional comment, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: May 9, 2000.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00–12118 Filed 5–12–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of Information Collection Under Review; Application-Checkpoint Pre-enrolled Access Lane

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until July 14, 2000.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3)Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Application-Checkpoint Pre-enrolled Access Lane.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–866. Border Patrol Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information collection will be used by the Service to determine eligibility for participation in the Checkpoint Pre-enrolled Access Lane (PAL) program for person and vehicles at immigration checkpoints within the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 12,500 responses at 32 minutes (.53 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 6,625 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: May 9, 2000.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00–12119 Filed 5–12–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of Information Collection Under Review; Application for Transmission of Citizenship Through a Grandparent.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until July 14, 2000.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Application for Transmission of Citizenship through a Grandparent.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–600/N–643. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The collection of this information is required by Section 322 of the Immigration and Nationality Technical Corrections Act of 1994 which allows for a United States citizen parent to use the citizen grandparents residence for transmission of citizenship onto his or her natural or adopted child.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 9,641 responses at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,820 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: May 5, 2000.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00–12120 Filed 5–12–00; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–052]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, NASA–NIH Advisory Subcommittee on Biomedical and Behavioral Research Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, NASA–NIH Advisory Subcommittee on Biomedical and Behavioral Research.

DATES: Thursday, June 8, 2000, 8:00 a.m. to 4:00 p.m.

ADDRESSES: National Aeronautics and Space Administration Headquarters, 300 E Street, SW, MIC–3, Room 3H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Joan Vernikos, Code UL, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0220.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Action Status
—NASA Update
—NASA Life Sciences Division Update
—LSAS and LMSAAC Reports
—NIH/NASA Program Announcement
—Joint Workshops Update
—NASA/NIH Three-Dimensional Tissue Culture Center
—Discussions and Review of Findings and Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Visitors will be requested to sign a visitor's register.

Dated: May 9, 2000.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 00–12051 Filed 5–12–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–051]

Centennial of Flight Commission

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Centennial of Flight Commission.

DATES: Monday, June 19, 2000, 1:00 p.m. to 4:00 p.m.

ADDRESSES: Smithsonian National Air and Space Museum, 7th and Independence Avenue, SW, Director's Conference Room, 3rd Floor, Washington, DC 20560. Attendees must

check in at the Information Desk to be cleared to the 3rd floor.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Farmarco, Code ZC, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1903.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—First Flight Centennial Foundation of North Carolina
—Inventing Flight of Dayton, Ohio
—Logo Use Policy

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Visitors will be requested to sign a visitor's register.

Dated: May 9, 2000.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 00–12050 Filed 5–12–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection of: Jazz Musician Questionnaire. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below on or before July 18, 2000. The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Tom Bradshaw, Research Division, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Room 617, Washington, DC 20506–0001, telephone (202) 682–5432 (this is not a toll-free number), fax (202) 682–5677.

Murray Welsh,

Director, Administrative Services, National Endowment for the Arts.

[FR Doc. 00–12052 Filed 5–12–00; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

FirstEnergy Nuclear Operating Company, (Davis-Besse Nuclear Power Station); Exemption

I

FirstEnergy (the licensee) is the holder of Facility Operating License No. NPF–3, which authorizes the operation of the Davis-Besse Nuclear Power Station (DBNPS). The license states that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect.

The Commission is taking an action to approve this request prior to publication in the **Federal Register** of its Environmental Assessment and Finding of No Significant Impact. In accordance with 10 CFR 51.13, the Commission has determined that emergency circumstances are present to support the issuance of this exemption prior to publication in the **Federal Register** in that failure to act in a timely way would result in prevention of resumption of plant operation.

The facility consists of a pressurized-water reactor at the licensee's site located in Ottawa County, Ohio.

II

The DBNPS is planning to implement a plant modification during the twelfth refueling outage, which is scheduled to end in May 2000. The modification will change the equipment used to prevent boric acid precipitation following certain loss-of-coolant accidents (LOCAs) to enhance the flow of water through the core, thus controlling the accumulation of boric acid in the core and preventing boric acid precipitation.

The Code of Federal Regulations at 10 CFR 50.46 provides acceptance criteria for the ECCS, including long-term cooling requirements in 50.46(b)(5) and an option to develop the ECCS evaluation model (EM) in conformance with appendix K requirements (10 CFR 50.46(a)(1)(ii)). 10 CFR part 50, appendix K, Section 1.D.1, in turn, requires that accident evaluations use the combination of ECCS subsystems assumed to be operative ''after the most damaging single failure of ECCS equipment has taken place.'' In addition, Appendix K Section I.A.4. specifies a requirement to assume decay heat generation rate is equal to 1.2 times the values for infinite operating time in a specified ANS standard.

The proposed action would exempt the Licensee from the single-failure requirement for very low probability scenarios under certain conditions. The exemption is limited to the systems required for preventing boron precipitation during the long-term cooling phase of a LOCA. In addition, the action would exempt the Licensee from the decay heat generation rate assumption specified in Appendix K, Section I.A.4.

Specifically, DBNPS requested the following exemption by its letters dated March 15, and April 3, 2000: [1], [2]

FirstEnergy, with respect to the Davis-Besse Nuclear Power Station, is exempt from the single failure criterion requirement of 10 CFR part 50, appendix K, Section I.D.1, with

[1] Campbell, Guy G., ''Request for Exemption from 10 CFR 50, Appendix K, for Boric Acid Precipitation Control Methodology (TAC No. MA7831),'' Letter to NRC from Vice President, Nuclear, FirstEnergy, Davis-Besse Nuclear Power Station, March 15, 2000.

[2] Campbell, Guy G., ''Supplemental Information Regarding the Request for Exemption from 10 CFR 50, Appendix K, for Boric Acid Precipitation Control Methodology (TAC No. MA7831),'' Letter to NRC from Vice President Nuclear, FirstEnergy, Davis-Besse Nuclear Power Station, April 3, 2000.

respect to (1) Simultaneous failure of both the primary auxiliary spray method and the backup decay heat removal drop line method of controlling boron concentration due to failure of an emergency core cooling component that results in inability to initiate, or continue to operate, an active means of controlling core boron concentration, and (2) Not establishing that the backup decay heat removal drop line method of controlling boron concentration is otherwise in compliance with appendix K and 10 CFR 50.46(b)(5) requirements. Specifically, when establishing that boron precipitation will not occur in the decay heat removal system cooler, the Davis-Besse Nuclear Power Station credited flow through hot leg nozzle gaps and did not include all of the specific conservatisms required by appendix K.

The staff considers that the modifications would also require an exemption from the decay heat generation rate requirement contained in 10 CFR part 50, appendix K, Section I.A.4.

III

Certain LOCAs can result in a reactor coolant system (RCS) configuration in which the core is covered with boiling water and decay heat is transported from the core by steam while makeup water is provided to keep the core covered. This condition can result in accumulation of boric acid in the core since boric acid continues to be added via the makeup water, but little boric acid is removed by the steam. If too much boric acid accumulates, some might precipitate and prevent water from reaching the core to keep it cooled.

The DBNPS reactor vessel (RV) is equipped with reactor vessel vent valves (RVVVs). The RVVVs will cause water to flow through the core to control buildup of boric acid when needed for all LOCA conditions except for (1) some LOCAs between the reactor coolant pumps (RCPs) and the RV and (2) decay heat generation rate comparable to approximately a month following extended operation at full power for some LOCAs. Active means of controlling boric acid concentration are provided to address the case when the RVVVs are not effective.

In licensee event report (LER) 98–008 (October 1, 1998), DBNPS reported that for some small-break LOCAs, initiation of its active method of boron precipitation control (BPC) could cause steam binding in the suction piping of both decay heat removal (DHR) pumps. As part of the corrective action for LER 98–008, DBNPS committed to address all issues related to long-term LOCA BPC and to complete a related plant modification to improve the active methods by the end of the twelfth refueling outage. Improved active methods of BPC and the associated exemption request are in response to that commitment.

With the improved active methods, if the RVVVs are not effective, then (1) the primary active method of BPC is a new means of supplying water to the pressurizer via the auxiliary spray line and (2) a new backup method will take water from an RCS hot leg via the DHR system drop line and return water to the RV via the core flood nozzles. DBNPS has stated that either method will provide sufficient flow of water through the core to provide BPC.

The DBNPS identified the following single failure vulnerabilities for situations where the RVVVs cannot be established as being effective:

(1) The primary BPC method is only connected to one train of high-pressure safety injection (HPSI) and is subject to any single active component failure in the flow path. Thus, a backup method is needed.

(2) The backup BPC method is potentially vulnerable to boron precipitation in the DHR cooler and to certain failure modes that are common to both the primary and backup BPC methods.

In its March 15, and April 3, 2000, submittals, the DBNPS requested an exemption from certain requirements of the criteria. DBNPS justified its request on the basis of improvements over the existing methodology, conservatisms in calculations that result in over-prediction of the BPC problem, and a risk evaluation.

IV

Two new active methods are planned for BPC: (1) A primary method using an improved auxiliary spray path into the pressurizer and (2) a backup method using flow into the DHR suction pipe from an RCS hot-leg pipe. A new pipe and new valves are being installed to accommodate the primary method. This path will supply about 250 gpm to the pressurizer, sufficient to fill the pressurizer in approximately an hour, after which BPC will be achieved by flow from the pressurizer into the reactor vessel via an RCS hot-leg. High-pressure injection (HPI) Pump 2 will be used with ''piggyback'' suction from DHR/low-pressure injection (LPI) Pump 2. A failure anywhere in the flow path could result in failure of this method to provide water to the pressurizer.

A backup method is provided in case the primary method fails. This method will use one of the two operating DHR/LPI pumps to take suction from the DHR drop line and to discharge a low flow rate into the reactor vessel via the core flood nozzles. The second DHR/LPI pump will be unthrottled and will continue to take suction from the emergency sump. The first pump will ensure a net flow of water through the core by withdrawing water from an RCS hot-leg while the second pump will ensure that makeup water is supplied to the RCS so that core cooling is ensured.

If only one ECCS train is available, the backup method is not available since the available ECCS train must be used to ensure the water makeup function. Thus, failure of ECCS Train 2 will disable both the primary and the backup method for BPC. DBNPS reported the results of a common-mode failure evaluation of this condition that identified several areas where a single-failure could disable both the primary and backup BPC methods. We briefly audited this evaluation.

The DBNPS assumed an initial RCS boric acid concentration of 1900 ppm for the small break LOCAs for analysis of DHR cooler performance on the basis that, after the first few days of operation, the actual RCS concentration prior to the LOCA would be 1700 to 1800 ppm. Injection water was included from the borated water storage tanks at about 2800 ppm and from the core flood tanks at about 4000 ppm. For the large and medium LOCAs, the 1900 ppm assumption was not used because much of the original water is lost from the RCS prior to injection, and the core flood tanks and borated water storage tank were assumed to inject into the RCS consistent with the LOCA RCS pressure calculations. This approach is acceptable because the amount of boron predicted to be in the core will be consistent with the sources of boron.

The DBNPS assumed 1.0 times the American Nuclear Society (ANS) standard infinite operation decay heat generation rate for calculation of the DHR cooler aspects of the backup method, whereas Appendix K specifies 1.2. Although using 1.0 is more realistic and is suitable for probabilistic risk calculations, the calculation does not include the conservatism required by Appendix K. The DBNPS exemption request therefore encompasses not complying with the Appendix K calculational requirement. Realistically, when considered in conjunction with a likely hot leg nozzle gap that provides a boron dilution path, DBNPS has shown that BPC will be maintained through the cooler. This, in conjunction with the low probability of encountering the condition (as discussed below), demonstrates that use of an assumed 1.0 decay heat generation rate does not constitute an undue risk and is therefore, acceptable.

Traditionally, core boric acid concentration evaluations use a solubility limit of the actual solubility reduced by four weight percent, an approach the staff has accepted in past Appendix K reviews to account for such items as solubility uncertainty and the non-uniform temperatures that may result in the RV. The DBNPS stated it used 4 percent for its core analyses, but that it used a 90 percent of the solubility limit for the DHR cooler analysis. This reduced margin approach is reasonable and is acceptable for the DHR cooler analysis because the complex flow patterns and potential temperature non-uniformities associated with the RV will not be present in the DHR cooler.

The DBNPS found that, when the backup method is first initiated, core boric acid concentration in water initially entering the DHR cooler could exceed solubility limits due to the low DHR cooler temperature. In its March 15, 2000, submittal, DBNPS addressed this for the break conditions of concern by assuming there would be water flow from above the core into the downcomer via the hot leg nozzle gaps. The licensee calculated that this flow would maintain the core boric acid concentration below a value where the DHR cooler problem would occur until the backup method was performing its core dilution function. In its April 3, 2000, submittal, DBNPS requested that the exemption cover the calculated initial DHR cooler response since there was insufficient evidence to substantiate the claimed gap flow under the requirements of 10 CFR 50.46 and Appendix K. The staff examined the licensee's evaluation using more realistic assumptions with respect to initial boron concentration, DHR cooler flow, decay heat rate, and DHR cooler temperatures. The staff concurs with the licensee that boric acid precipitation in the DHR cooler will not occur due to the conservative nature of their assumptions.

The DBNPS did not attempt to address the change in core damage frequency (CDF) due to the planned modifications since BPC was not previously addressed in its plant risk assessment. Instead, it addressed the total risk associated with BPC. This assessment was based on several conservative assumptions. The DBNPS assumed that, for certain break size and location combinations, active BPC failure would cause core damage. This is consistent with the past regulatory approach to prevent conditions where boric acid precipitation could occur and the assumed failure to do so would be a failure to prevent core damage. Realistically, a significant quantity of boric acid would have to precipitate to lead to a loss of heat transfer that could cause core damage. This is an unquantified conservatism.

The CDF is directly affected by the initiation rate of accidents of concern to BPC failure. For the bounding calculations, the DBNPS stated that it used generic LOCA rates of 5×10^{-6} and 4×10^{-5} events/reactor-year for large and medium LOCAs, respectively, from NUREG/CR–5–5750. DBNPS then assumed that an active control method was needed for breaks lower than the 573-foot elevation in the cold-leg RCP discharge piping for medium and large-break LOCAs, and that the break rate of concern was 25 percent of the large and medium LOCA frequency, leading to an initiation rate of 1.1×10^{-5}/reactor-year for active BPC. DBNPS then calculated the CDF due to boron precipitation to be approximately 1.1×10^{-7}/reactor-year [3] (*i.e.,* the frequency of an accident occurring in combination with a failure that renders both active BPC methods inoperable). DBNPS also reported the large early release frequency (LERF) associated with boron precipitation to be 1.1×10^{-11}/reactor-year. DBNPS concluded that the proposed plant modification would not be a significant contributor to the total CDF or LERF of the plant (approximately 1.63×10^{-5} and 7.3×10^{-8}/reactor-year, respectively). Regulatory Guide 1.174, ''An approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis,'' July 1998, considers an increase in risk to be very small if CDF and LERF are less than 10^{-6} and 10^{-7}, respectively. It further considers decreases in CDF and LERF to be satisfactory. The DBNPS predictions meet the guidance and are acceptable.

The LOCAs where the RVVVs are initially ineffective are those involving roughly the lower half of the cold-leg piping between the RCPs and the RV. Considering symmetry and working with one side of the RCS that consists of one hot leg, a SG, and two cold legs, the actual fraction of concern was evaluated. Each cold leg has a segment between the RCP and the RV and between the SG and the RCP. Assuming each segment has about the same likelihood of breaking, and a hot leg section is about 3 times as long as a cold leg segment, and since the breaks of concern are in the cold leg between an RCP and the RV, and only a break in the lower half of a cold leg at that location is of concern, then the fraction of big pipe breaks of concern is (½)(2)/(2+2+3) = 0.14. DBNPS assumed 0.25, a conservatism of a factor of 1.8 with respect to this example.

The DBNPS identified several other conservatisms in its risk assessment calculations. For example, with the exception of the backup method DHR cooler calculation where DBNPS used 1.0 times the decay heat, it used 1.2 times the decay heat for an infinitely irradiated core, thus predicting a faster boric acid concentration increase rate than would be expected, it took no credit for operator recovery actions, and, with the exception of the original DHR cooler analysis, it took no credit for hot-leg nozzle gaps. We agree that the above mentioned assumptions introduced conservatisms in the BPC related risk estimates assessed by DBNPS.

The DBNPS addressed a potential increase in scope to include both HPI trains in the primary BPC method as opposed to only having HPI Train 2, thus eliminating part of the failure concern. It reported a CDF of 1.3×10^{-8}/reactor-year for two trains, which it compared to the CDF of 1.1×10^{-7}/reactor-year for only having HPI Train 2. DBNPS concluded that an increase in scope would not achieve a significant benefit in terms of risk reduction. NUREG–1.174 considers an increase in CDF to be very small if it is less than 10^{-6}. In effect, the risk in moving from two trains to one would increase by 10^{-7}, well within the 10^{-6} criterion. We therefore agree with the DBNPS conclusion and we find the decision to remain with one HPI train to be acceptable because a significant benefit would not be achieved by the increased scope.

As discussed above, the backup BPC method was not shown to be functional using assumptions consistent with appendix K, nor was it shown to be functional using more realistic assumptions unless hot-leg nozzle gap flow was credited. Consequently, the DBNPS assumed a nozzle gap failure probability of 0.1, and predicted a CDF of 1.3×10^{-7}/reactor-year. We believe that a 0.1 failure probability is a reasonable bound and the actual failure probability would most likely be smaller. This, in conjunction with other potential bypass paths, such as associated with the core former-downcomer-thermal shield region and other applicable conservatisms is sufficient for us to accept the 0.1 probability used in this risk assessment. The increase from the previously calculated 1.1×10^{-7}/reactor-year is small enough that risk-associated

[3] This calculation assumes the hot-leg nozzle gaps pass water with respect to calculating DHR cooler response. The effect of excluding hot-leg nozzle gap flow is addressed below. The values discussed here are only changed by a small amount.

conclusions from the original analysis remain unchanged.

The new connection between the Train 2 HPI and LPI systems introduces a potential for overpressurization of the Train 2 LPI system if valves are misaligned. The DBNPS evaluated this potential and the measures it will put in place to prevent valve misalignment, and reported an increase in CDF of less than 10^{-8}/reactor-year due to valve misalignment. This is a negligible impact on the overall CDF of 1.63×10^{-5}/reactor-year.

The equipment modification addresses recognized weaknesses in the previous response to BPC and improves the defense-in-depth and safety margins should such conditions be encountered. DBNPS did not provide the calculated CDF and LERF that existed prior to the modification, but we judge the modification would reduce CDF and LERF because it addresses recognized weaknesses. DBNPS calculated that the CDF and LERF due to boron precipitation with the modification would be approximately 1.1×10^{-7}/reactor-year and 1.1×10^{-11}/reactor-year, respectively. These are small when compared to the total CDF and LERF from all causes of 1.63×10^{-5}/reactor-year and 7.3×10^{-8}/reactor-year, respectively. Further, Regulatory Guide 1.174 indicates that increases in CDF and LERF are very small if less than 10^{-6}/reactor-year and 10^{-7}/reactor-year, respectively, and that decreases satisfy the relevant principles of risk-informed regulation. Here, the total contribution is smaller than what RG 1.174 considers to be small as an increase. These comparisons establish that the proposed exemption does not present an undue risk to public health and safety.

V

Pursuant to 10 CFR 50.12, ''* * * The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements * * * which are * * * authorized by law, will not present an undue risk to the public health and safety, * * * are consistent with the common defense and security (and) * * * special circumstances are present * * *.'' Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *.''

The requested exemption is authorized by law and does not affect the systems and processes associated with common defense and security.

As identified above, the requirements of 10 CFR Part 50 apply to BPC and the DBNPS exemption request. With respect to the single-failure aspect of this evaluation, the underlying purpose of the single-failure criterion requirement is to assure long-term cooling performance of the ECCS in the event of the most damaging single-failure of ECCS equipment.

As a licensing review tool, the single-failure criterion helps assure reliable systems as an element of defense in depth. As a design and analysis tool, it promotes reliability through enforced redundancy. Since historically, only those systems or components that were judged to have a credible chance of failure were assumed to fail, the criterion has been applied to such responses as valve movement on demand, emergency diesel generator start, short circuit in an electrical bus, and fluid leakage caused by gross failure of a pump or valve seal during long-term cooling. Reactor vessels or certain types of structural elements within systems, when combined with other unlikely events, were not assumed to fail because the probabilities of the resulting scenarios were deemed sufficiently small that they need not be considered. Certain passive failures 24 hours or more after initiation of a LOCA, such as pipe breaks, were not addressed as single failures because the compounded probabilities were judged sufficiently small that they could be discounted without affecting overall systems reliability.

The single-failure criterion was developed without the benefit of numerical failure assessments. Regulatory requirements and guidance consequently were based upon categories of equipment and examples that must be covered or that are exempt, and do not allow a probabilistic consideration during routine implementation. Hence, a single failure that was not judged to be incredible (exempt) during development of the regulations, whether or not there is a substantial impact upon overall system reliability, will not meet the regulatory requirements. A non-beneficial result is inconsistent with the objective of the single-failure criterion, which was not intended to force changes if essentially no benefit would accrue. This is the case with potential failure of the active means of BPC.

No US plants have encountered LOCA conditions where BPC was of concern. BPC measures are not needed for hot-leg breaks because water will flow through the core, thus preventing significant boric acid buildup, they are not needed if excore thermocouples indicate an adequate subcooling margin because there is no boiling to cause concentration of boric acid, and they are not needed for many of the remaining breaks until decay heat is low because water will flow from the core to the upper downcomer via the RVVVs, thus providing a mechanism to control accumulation of boric acid in the core. Active means for BPC are needed in case one of the above conditions is not satisfied.

The DBNPS will provide two active methods of BPC. The first does not meet the single-failure criterion. The second does not meet regulatory requirements for analyses applicable to an acceptable system and is susceptible to some of the same failures that cause failure of the first. Further, the second has a small likelihood of failing to function when first initiated because core bypass flow is necessary for a short time to prevent conditions where boron precipitation may occur. However, DBNPS has predicted via a conservative assessment that the total BPC-related CDF and LERF are about 10^{-7}/reactor-year and 10^{-11}/reactor-year, respectively. The DBNPS has further described in-depth, proceduralized actions that will be applied to restore an active BPC method should it fail to initiate when called upon. These actions, in combination with the predicted failure rate without the actions, establish that a satisfactory defense-in-depth is provided such that long term cooling performance of the ECCS will continue to be met. Therefore, the requested exemption meets the special circumstances requirement of 10 CFR 50.12(a)(2)(ii) with respect to the single failure criterion requirements.

With respect to the decay heat generation rate specified in appendix K, section I.A.4, the underlying purpose of the heat generation rate is to provide an appropriate value for the ECCS evaluation model. The DBNPS assumed 1.0 times the American Nuclear Society standard infinite operation decay heat generation rate for calculation of the DHR cooler aspects of the backup method whereas appendix K specifies 1.2. The staff considers the use of 1.0 to be more realistic and suitable for probabilistic risk calculations. Therefore, the requested exemption meets the special circumstances requirement of 10 CFR 50.12(a)(2)(ii) with respect to the decay heat generation rate in that use of the 1.2 value is not necessary to achieve the underlying purpose of the rule.

VI

For the foregoing reasons, the NRC staff has concluded that an exemption is acceptable to the requirements of appendix K, section I.D.1, 10 CFR 50.46(b)(5), and 10 CFR 50.46(a)(1)(ii) with respect to the DBNPS active methods for BPC. The NRC staff has determined that there are special circumstances present, as specified in 10 CFR 50.12.(a)(2)(ii), in that application of the specific regulations is not necessary in order to achieve the underlying purpose of these regulations, which is to assure long term cooling performance of the ECCS in the event of the most damaging single failure of ECCS equipment. In addition, the staff has determined that an exemption to appendix K, section I.A.4 is acceptable with respect to the decay heat generation rate. Special circumstances exist in that use of the 1.2 value specified in appendix K, section I.A.4, is not necessary in order to achieve the underlying purpose of the rule.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the requested exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the requested exemption. This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 5th day of May 2000.

For the Nuclear Regulatory Commission.

Suzanne C. Black,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–12129 Filed 5–12–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–146]

GPU Nuclear Corp., Saxton Nuclear Experimental Facility; Notice of Receipt, Availability for Comment, and Meeting To Discuss License Termination Plan

The Nuclear Regulatory Commission (NRC) is in receipt of and is making available for public inspection and comment the License Termination Plan (LTP) for the Saxton Nuclear Experimental Facility (SNEF) located in Saxton, Bedford County, Pennsylvania.

Reactor operations at the SNEF were ended in May 1972. The reactor was defueled and all fuel was removed from the site in 1972. In accordance with NRC regulations in effect at that time, the Saxton Nuclear Experimental Corporation (SNEC) submitted a decommissioning plan for the SNEF to the NRC in February 1996 (GPU Nuclear Corporation (GPUN) became a co-licensee for the SNEF on May 10, 1996). When proposed amendments to the NRC's decommissioning regulations were published in the **Federal Register** on July 29, 1996 (61 FR 39278), the licensee requested that the review of the decommissioning plan be suspended. When the amended regulations became effective on August 28, 1996, the submitted decommissioning plan, as supplemented, became the SNEF Post Shutdown Decommissioning Activities Report (PSDAR) pursuant to 10 CFR 50.82 as amended. A public meeting was held in Saxton, Pennsylvania on January 28, 1997, to provide information and gather pubic comment on the PSDAR. Because of restrictions in the license for the SNEF, a license amendment was needed before decommissioning activities could commence. License Amendment No. 15 to Amended Facility License No. DPR–4 approving decommissioning was issued on April 20, 1998. The facility is undergoing active decontamination and dismantlement.

In accordance with 10 CFR 50.82(a)(9), all power reactor licensees must submit an application for termination of their license. The application for termination of license must be accompanied or preceded by an LTP to be submitted for NRC approval. If found acceptable by the NRC staff, the LTP is approved by license amendment, subject to such conditions and limitations as the NRC staff deems appropriate and necessary. SNEC and GPUN (the licensees) submitted the proposed LTP for the SNEF by application dated February 2, 2000. In accordance with 10 CFR 20.1405 and 10 CFR 50.82(a)(9)(iii), the NRC is providing notice to individuals in the vicinity of the site that the NRC is in receipt of the SNEF LTP, and will accept comments from affected parties. In accordance with 10 CFR 50.82(a)(9)(iii), the NRC is also providing notice that the NRC staff will conduct a meeting to discuss the SNEC LTP on Thursday, May 25, 2000, at 7:00 p.m. at the Saxton Fire Hall located at 8th and Norris Street, Saxton, Pennsylvania 16678.

The SNEF LTP and associated environmental report are available for public inspection at the Commission's Public Document Room, the Gelman Building, at 2120 L Street NW., Washington, DC 20037. They are also available through *http://www.nrc.gov/OPA/reports* under ''What's New on This Page,'' ''Decommissioning,'' or ''Other Documents.''

Dated at Rockville, Maryland, this 2nd day of May 2000.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Chief, Events Assessment, Generic Communications and Non-Power Reactors Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 00–12128 Filed 5–12–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

FirstEnergy Nuclear Operating Co., Davis-Besse Nuclear Power Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption, under certain specified conditions, from the provisions of (1) 10 CFR part 50, appendix K, section I.D.1 which requires that accident evaluations use the combination of emergency core cooling system (ECCS) subsystems assumed to be operative ''after the most damaging single-failure of ECCS equipment has taken place;'' (2) 10 CFR part 50, appendix K, Section I.A.4, which specifies that 1.2 times the American Nuclear Standard ANS–5 decay heat generation rate for an infinite operating time shall be used; and (3) requirements of 10 CFR 50.46(b)(5) and 50.46(a)(1)(ii), be applied for Facility Operating License No. NPF–3, issued to the FirstEnergy Nuclear Operating Company (the licensee), for operation of the Davis-Besse Nuclear Power Station, Unit 1, located in Ottawa County, Ohio.

The Commission is taking an action to approve this request prior to publication in the **Federal Register** of its Environmental Assessment and Finding of No Significant Impact. In accordance with 10 CFR 51.13, the Commission has determined that emergency circumstances are present to support the issuance of this exemption prior to publication in the **Federal Register** in that failure to act in a timely way would result in prevention of resumption of plant operation.

Environmental Assessment

Identification of the Proposed Action

The licensee has requested an exemption from 10 CFR 50.46 and 10 CFR part 50 Appendix K regarding

proposed modifications to the equipment and procedures for boron precipitation control (BPC) during long-term operation following loss of coolant accidents (LOCAs). These modifications would be effective prior to returning to power following the April 2000 refueling outage. The proposed action is in accordance with the licensees' application for exemption dated March 15, 2000, as supplemented by submittal dated April 3, 2000.

The Need for Proposed Action

The Code of Federal Regulations at 10 CFR 50.46 provides acceptance criteria for the ECCS, including long-term cooling requirements in 50.46(b)(5) and an option to develop the ECCS evaluation model in accordance with appendix K requirements (50.46(a)(1)(ii)). Appendix K requires that the ECCS remain operable following the most damaging single failure, and it also specifies the decay heat generation rate that shall be used.

In licensee event report (LER) 98–008 (October 1, 1998), Davis-Besse Nuclear Power Station (DBNPS) reported that for some small-break LOCAs, initiation of its active method of BPC could cause steam binding in the suction piping of both decay heat removal (DHR) pumps. As part of the corrective action for LER 98–008, DBNPS committed to address all issues related to long-term LOCA BPC, and to complete a related plant modification by the end of the 12th refueling outage that began in April, 2000. In response to that commitment, in its March 15, 2000 and April 3, 2000 submittals, the licensee described a new active primary method for BPC—an improved auxiliary spray path into the pressurizer. The licensee also described that a failure anywhere in the flow path could result in failure of this method to provide water to the pressurizer. Consequently, a backup method was provided that uses flow into the decay heat removal suction pipe from a reactor coolant system hot leg pipe. The licensee conducted a common mode failure evaluation of the two methods and identified several areas where a single failure could disable both the primary and backup BPC methods. The licensee further, when establishing that boron precipitation will not occur in the decay heat removal system cooler, credited flow through hot leg nozzle gaps while not establishing that the gaps would always be effective, and it did not include all of the specific conservatisms required by appendix K. The licensee recognized that its changes did not meet all aspects of the single-failure requirement and did not include all of the specific required conservatisms. Consequently, it requested an exemption since it believed it met the intent of the regulations, and it justified its request on the basis of a risk evaluation and conservatisms in calculations that result in over-prediction of the BPC problem. The staff considers that the licensee would also need to be exempted from the specific decay heat generation rate contained in 10 CFR part 50, appendix K, section I.A.4. Approval of this exemption request is needed to permit the licensee to implement its plans to ensure BPC.

Environmental Impacts of the Proposed Action

With regard to potential radiological impacts to the general public, the exemption under consideration involves features located entirely within the restricted area as defined in 10 CFR part 20. The new active methods of BPC are an improvement when compared to the existing methods and the entire issue of BPC has been shown to have little effect on overall risk. The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed actions.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. However, the licensee's exemption request covers improvements in response to a licensee commitment to address an existing deficiency, improvements that will decrease the risk of BPC failure and hence decrease the risk of core damage.

The licensee addressed further hardware improvements to reduce the likelihood of single-failure and established there was little risk benefit in doing so, an assessment the staff determined to be acceptable. There is no significant benefit in this alternative.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement Related to the Operation of DBNPS Unit 1,'' October 1975.

Agencies and Persons Consulted

In accordance with its stated policy, on April 18, 2000, the staff consulted with the Ohio State official, Carol O'Claire, of the Ohio Emergency Management Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letters dated March 15 and April 3, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC. Publicly available records are accessible electronically from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Electronic Reading Room).

Dated at Rockville, Maryland, this 5th day of May 2000.

For the Nuclear Regulatory Commission.

Singh S. Bajwa,

Director, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–12130 Filed 5–12–00; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Interest Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit

Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's web site (http://www.pbgc.gov).

DATES: The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in May 2000. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in June 2000.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is the ''applicable percentage'' (currently 85 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in May 2000 is 4.97 percent (*i.e.*, 85 percent of the 5.85 percent yield figure for April 2000).

The following table lists the assumed interest rates to be used in determining variable-rate premiums for premium payment years beginning between June 1999 and May 2000.

For premium payment years beginning in:	The assumed interest rate is:
June 1999	4.94
July 1999	5.13
August 1999	5.08
September 1999	5.16
October 1999	5.16
November 1999	5.32
December 1999	5.23
January 2000	5.40
February 2000	5.64
March 2000	5.30
April 2000	5.14
May 2000	4.97

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in June 2000 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 8th day of May 2000.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 00–12090 Filed 5–12–00; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel No. IC–24449; 812–12078]

BISYS Fund Services Limited Partnership, et al.; Notice of Application

May 9, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for exemption under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') from section 17(a) of the Act and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants seek an order to permit certain registered investment companies (a) to pay BISYS Fund Services Limited Partnership (''BISYS'') and certain of its affiliated persons fees for acting as lending agent with respect to a securities lending program (''Program''); (b) to lend portfolio securities to affiliated broker-dealers; (c) to deposit cash collateral received in connection with the Program and other uninvested cash in one or more joint trading accounts; and (d) to use cash collateral received in connection with the Program to purchase shares of an affiliated private investment company, BISYS Securities Lending Management LC (the ''Trust'').

APPLICANTS: BISYS, BISYS Fund Services Ohio, Inc. (''BISYS ohio''), the Trust, Fifth Third Funds, Fifth Third Bank, BB&T Funds, Branch Banking & Trust Company (''BB&T''), Pacific Capital Funds, Pacific Century Trust (''Pacific Century''), AmSouth Funds, AmSouth Bank (''AmSouth''), Nationwide Mutual Funds, Nationwide Separate Account Trust (collectively, Nationwide Mutual Funds and Nationwide Separate Account Trust are the ''Nationwide Funds''), Union Bond & Trust Company (''Union''), and Villanova Mutual Fund Capital Trust (''Villanova'') (collectively, the Fifth Third Funds, BB&T Funds, Pacific Capital Funds, AmSouth Funds, and the Nationwide Funds are the ''Funds'').

FILING DATES: The application was filed on April 21, 2000. 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 June 5, 2000, and should be accompanied by proof of service on the 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, NW., Washington, DC 20549–0609. The Trust, AmSouth Funds, BB&T Funds, Pacific Capital Funds, BISYS Ohio, and BISYS, 3435 Stelzer Road, Columbus, Ohio 43219–3035; AmSouth Bank, 1901 Sixth Avenue-North, Birmingham, Alabama 35203; BB&T, 435 Fayetteville Street Mall, Raleigh, North Carolina 27601; Fifth Third Funds and Fifth Third, 38 Fountain Square Plaza, Cincinnati, Ohio 45263; Pacific Century, Financial Plaza of the Pacific, 111 S. King Street, Honolulu, Hawaii 96813; Nationwide Funds and Villanova, Three Nationwide Plaza, Columbus, Ohio 43216; and Union, 5665 SW Meadows Road, Lake Oswego, Oregon 97035.

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 is available for a fee at the SEC's Public Reference Branch, 450 5th Street, N.W., Washington, D.C. 20549 (telephone (202) 942–8090).

Applicant's Representations

1. The Funds, with the exception of Nationwide Mutual Fund which is an Ohio trust, are Massachusetts business trusts. Each Fund is an open-end management investment company registered under the Act. Each Fund consists of multiple portfolios (''Portfolios''). The investment adviser for BB&T Fund is BB&T, for AmSouth Funds is AmSouth, for Fifth Third Funds is Fifth Third or Heartland Capital Management, Inc., for Pacific Capital Funds is Pacific Century, and for Nationwide Separate Account Trust is Villanova. Villanova and Union serve as investment advisers to the Portfolios of the Nationwide Mutual Fund, except for certain Portfolios which are ''feeder'' funds with a ''master'' fund advised by Fund Asset Management, L.P. The BB&T Fund, AmSouth Funds, and Pacific Capital Funds are in the BB&T, AmSouth, and Pacific Capital group of investment companies, respectively, within the meaning of section 12(d)(1)(G) of the Act.

2. BISYS is the administrator and distributor for each of the Fifth Third Fund's Portfolios and the distributor for the Portfolios of AmSouth Fund, BB&T Funds, and the Pacific Capital Funds. BISYS Ohio serves as: (a) The transfer and dividend disbursing agent and fund accountant for the Portfolios of the BB&T; (b) the transfer agent for the Portfolios of the AmSouth Portfolios; and (c) the fund accountant for the Portfolios of Pacific Capital Fund. BISYS serves as the sub-administrator to the Nationwide Funds. BISYS and BISYS Ohio are wholly-owned subsidiaries of the BISYS Group, Inc.

3. BB&T is the principal bank affiliate of BB&T Corporation, a bank holding corporation. AmSouth is a bank affiliate of AmSouth Bancorporation, a banking institution. Fifth Third is a bank subsidiary of Fifth Third Bancorp. Pacific Century is a trust firm and a division of Bank of Hawaii. Villanova is an investment adviser and is under the indirect control of Nationwide Mutual Insurance Company. Union is a state bank and trust company. Villanova is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). BB&T, AmSouth, Fifth Third, Pacific Century, and Union are exempt from registration under the Advisers Act.

4. The Trust is a Delaware limited liability company and currently consists of two portfolios (together with any future portfolios, each an ''Investment Fund''). Currently, it is intended that AmSouth serve as investment adviser to the Trust (''Trust Adviser'') but one or more of the other Advisers (defined below) may also serve as investment adviser to the Trust. Each Investment Fund will value its securities based on the amortized cost method and comply with rule 2a–7 under the Act.

5. Trust shares will be offered to the Lending Funds (defined below) and other participants in the Program in reliance on the exemption provided by Regulation D under the Securities Act of 1933. The Trust will operate as a private investment company excluded from the definition of ''investment company'' pursuant to section 3(c)(1) or (7) of the Act. Trust shares will have no voting rights and may not be transferred without the consent of the trustee. BISYS will be the sole trustee (''Trustee''), will oversee the Trust's operations, and will provide accounting and administrative services to the Trust. BISYS and the Trust Adviser will be compensated by the Trust for their services. Trust share will not be subject to any sales load, redemption fee, asset-based sales charge, or service fee.

6. Applicants request that relief be extended to: (a) Any registered management investment company or series of a registered management investment company for which BISYS, or any person controlling, controlled by, or under common control with BISYS, now or in the future, serves as principal underwriter, administrator, or distributor and for which AmSouth, BB&T, Fifth Third, Pacific Century, Villanova, or Union or any person controlling, controlled by, or under common control with AmSouth, BB&T, Fifth Third, Pacific Century, Villanova, or Union (each, an ''Adviser'') [1] now or in the future serves as investment adviser (collectively with the Funds, each a ''Fund''); (b) BISYS and any person controlling, controlled by, or under common control with BISYS, including registered broker-dealers that are controlling, controlled by or under common control with BISYS (the ''Affiliated Broker-Dealers''); and (c) the Trust and any other private investment company organized by BISYS or any person controlling, controlled by, or under common control with BISYS and advised by an Adviser (any future private investment companies are also the ''Trust'' and their series the ''Investment Funds'').[2]

7. Several of the Portfolios currently participate in the program administered by BISYS Ohio. Each Fund that participates in the Program (''Lending Fund'') will be permitted to lend its portfolio securities, and its prospectus will disclose that it may engage in portfolio securities lending. Currently, BISYS Ohio provides administrative services in connection with the Program and engages an independent third-party to act as securities lending agent for the Lending Funds. In the future, BISYS Ohio may act as securities lending agent (collectively with the third-party lending agents, the ''Lending Agent'')

8. Under the Program, the Lending Agent enters into agreements with borrowers (''Borrowers'') to lend them portfolio securities of the Lending Fund (''Securities Loan Agreements''). Pursuant to the Securities Loan Agreements, the Lending Agent delivers the Lending Fund's portfolio securities to Borrowers in exchange for cash collateral or other types of collateral, such as U.S. Government securities. Cash collateral is delivered in connection with most loans. The Lending Agent invests the cash collateral on behalf of the Lending Fund in accordance with specific parameters set forth in the Securities Loan Agreement. These guidelines include permissible investment of the cash collateral as well as a list of eligible types of investments.

9. With respect to securities loans that are collateralized by cash, the Borrower is entitled to receive a fixed fee based on the amount of cash held as collateral. The Lending Fund in this case is compensated on the spread between the net amount earned on the investment of the cash collateral and the Borrower's cash collateral fee. In the case of collateral that is other than cash, the Lending Fund receives a loan fee paid by the Borrower equal to a percentage of the market value of the loaned securities as specified in the Securities Loan Agreement.

10. The applicants request relief to permit: (a) The Funds for which BISYS serves as distributor to pay and BISYS Ohio or any person controlling, controlled by, or under common control

[1] Each Adviser will be registered under the Advisers Act or exempt from registration.

[2] All existing entities that currently intend to rely on the requested relief have been named as applicants. Any existing and future entity may reply on the order in the future only in accordance with the terms and conditions in the application.

with BISYS, to accept fees based on a share of the proceeds derived by the Funds from their securities lending transactions, for services as Lending Agent; (b) the Funds to deposit cash collateral received in connection with their securities lending activities and other uninvested cash [3] (''Uninvested Cash'') in one or more joint trading accounts or subaccounts (the ''Joint Accounts''); (c) the Funds to use some or all of the cash collateral received in connection with their securities lending activities to purchase shares of the Trust and the Trust to redeem shares from the Funds; and (d) the Funds for which BISYS serves as distributors to lend portfolio securities to Affiliated Broker-Dealers.

Applicants' Legal Analysis

A. Payment of Fees by Lending Funds to BISYS Ohio

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of or principal underwriter for a registered investment company or any affiliated person of such person or principal underwriter, acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan, in which the investment company participates. Section 2(a)(3) of the Act defines an affiliated person to include any person directly or indirectly controlling, controlled by, or under common control with, the other person. Because BISYS Ohio and BISYS (the principal underwriter for the Funds except the Nationwide Funds) are each wholly-owned subsidiaries of the The BISYS Group, Inc., they may be deemed to be under ''common control'' and therefore affiliated persons, and BISYS Ohio may be deemed an affiliated person of the principal underwriter for each lending Fund. Accordingly, applicants request an order under section 17(d) of the Act and rule 17d–1 under the Act to the extent necessary to permit each lending Fund (except the Nationwide Funds for which no relief is requested) to pay and BISYS Ohio, or any other person controlling, controlled by, or under common control with BISYS, to accept fees that are based on a share of the proceeds derived by the Lending Funds in connection with services provided as Lending Agent.

2. Rule 17d–1 permits the SEC to approve a proposed joint transaction covered by the terms of section 17(d). In determining whether to approve a transaction, the SEC is to consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants.

3. Applicants propose that each lending Fund adopt the following procedures to ensure that the proposed fee arrangement and the other terms governing the relationship with BISYS Ohio, as Lending Agent, will meet the standards of rule 17d–1:

(a) In connection with the approval of BISYS Ohio as lending agent for a Lending Fund and implementation of the proposed fee arrangement, a majority of the board of directors or trustees (the ''Board'') (including a majority of the directors or trustees who are not ''interested persons'' within the meaning of the Act (the ''Disinterested directors'') of the lending Fund swill determine that (i) the contract with BISYS Ohio is in the best interests of the Lending Fund and its shareholders; (ii) the services to be performed by BISYS Ohio are appropriate for the Lending Fund; (iii) the nature and quality of the services provided by BISYS Ohio are at least equal to those offered and provided by other; and (iv) the fees for BISYS Ohio's services are fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

(b) Each Lending Fund's contract with BISYS Ohio for lending agent services will be reviewed annually and will be approved for continuation only if a majority of the Board (including a majority of the Disinterested directors) makes the finding referred to in paragraph (a) above.

(c) In connection with the initial implementation of the proposed fee arrangement whereby BISYS Ohio will be compensated as lending Agent based on a percentage of the revenue generated by a Lending Fund's participation in the Program, the Board will obtain competing quotes with respect to lending agent fees from at least three independent lending agents to assist the Board in making the findings referred to in paragraph (a) above.

(d) The Board, including a majority of the Disinterested directors, will (i) determine at each regular quarterly meeting that the loan transactions during the prior quarter were effected in compliance with the conditions and procedures set forth in the application and (ii) review no less frequently than annually the conditions and procedures for continuing appropriateness.

(e) Each Lending Fund will (i) maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions (and any modifications) described in the application or otherwise followed in connection with lending securities pursuant to the Program and (ii) maintain and preserve for a period not less than six years from the end of the fiscal year in which any loan transaction pursuant to the Program occurred, the first two years in an easily accessible place, a written record of each loan transaction setting forth a description of the security loaned, the identity of the person on the other side of the loan transaction, the term of the loan transaction, and the information or materials upon which the determination was made that each loan was made in accordance with the procedures set forth above and the conditions to the application.

B. Investment of Uninvested Cash and Cash Collateral in the Joint Accounts

1. The Funds propose to deposit some or all of their cash collateral and Uninvested Cash in the Joint Accounts established at the Fund's custodian for the purpose of investing in one or more of the following: (a) Repurchase agreements ''collateralized fully'' as defined in rule 2a–7 under the Act,[4] (b) U.S. dollar denominated commercial paper and (c) any other short-term money market instruments that constitute ''Eligible Securities'' (as defined in rule 2a–7 under the Act) that are not subject to contractual or other restrictions on resale (collectively, ''Short-Term Investments''). Each Fund may deposit its Uninvested Cash or cash collateral only in a Joint Account that is advised by that Fund's Adviser. Each Fund (the Funds that are eligible to participate and elect to participate in the Joint Accounts are the ''Participants'') will have the option to participate in any joint Account on the same basis as every other Fund, subject to and in conformity with its own investment objectives, policies, and restrictions. The Adviser to a Joint Account will be responsible for investing funds held by the Joint Accounts BISYS, under the supervision of the Adviser, will be responsible for establishing accounting and control

[3] Uninvested cash may occur in connection with a Fund maintaining cash reserves to meet redemption requests or as a result of late day purchases by shareholders.

[4] The Funds will enter into ''hold-in-custody'' repurchase agreements (*i.e.,* repurchase agreements where the counterparty or one of its affiliated person may have possession of, or control over, the collateral subject to the agreement) only where cash is received late in the business day and otherwise would be unavailable for investment.

procedures, operating the Joint Accounts in accordance with the procedures described in the application, and ensuring fair treatment of the Participants.

2. As noted above, section 17(d) and rule 17d–1 generally prohibit joint transactions involving registered investment companies and certain of their affiliates unless the SEC has approved the transaction. Applicants state that the Participants, by participating in the proposed Joint Accounts, and the Adviser (as the investment adviser to the Participants) and BISYS, (as the principal underwriter for each Participant except the Nationwide Funds) by administering the proposed Joint Accounts, could be deemed to be ''joint participants'' in a transaction within the meaning of section 17(d) of the Act. In addition, the proposed Joint Accounts could be deemed to be a ''joint enterprise or other joint arrangement'' within the meaning of rule 17d–1 under the Act. Accordingly, applicants request an order under section 17(d) and rule 17d–1 under the Act to permit them to engage in the proposed Joint Accounts. Applicants believe that the requested relief meets the standards of rule 17d–1 for the reasons discussed below.

3. Applicants state that any repurchase agreement entered into through the Joint Accounts will comply with the terms of Investment Company Act Release No. 13005 (Feb. 2, 1983). Applicants acknowledge that they have a continuing obligation to monitor the SEC's published statements on repurchase agreements, and represent that repurchase agreement transactions will comply with future positions of the SEC to the extent that such positions set forth different or additional requirements regarding repurchase agreements. In the event that the SEC sets forth guidelines with respect to the other Short-Term Investments made through the Joint Accounts, the investments will comply with those guidelines.

4. The Joint Accounts may comprise multiple joint subaccounts, if BISYS or the Adviser determines that multiple joint subaccounts are necessary or advisable to provide the Funds with additional flexibility and choice in the Short-Term Investments in which they choose to invest. Joint subaccounts may also be established for other reasons, such as to facilitate monitoring of individual Funds' interests in different Short-Term Investments, consistent with the variations in investment restrictions and policies among the various Funds.

5. Each Fund's decision to invest in a Joint Account will be solely at the options of its Adviser within the standards and procedures established by that Fund's Board, and no Fund will be required to maintain any minimum balance. To eliminate any possibility of one Fund using any part of the balance of a Joint Account credited to another Fund, no Fund will be allowed to create a negative balance in any Joint Account for any reason. Each Fund will retain sole rights to all of the assets invested by it in the Joint Accounts, including interest payable on the assets.

6. Applicants believe that each Participant's investment in a Joint Account would not be subject to the claims of creditors, whether brought in bankruptcy, insolvency or other legal proceeding, of any other Participant. Each Fund's liability on any Short-Term Investment through the Joint Account will be limited to its own interest in the Short-Term Investment.

7. Applicants believe that the proposed method of operating the Joint Accounts will not result in any conflicts of interest between any of the Funds or between any Funds and BISYS or the Fund's Adviser. Applicants state that although BISYS will likely gain some benefit through the administrative convenience of the Funds investing in Short-Term Investments on a joint basis, and may experience some reduction in clerical costs, the Funds will be the primary beneficiaries because of the increased efficiencies realized through use of the Joint Accounts, the possible increase in rates of return available, and, for some Funds, the opportunity to invest in Short-Term Investments. Neither the Adviser nor BISYS will receive any additional fees from the Funds for the administration of the Joint Accounts.

C. Investment of Cash Collateral in Shares of the Trust

1. As noted above, section 17(d) and rule 17d–1 generally prohibit joint transactions involving registered investment companies and certain of their affiliates unless the SEC has approved the transaction. Applicants state that the Funds (by purchasing and redeeming Trust shares), BISYS as principal underwriter of the Funds at the same time that the Fund's cash collateral is invested in Trust shares, and as Trustee and service provider to the Trust at the same time that the Trust sells Trust shares to and redeems them from the Funds, BYSIS Ohio (by acting as Lending Agent), and the Trust (by selling shares to and redeeming them for the Funds) could be deemed to be participants in a joint enterprise or arrangement within the meaning of section 17(d) of the Act and rule 17d–1 under the Act.

2. 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. BISYS is the principal underwriter for the Lending Funds (except the Nationwide Funds). The Trust may be considered an affiliated person of BISYS under section 2(a)(3) of the Act because of BISYS' role as Trustee. In addition, since the Trust Adviser will be an investment adviser to the Trust as well as to a Lending Fund, the Trust Adviser would be an affiliated person of any Lending Fund it advises and the Trust would be a Second-Tier Affiliate of the Lending Funds. Accordingly, the sale of shares of the Trust to the Fund, and the redemption of such shares from the Fund, would be prohibited under section 17(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 request an order under sections 6(c), 17(b), and 17(d) of the Act and rule 17d–1 under the Act to permit the Lending Funds to purchase and redeem Trust shares from the Trust and the Trust to sell and redeem Trust shares to and from the Lending Funds. Applicants state that a Fund's cash collateral will be invested in a particular Investment Fund only if the Investment Fund invests in the types of instruments that the Lending Fund has authorized for the investment of its cash collateral. Each Investment Fund will comply with rule 2a–7 under the Act.

5. Applicants state that the Lending Funds will purchase, hold and redeem Trust shares on the same basis as any other holder of Trust shares. Applicants assert that by investing cash collateral in Trust shares as proposed, the Lending

Funds will be able to achieve liquidity, diversification and quality of investments at a cost that is expected to be lower than the cost typically incurred when investing in a registered investment company. Further, each Investment Fund will comply with sections 17(a), (d), (e), and 18 of the Act as if the Trust were a registered open-end investment company. With respect to all redemption requests made by a lending Fund, the Trust will comply with section 22(e) of the Act.

D. Lending of Portfolio Securities to Affiliated Broker-Dealers

1. Section 17(a)93) of the Act makes it unlawful for any affiliated person for principal underwriter for a registered investment company or their Second-Tier Affiliates, acting as principal, to borrow money or other property from the registered investment company. Section 2(a)(3) of the Act defines the term affiliated person of an other person to include any person under common control with that other person. Under section 2(a)(3) of the Act, BISYS and the Affiliated Broker-Dealers may be deemed to be persons under common control and thus affiliated persons of each other. Accordingly, for purposes of section 17(a)(3) of the Act, the Affiliated Broker-Dealers may be affiliated persons of the Funds' (except the Nationwide Funds) principal underwriter, BISYS, and thus prohibited form borrowing portfolio securities from the Funds.

2. As noted above, section 17(d) and rule 17d–1 generally prohibit joint transactions involving registered investment companies and certain of their affiliates unless the SEC has approved the transaction. The Funds request relief under sections 6(c) and 17(b) of the Act exempting them from section 17(a)(3) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit the Funds to lend portfolio securities to Affiliated Broker-Dealers. Relief is not being requested with respect to the Nationwide Funds. Applicants state that the Funds seek to diversify the Borrower to when they lend in order to ensure the stability and efficiency of the Program. Applicants submit that because only a few Borrowers may seek to borrow a particular security at a given time, a prohibition on lending to Affiliated Broker-Dealers could disadvantage a Fund.

3. Applicants state that each loan to an Affiliated Broker-Dealer by a Fund will be made with a spread that is no lower than that applied to comparable loans to unaffiliated broker-dealers.[5] In this regard, applicants state that at least 50% of the loans made by the Funds, on an aggregate basis (by each ''group of investment companies,'' as defined in section 12(d)(1)(G) of the Act), will be made to unaffiliated Borrowers. Moreover, all loans will be made with spreads that are no lower than those set forth in a schedule of spreads established by the Board of each Fund, including a majority of the Disinterested Directors. All transactions with the Affiliated Broker-Dealers will be reviewed periodically by the officers of the Funds. Quarterly, officers of the Funds will be reviewed periodically by the officers of the Funds. Quarterly, officers of the Funds and the Lending Agent will present reports on the lending transactions to the Board, including a majority of the Disinterested Directors, for their review.

Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions.

A. General

1. Any Fund or Investment Fund that relies on the requested order will be advised by the Adviser and distributed or administered by BISYS, or any entity controlling, controlled by, or under common control with BISYS.

2. The securities lending program of each Fund will comply with all present and future applicable SEC and staff positions regarding securities lending arrangements.

B. Joint Accounts

1. Joint Accounts will be established as one or more separate cash accounts on behalf of the Funds at a custodian. Each Fund may deposit, daily, all or a portion of its Uninvested Cash and cash collateral into the Joint Accounts. Each Fund may deposit its Uninvested Cash or cash collateral only in a Joint Account that is advised by that Fund's Adviser.

2. Cash in the Joint Accounts will be invested in one or more Short-Term Investments, as directed by the Adviser. Short-Term Investments that are repurchase agreements will have a remaining maturity of 60 days or less and other Short-Term Investments will have a remaining maturity of 90 days or less, each as calculated in accordance with rule 2a–7 under the Act. Cash collateral in a Joint Account would be invested in Short-Term Investments which have a remaining maturity of 397 days or less, as calculated in accordance with rule 2a–7 under the Act.

3. All Short-Term Investments invested in through the Joint Accounts will be valued on an amortized cost basis. Each Fund that relies upon rule 2a–7 under the Act will use the dollar-weighted average maturity of a Joint Account's Short-Term Investments for the purpose of computing that Fund's average portfolio maturity with respect to the portion of the cash held by it in that Joint Account.

4. The Fund's Adviser, fund accountant, pricing agent, and custodian will maintain records (in conformity with section 31 of the Act and the rules and regulations under the Act) documenting, for any given day, the Fund's aggregate investment in the Joint Account and the Fund's *pro rata* share of each Short-Term Investment made through the Joint Account.

5. Short-Term Investments held in a Joint Account generally will not be sold prior to maturity except if: (a) the Adviser believes the investment no longer presents minimal credit risks; (b) the investment no longer satisfies the investment criteria of all Participants in the investment because of downgrading or otherwise; or (c) in the case of a repurchase agreement, the counterparty defaults. Any Short-Term Investment (or any fractional portion thereof), however, may be sold on behalf of some or all Participants prior to the maturity of the investment if the cost of such transactions will be borne solely by the selling Participants and the transaction will not adversely affect other Participants participating in that Joint Account. In no case would an early termination by less than all Participants be permitted if it would reduce the principal amount or yield received by other Participants in a particular Joint Account or otherwise adversely affect the other Participants. Each Participant in a Joint Account will be deemed to have consented to such sale and partition of the investment in the Joint Account.

6. Short-Term Investments held through a Joint Account with a remaining maturity of more than seven days, as calculated pursuant to rule 2a–7 under the Act, will be considered illiquid and will be subject to the restriction that a Fund may not invest more than 15% or, in the case of a money market fund, more than 10% (or, in either such case, such other percentage as set forth by the SEC from

[5] A ''spread'' is the compensation earned by a Fund, as lender, from a securities loan. The compensation is in the form either of a lending fee payable by the borrower to the Fund (where non-cash collateral is posed) or of the excess—retained by the Fund—over a rebate rate payable by the Fund to the borrower (where cash collateral is posted and then invested by the Fund).

time to time) of its net assets in illiquid securities, if the instrument, or the Fund's fractional interest in such instrument, cannot be sold pursuant to the preceding condition.

7. To assure that there will be no opportunity for one Fund to use any part of a balance of any Joint Account credited to another Fund, no Fund will be allowed to create a negative balance in any Joint Account for any reason, although each Fund will be permitted to draw down its *pro rata* share of the entire balance at any time. Each Fund's decision to invest through the Joint Accounts shall be solely at the option of that Fund and the Adviser (within the standards and procedures established by the Fund's Board), and no Fund will be obligated, in any way, to invest through, or to maintain any minimum balance in, the Joint Accounts. In addition, each Fund will retain the sole rights to any of the cash, including interest payable on the cash, invested by that Fund through the Joint Accounts.

8. Each Fund will participate in the income earned or accrued in the Joint Account through which it is invested on the basis of its percentage share of the total balance of the Joint Account on that day.

9. The Adviser will be responsible for investing funds held by the Joint Accounts. BISYS will administer the Joint Accounts in accordance with the standards and procedures established by the Board of the Funds as part of its duties under the existing or any future administrative contract with the Funds. Neither BISYS nor the Adviser will receive additional or separate fees for advising or administering the Joint Accounts.

10. The administration of the Joint Accounts will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 under the Act.

11. The Board of each Fund investing in Short-Term Investments through the Joint Accounts will adopt procedures pursuant to which the Joint Accounts will operate, which procedures will be reasonably designed to provide that requirements of the requested order will be met. In addition, not less frequently than annually, the Board will evaluate the Joint Account arrangements, will determine whether the Joint Accounts have been operated in accordance with the adopted procedures, and will authorize a Fund's continued participation in the Joint Accounts only if the Board determines that there is a reasonable likelihood that such continued participation would benefit that Fund and its shareholders.

12. The Joint Accounts will not be distinguishable from any other accounts maintained by a Fund with a custodian except that cash from various Funds will be deposited in the Joint Accounts on a commingled basis. The Joint Accounts will not have a separate existence and will not have indicia of a separate entity. the sole function of the Joint Accounts will be to provide a convenient way of aggregating individual transactions that would otherwise require daily management and investment by each Fund of its cash.

13. All transactions in Short-Term Investments that are repurchase agreements will be effected in accordance with Investment Company Act Release No. 13005 (February 2, 1983) and with future positions taken by the Commission or the staff by rule, release, or no-action letter.

C. The Trust

1. A majority of the Board of the Lending (including a majority of the Disinterested Directors), will initially and at least annually thereafter determine that the investment of cash collateral in Trust shares is in the best interests of the Lending Fund and its shareholders.

2. Investment in Trust shares by a particular Lending Fund will be consistent with that Lending Fund's investment objectives and policies.

3. Each Investment Fund will comply with rule 2a–7 under the Act. Each Investment Fund will value its shares, as of the close of business on each business day, using the ''amortized cost method,'' as defined in rule 2a–7 under the Act, to determine the net asset value per share of the Investment Fund. The Trust will, subject to approval of the Trustee, adopt the monitoring procedures described in rule 2a–7(c)(7) under the Act and the Adviser will comply with these procedures and take any other actions as are required to be taken pursuant to these procedures.

4. The Trust will comply as to each Investment Fund with the requirements of sections 17(a), (d) and (e), and 18 of the Act as if the Trust were a registered open-end investment company. With respect to all redemption requests made by a Lending Funding, the Trust will comply with section 22(e) of the Act. The Adviser shall, subject to approval by the Trustee, adopt procedures designed to ensure that the Trust complies with sections 17(a), (d) and (e), 18, and 22(e) of the Act. The Adviser also will periodically review and periodically update as appropriate such procedures and will maintain books and records describing such procedures, and maintain the records required by rules 31a–1(b)(1), 31a–1(b)(2)(ii), and 31a–1(b)(9) under the Act. All books and records required to be kept pursuant to this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the SEC and the staff.

5. The net asset value per share with respect to Trust shares will be determined separately for each Investment Fund by dividing the value of the assets belonging to that Investment Fund, less the liabilities of that Investment Fund, by the number of Trust shares outstanding with respect to that Investment Fund.

6. The Trust shares will not be subject to a sales load, redemption fee, any asset-based sales charge or service (as defined in rule 2830(b)(9) of the Conduct Rules of the National Association of Securities Dealers, Inc.).

7. Each Lending fund will purchase and redeem Trust shares as of the same time and at the same price, and will receive dividends and bear its proportionate share of expenses on the same basis, as other shareholders of the Trust. A separate account will be established in the shareholder records of the Trust for the account of each Lending fund.

8. The Investment fund will not acquire any securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

D. Lending to Affiliated Broker-Dealers

1. The Funds, on an aggregate basis (by each ''group of investment companies,'' as defined in section 12(d)(1)(G) of the Act), will make at least 50% of their portfolio securities loans to unaffiliated Borrowers.

2. The total value of securities loaned to any one broker-dealer on the approved list will be in accordance with a schedule to be approved by the Fund's Board, but in no event will the total value of securities lent to any one Affiliated Broker-Dealer exceed 10% of the net assets of the Fund, computed at market.

3. A Fund will not make any loan to an Affiliated Broker-Dealer unless the income attributable to such loan fully covers the transaction costs incurred in making such loan.

4. (a) All loans will be made with spreads no lower than those set forth in the schedule of spreads which will be established and may be modified from time to time by each Fund's full Board and by a majority of the Disinterested Directors (''Schedule of Spreads'').

(b) The Schedule of Spreads will set forth rates of compensation to the Fund that are reasonable and fair and that are determined in light of those considerations set forth in the application.

(c) The Schedule of Spreads will be uniformly applied to all Borrowers of the Fund's portfolios securities, and will specify the lowest allowable spread with respect to a loan of securities to any Borrower.

(d) If a security is loaned to an unaffiliated Borrower with a spread higher than the minimum set forth in the Schedule of Spreads, all comparable loans to an Affiliated Broker-Dealer will be made at no less than the higher spread.

(e) The Fund's Program will be monitored on a daily basis by an officer of the Fund who is subject to section 36(a) of the Act. This officer will review the terms of each loan to an Affiliated Broker-Dealer for comparability with loans to unaffiliated Borrowers and conformity with the Schedule of Spreads, and will periodically, and at least quarterly, report his or her findings to the Fund's Board, including a majority of the Disinterested Directors.

5. The Fund's Board, including a majority of the Disinterested Directors, (a) will determine no less frequently than quarterly that all transaction with Affiliated Broker-Dealers effected during the preceding quarter were effected in compliance with the requirements of the procedures adopted by the Board and the conditions of the requested order and that such transactions were conducted on terms which were reasonable and fair; and (b) will review no less frequently than annually such requirements and conditions for their continuing appropriateness.

6. The Funds will maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) which are followed in lending securities and shall maintain and preserve for a period of not less than six years from the end of the fiscal year in which any loan occurs, the first two years in an easily accessible place, a written record of each loan setting forth the number of shares loaned, the face amount of the securities loaned, the fee received (or the rebate rate remitted), the identity of the Borrower, the terms of the loan and any other information or materials upon which the finding was made that each loan made to an Affiliated Broker-Dealer was fair and reasonable and that the procedures followed in making such loan were in accordance with the other undertakings set forth in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–12133 Filed 5–12–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

First Allmerica Financial Life Insurance Company, et al.

May 5, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order of approval pursuant to Section 26(b) of the Investment Company Act of 1940 (the ''Act'') and an order granting exemptive relief pursuant to Section 17(b) of the Act.

Summary of Application: Applicants seek an order under Section 26(b) of the Act approving the proposed substitution of shares of the Investment Grade Income Fund of AIT for shares of the Select Income Fund of AIT and for shares of Strategic Income Portfolio of Fulcrum held by the First Allmerica Separate Accounts and the Allmerica Financial Life Separate Accounts to support certain variable life insurance contracts or variable annuity contracts (collectively, the ''Variable Contracts'') issued by First Allmerica or Allmerica Financial Life. Applicants also seek an order under Section 17(b) of the Act exempting them from Section 17(a) to the extent necessary to permit the Applicants, by means of in-kind redemptions and purchases, to carry out the above-referenced substitutions of securities.

Applicants: First Allmerica Financial Life Insurance Company (''First Allmerica''); Allmerica Select Separate Account, Allmerica Select Separate Account II, Fulcrum Separate Account, Group VEL Account, Inheritage Account, Separate Account VA–K and VEL II Account (collectively, the ''First Allmerica Separate Accounts''); Allmerica Financial Life Insurance and Annuity Company (''Allmerica Financial Life''); Allmerica Select Separate Account, Allmerica Select Separate Account II, Fulcrum Separate Account, Fulcrum Variable Life Separate Account, Group VEL Account, Inheritage Account, Select Account III, Separate Account IMO, Separate Account VA–K, VEL Account, VEL II Account and VEL Account III (collectively, the ''Allmerica Financial Life Separate Accounts''); Allmerica Investment Trust (''AIT'') and the Fulcrum Trust (''Fulcrum'') (collectively, the ''Applicants'').

Filing Date: The application was filed on January 31, 2000, and amended and restated on May 3, 2000.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the SEC's Secretary and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on May 30, 2000 and must be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, Richard M. Reilly, President, Allmerica Financial Life Insurance and Annuity Company, 440 Lincoln Street, Worcester, MA 01653, and copy to George M. Boyd, Esq., First Allmerica Financial Life Insurance Company, N–440, 440 Lincoln Street, Worcester, MA 01653.

FOR FURTHER INFORMATION CONTACT: Ann L. Vlcek, Senior Counsel, or Keith Carpenter, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, DC 20549–0102.

Applicants' Representations

1. First Allmerica was organized under the laws of Massachusetts in 1844. Effective October 16, 1995, the company converted from a mutual life insurance company known as State Mutual Life Assurance Company of America to a stock life insurance company and adopted its present name. The company is a wholly-owned subsidiary of Allmerica Financial Corporation (''AFC'').

2. Allmerica Financial Life is a life insurance company organized under the laws of Delaware in July 1974. Allmerica Financial Life is an indirect, wholly-owned subsidiary of First Allmerica, which in turn is a wholly-owned subsidiary of AFC.

3. Each Applicant separate account is a ''separate account'' as defined by Rule 0–1(e) under the Act, and is registered under the Act as a investment trust. Each of the 19 Applicant separate accounts is a segregated asset account of the indicated Applicant insurance company. Each of the respective Applicant separate accounts is used by the Applicant insurance company of which it is a part to fund certain variable annuity or variable life contracts. Applicant insurance companies may issue additional variable contracts funded by Applicant separate accounts in the future. Certain sub-accounts of the respective Applicant separate accounts are dedicated to owning shares of one of the investment portfolios of AIT or one of the investment portfolios of Fulcrum (AIT and Fulcrum are sometimes referred to collectively herein as the ''Underlying Funds''). Accordingly, each AIT or Fulcrum sub-account reflects the investment performance of that portfolio of AIT or Fulcrum in which the sub-account invests.

4. Each Applicant separate account is administered and accounted for as part of the general business of the Applicant insurance company of which it is a part. The income, gains or losses (realized or unrealized) of each Applicant separate account are credited to or charged against the assets of that separate account, without regard to income, gains or losses of such Applicant insurance company.

5. As noted above, each of the Applicant separate accounts serves as a funding vehicle for certain Variable Contracts. The terms and conditions, including charges and expenses, applicable to the respective Variable Contracts are described in separate registration statements relating to each Variable Contracts. As the Variable Contracts are currently structured, holders of any of the Variable Contracts (''Contractholders'') may select one or more of the investment options available under the Variable Contract held by the allocating premiums payable under such contracts to that sub-account of the relevant Applicant separate account that corresponds to the investment option desired. Thereafter, Contractholders accumulate funds, on a tax-deferred basis, based on the investment experience of the selected sub-account(s). Contractholders may, during the life of the contract, make unlimited transfers of accumulation values among the sub-accounts available under the Variable Contract held. Depending on the type of Variable Contract, the first six or twelve transfers in a contract year are guaranteed to be free of any transfer charge. The Applicant insurance companies do not currently charge for additional transfers but reserve the right to do so. Applicants represent that the relief requested here will not affect any charge to which any Contractholder would otherwise be subject, or affect any right or privilege to which any Contractholder would otherwise be entitled (except for the substitution in the underlying investment options, as described herein).

6. AIT is a Massachusetts business trust that was established on October 11, 1984 and is registered under the Act as an open-end diversified investment company. AIT currently consists of 14 different Funds: Select Emerging Markets Fund, Select Aggressive Growth Fund, Select Capital Appreciation Fund, Select Value Opportunity Fund, Select International Equity Fund, Select Growth Fund, Select Strategic Growth Fund, Growth Fund, Equity Index Fund, Select Growth and Income Fund, Select Income Fund, Investment Grade Income Fund, Government Bond Fund and Money Market Fund (collectively, the ''Funds,'' and each, a ''Fund''). Currently, shares of each Fund are purchased only by the separate accounts established by First Allmerica or Allmerica Financial Life for the purpose of funding variable annuity contracts and variable life insurance contracts. Two AIT Funds are involved in the proposed substitutions discussed in this application.

7. The fist AIT Fund involved in the proposed substitution is AIT's Investment Grade Income Fund (''IGIF'').[1] IGIF seeks as high a level of total return, which includes capital appreciation as well as income, as is consistent with prudent investment management. To achieve its goal, the Fund invests in investments grade debt securities such as bonds and other corporate debt obligations; obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities; and market instruments, including commercial paper, bankers acceptances, and negotiable certificates of deposit. The Fund also may make investments in mortgage-backed and asset-backed securities. The Fund may invest up to 25% of its assets in foreign securities (not including its investments in American Depository Receipts or ADRs) and up to 25% of its assets in debt obligations of supranational entities. Investment techniques the Fund may employ include: entering into financial futures contracts and related options, forward commitments, purchasing options, repurchase agreements and stand-by commitments; investing in restricted securities, stripped mortgage-backed securities and when-issued securities; lending portfolio securities; and writing covered options.

8. The second AIT Fund involved in the proposed substitution is AIT's Select Income Fund (''SIF''), which seeks a high level of current income. SIF invests primarily in investment grade, fixed-income securities. Examples of the types of securities in which the Fund invests are corporate debt obligations such as bonds, notes and debentures, and obligations convertible into common stock; commercial paper; obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities; and debt securities backed by various types of financial assets. The Fund may also invest in mortgage-backed and asset-backed securities. The Fund's investments in corporate debt securities are not limited to any particular type of company or industry. The Fund may invest up to 25% of its assets in foreign securities (not including its investments in ADRs), up to 35% of its assets in money market instruments, and up to 25% of its assets in debt obligations of supranational entities. The Fund invests primarily (and in practice invests exclusively) in investment grade securities rated in the four highest grades by Moody's Investors Services or Standard & Poor's Rating Services or similar rating organizations, and in unrated securities. Investment techniques the Fund may employ include: entering into financial futures contracts and related options, forward commitments, forward contracts on foreign currencies, purchasing options, repurchase agreements and stand-by commitments; investing in high yield securities, restricted securities, stripped mortgage-backed securities and when-issued securities; lending portfolio securities; and writing covered options.

9. Overall management services are provided to AIT by Allmerica Financial Investment Management Services, Inc. (''AFIMS'' and/or the ''Manager''), an indirect, wholly-owned, subsidiary of AFC. AFIMS is an investment adviser registered under the Investment Advisers Act of 1940, as amended. Under the terms of a management agreement between AIT and AFIMS (the ''Management Agreement''), AFIMS manages AIT's business affairs and has general responsibility for the management of the investments of the

[1] Subject to the completion of the proposed substitutions, the name of this Fund will be changed to the Select Investment Grade Income Fund.

Funds, subject to the control of the Board of Trustees of AIT.

10. AFIMS, at its expense, has contracted with investment sub-advisers to manage the investments of the Funds. Each sub-adviser has been selected on the basis of various factors including management experience, investment techniques and staffing, and is authorized to engage in portfolio transactions on behalf of the applicable Fund subject to such general or specific instructions as may be given by the trustees and/or AFIMS. Allmerica Asset Management, Inc. (''AAM'') serves as sub-adviser for IGIF. Incorporated in 1993, AAM has approximately $13 billion under management as of December 31, 1999. AAM serves as investment adviser to investment companies and affiliated insurance company accounts. Standish, Ayer & Wood, Inc. (''SAW'') serves as sub-adviser for SIF. Founded in 1993, the firm had approximately $44 billion in assets under management as of December 31, 1999. SAW manages portfolios for pension plans, financial institutions and endowment and foundation funds.

11. AFIMS is responsible for the payment of all fees to the sub-advisers. Other than the expenses specifically assumed by AFIMS under the Management Agreement, all expenses incurred in the operation of AIT are borne by AIT, including fees and expenses associated with the registration and qualification of AIT's shares under the Securities Act of 1933; other fees payable to the SEC; independent accountant, legal and custodian fees; association membership dues; taxes; interest; insurance premiums; brokerage commissions; fees and expenses of the trustees who are not affiliated with AFIMS; expenses for proxies, prospectuses and reports to shareholders; and Fund recordkeeping expenses and other expenses. A prospectus for AIT accompanies the prospectus of each of the Variable Contracts that offers one or more of the Funds as an investment option.

12. For its services, AFIMS is entitled to receive a fee from each Fund at AIT, based on the average daily net asset value of each Fund. In addition, AFIMS has voluntarily undertaken to reimburse each Fund for its fees and expenses that exceed the applicable expense limitation set for that Fund. The expenses which are subject to the voluntary expense limitations include management fees; independent accountant, legal and custodian fees; recordkeeping expenses; fees and expenses of the trustees who are not affiliated with AFIMS; association membership dues and insurance; expenses for proxies, prospectuses and reports to shareholders; and fees associated with the registration of Fund shares. AFIMS has declared voluntary expense limitations for IGIF and SIF of 1.00% of each Fund's average daily assets. The expense limitations may be removed at any time after a Fund's first fiscal year of operations with notice to existing shareholders. Actual expenses have been well below such expense limitations for both Funds.

13. Fulcrum is a Massachusetts business trust that was established on September 8, 1993 and commenced operations on February 1, 1996. Prior to September 1, 1998, the Trust's name was ''The Palladian Trust.'' Fulcrum is registered under the Act as an open-end diversified investment company and currently consists of five different portfolios; Global Interactive/Telecomm Portfolio, the International Growth Portfolio, the Growth Portfolio, the Value Portfolio and the Strategic Income Portfolio (collectively, the ''Portfolios,'' and each, a ''Portfolio'').

14. The Fulcrum Strategic Income Portfolio (''SIP'') is the only Fulcrum Portfolio involved in the proposed substitution discussed in this application. SIP seeks to make money for investors by investing for high current income and capital appreciation in a variety of fixed-income securities. SIP invests primarily in investment grade corporate debt securities and securities issued or guaranteed as to principal or interest by the U.S. Government or its agencies or instrumentalities; below investment-grade corporate debt securities; and foreign securities which include government debt of developed and emerging markets, corporate obligations of foreign companies, and debt obligations of supranational entities. Debt securities in which SIP may invest include bonds, notes, debentures, mortgage-backed and asset-backed securities, and other similar instruments. Although SIP may invest up to 50% of its assets in below investment grade securities, or junk bonds, SIP has generally invested most of its assets in investment grade securities. Investment techniques the Fund may employ include: commercial paper, indexed securities, securities of other investment companies, restricted securities, variable and floating rate securities and warrants; foreign currency transactions, futures contracts, repurchase agreements, reverse repurchase agreements, short sales against the box, and short sales; leveraging; purchasing options; and lending portfolio securities.

15. AFIMS serves as overall manager of Fulcrum, and is responsible for managing Fulcrum's daily business and has general responsibility for the management of the investments of the Portfolios. Portfolio managers (the ''Portfolio Managers'') have been hired to handle the day-to-day investment management of the Portfolios. The Portfolio Managers' activities are subject to general oversight by the trustees and AFIMS. AAM serves as Portfolio Manager of SIP. For these services, each Portfolio pays an overall management fee, computed and accrued daily and paid monthly, based on its average daily net assets. The overall fee varies based on the performance of that Portfolio (after expenses) compared to that of an appropriate benchmark. The Portfolio Manager receives 80% of the fee, and AFIMS receives the remaining 20%. For the period beginning on the effective date of a Portfolio manager agreement with a new Portfolio Manager and ending with the last day of the twelfth full calendar month thereafter, each Portfolio pays a monthly advisory fee calculated at an annual rate of 0.80% of the Portfolio's average daily net assets. After the first 12 full calendar months with a new Portfolio Manager, as described above, each Portfolio pays a monthly advisory fee equal to a basic fee, plus or minus an incentive fee. The fee might be reduced if absolute performance is negative. The monthly basic fee equals one-twelfth of the annual basic fee rate of 2.0% multiplied by average daily net assets over the previous 12 months. The incentive fee ranges from −2.0% to +2.0% on an annual basis, depending on a comparison of the Portfolio's performance (reflecting a deduction of portfolio expenses) and the performance of a selected benchmark index over the past 12 months. The monthly incentive fee, like the monthly basic fee, is calculated by multiplying one-twelfth of the incentive fee rate on an annual basis by the average daily net assets over the previous 12 months. Accordingly, the total fee could range from 0.0% to an annual rate of 4.0%, depending on performance.

16. AFIMS has agreed to limit operating expenses and reimburse those expenses to the extent that each Portfolio's ''other expenses'' (*i.e.,* expenses other than management fees) exceed the expense limitations set for the Portfolios. AFIMS has guaranteed these expense limitations through June 30, 2000. For the two years following the date that the expense limitations end and subject to certain conditions, each Portfolio will reimburse AFIMS for

any Portfolio expenses it reimbursed pursuant to the expense limitations. The limitation on ''other expenses'' for SIP is an annual rate of 1.50% of average daily net assets.

17. In accordance with its authority under the Variable Contracts,[2] and subject to the approval of the Commission under Section 26(b) of the Act, Applicant insurance companies have approved a proposal to make certain substitutions of shares held in sub-accounts of the Applicant separate accounts. Applicants propose to substitute shares of IGIF for shares of SIF and for shares of SIP.

18. Applicants maintain that IGIF and SIF have similar investment objectives and seek to achieve these objectives by investing in similar types of fixed-income securities and utilizing comparable investment strategies. Applicants have concluded that the investment objectives and policies of IGIF are sufficiently similar to those of SIF that the essential objectives and risk expectations of Contractholders can continue to be met. Applicants believe that the proposed substitution of IGIF for SIF will benefit Contractholders in that (1) IGIF has a lower investment advisory fee schedule than SIF, (2) IGIF has a better one- and five-year performance record than SIF, and (3) IGIF has a larger asset base than SIF which may provide certain economies of scale and lower expenses.

19. Applicants assert that, as a result of the proposed substitution, the Contractholders who currently invest in SIF will benefit from the lower investment advisory fee of IGIF. The current investment advisory fees paid by each Fund are listed in the following chart.

Investment Adviser and Sub-Adviser Fees

The Manager receives fees computed daily at an annual rate based on the average daily net asset value of each Fund as set forth below.

	Investment grade income fund (percent)	Select income fund (percent)
First $50 million	0.50	0.60
Next $50 million	0.45	0.55
Over $100 million	0.40	0.45

The Manager pays each sub-adviser fee computed at an annual rate based on the average daily net asset value of each Fund as set forth below.

Investment Grade Income Fund: 0.20%.

Select Income Fund: 0.20%.

20. Applicants state that IGIF has a better performance record than SIF for the one- and five-year periods ended December 31, 1998.

21. Applicants maintain that, as shown in the table below, IGIF has a larger asset base than SIF which may provide certain economies of scale, resulting in lower expenses, compared to SIF. The net assets of each Fund as of September 30, 1999 were as follows:

	Net assets (in millions)
Investment grade income fund	$250.2
Select income fund	$176.9

22. Applicants state that the expense ratio for IGIF is significantly lower in comparison to SIF, which is due primarily to the difference in the level of investment advisory fees between the two Funds. The fees and expenses incurred for the fiscal year ended December 31, 1998 by each Fund are as follows:

ANNUAL FUND OPERATING EXPENSES

[Expenses deducted from fund assets—as of 12/31/98]

	Investment grade income fund (percent)	Select income fund (percent)
Investment advisory fees	.43	.54
Other expenses	.09	.10
Total operating expenses [1]	.52	.64

[1] Until further notice, the Manager has declared a voluntary expense limitation of 1.00% for the Select Income Fund and Investment Grade Income Fund.

23. For the foregoing reasons, Applicants submit that the proposed substitution of the shares of IGIF for shares of SIF is in the best interest of Contractholders.

24. Applicants maintain that IGIF and SIP have similar investment objectives and seek to achieve these objectives by investing in similar types of fixed-income securities and utilizing comparable investment strategies. Applicants have concluded that the investment objectives and policies of IGIF are sufficiently similar to those of SIP that the essential objectives and risk expectations of Contractholders can continue to be met. Applicants believe that the proposed substitution of IGIF for SIP will benefit Contractholders in that (1) IGIF has a larger asset base than SIP which should provide certain economies of scale and lower expenses, and (2) IGIF has a better performance record than SIP.

25. Applicants believe that SIP has not grown to a size to allow it to operate efficiently. As shown in the table below, IGIF has a larger asset base than SIP, which should provide certain economies of scale, resulting in lower expenses, compared to SIP. After the proposed substitution, SIP would be dissolved. The net assets of SIP and IGIF as of September 30, 1999 are as follows:

	Net assets (in millions)
Fulcrum strategic income portfolio	$2.4
AIT investment grade income fund	250.2

26. Applicants state that the expense ratio for IGIF is significantly lower in comparison to SIP. The fees and expenses incurred for the fiscal year ended December 31, 1998 by each Fund are as follows:

[2] Each of the Variable Contracts reserves to the issuing Applicant insurance company the right, subject to Commission approval, to substitute shares of another management investment company held by a sub-account of the separate account issuer of the contract. This reservation of right is disclosed in the registration statement relating to each Variable Contract.

ANNUAL FUND OPERATING EXPENSES

[Expenses deducted from fund assets *before* fee limitations—as of 12/31/98]

	Investment grade income fund (percent)	Strategic income portfolio (percent)
Investment advisory fees	.43	[2] .67
Other expenses	.09	[3] 6.49
Total operating expenses	[1] .52	7.16

[1] Until further notice. the investment adviser has declared a voluntary expense limitation of 1.00% for the Investment Grade Income Fund.
[2] The Investment advisory fee for the Strategic Income Portfolio listed above was based on the performance of the portfolio during 1998 and can vary from 0% to 4.00%.
[3] The Manager has agreed to a voluntary expense limitation on the ''other expenses'' at an annual rate of 1.50% of the average daily net assets of the Strategic Income Portfolio. The expense limitation is guaranteed through June 30, 2000. Subject to certain conditions, the Strategic Income Portfolio will reimburse the Manager for any portfolio expenses it reimbursed pursuant to the expense limitation for the two years following the date that the expense limitation ends.

27. Set forth below are charts showing gross and net operating expenses, including investment advisory fees, for IGIF, SIP and SIF for the years ended December 31, 1996—December 31, 1999.

	Year ended 12/31/99 (percent)		Year ended 12/31/98 (percent)		Year ended 12/31/97 (percent)		Year ended 12/31/96 (percent)	
	Gross	Net	Gross	Net	Gross	Net	Gross	Net
Investment Grade Income Fund								
Management fees	0.43	0.43	0.43	0.43	0.41	0.41	0.40	0.40
Other expenses	0.07	0.07	0.09	0.09	0.10	0.10	0.12	0.12
Total operating expenses	0.50	0.50	0.52	0.52	0.51	0.51	0.52	0.52
Strategic Income Portfolio								
Management fees	0.35	0.23	0.67	0.47	0.41	0.41	0.80	0.80
Other expenses	3.26	1.27	6.49	1.71	6.27	1.20	11.5	6.57
Total operating expenses	3.61	1.50	7.16	2.18	6.68	1.61	12.3	7.37
Select Income Fund								
Management fees	0.52	0.52	0.54	0.54	0.59	0.59	0.60	0.60
Other expenses	0.09	0.09	0.10	0.10	0.13	0.13	0.14	0.15
Total operating expenses	0.61	0.61	0.64	0.64	0.72	0.72	0.74	0.74

28. Applicants state that IGIF has a better performance record than SIP. Applicants have no reason to believe that, in the near term, the performance of SIP will match or exceed that of IGIF.

29. Applicants also believe that the substitution would provide Contractholders a more predictable advisory fee. IGIF's investment advisory fee is an annual rate of 0.50% of average daily net assets on the first $50 million of assets, 0.45% on the next $50 million of assets, and 0.40% on assets over $100 million. SIP's advisory fee can vary from 0% to 4.00% depending on performance.

30. For the foregoing reasons, Applicants submit that the proposed substitution of the shares of IGIF for shares of SIP is in the best interest of Contractholders.

31. Applicant insurance companies will effect the substitutions as soon as practicable following the issuance of the requested order, as follows. As of the effective date of the substitutions (''Effective Date''), shares of SIF and SIP held by the various Applicant separate accounts will be redeemed by the Applicant insurance companies. The proceeds of such redemptions, which may be effected in-kind, will then be used to purchase the appropriate number of shares of IGIF. Since it is anticipated that the proposed substitution will be effected by in-kind transfer of assets, Contractholders will be fully invested at all times. The proposed substitutions will take place at relative net asset value with no charge in the amount of any Contractholder's account value, cash value or death benefit or in the dollar value of his or her investment in any of the Applicant separate accounts. Contractholders will not incur any fees or charges as a result of the proposed substitutions, nor will their rights nor the Applicant insurance companies' obligations under the Variable Contracts be altered in any way. All expenses incurred in connection with the proposed substitutions, including legal, accounting and other fees and expenses, will be paid by the Applicant insurance companies. In addition, the proposed substitutions will not impose any tax liability on Contractholders. The proposed substitutions will not cause the Variable Contract fees and charges currently being paid by existing Contractholders to be greater after the proposed substitutions than before the

proposed substitutions. The proposed substitutions (and any transfer in advance of the substitution) will not be subject to a transfer charge and will not be counted toward any limit on transfers guaranteed not to be subject to a transfer charge.

32. Two of the Applicant separate accounts, the First Allmerica Inheritage Account and Allmerica Financial Life VEL Account III, currently have sub-accounts that invest in SIF and IGIF. Applicant insurance companies may in the future cause the First Allmerica Inheritage Account and Allmerica Financial Life VEL Account III to combine those sub-accounts that hold shares of IGIF. The combination of those subaccounts that hold shares of IGIF would not have any impact on the value of the Variable Contracts involved, the fees or rights of the Contractholders, or diminish in any way the obligations of the Applicant insurance companies under any Variable Contract. The Applicant insurance companies would bear the costs of any such combination, including any legal and/or accounting fees relating to them, and the Contractholders would not incur any fees or charges as a result of such combination. in addition, any such sub-account combination would not result in any adverse tax consequences to the Contractholders, or any change in the economic interest or contract values of any Contractholders.

33. By supplements to the various prospectuses for the Variable Contracts and Applicant separate accounts, all owners of the Variable Contracts will be notified of the Applicant insurance companies' intention to take the necessary actions, including seeking the order requested by this application, to substitute shares of the Underlying Funds as described herein. The supplements for the Applicant separate accounts will advise Contractholders that from the date of the supplement until the date of the proposed substitution, each owner may make one transfer of all amounts allocated to the SIF or SIP sub-account to another sub-account without that transfer being counted toward the limit on transfers guaranteed not to be subject to a transfer charge. The supplements also will inform Contractholders that the Applicant insurance companies will not exercise any rights reserved under any of the Variable Contracts to impose additional restrictions on transfers until at least 30 days after the proposed substitutions. With these supplements, Contractholders will also receive a current prospectus relating to IGIF (unless the Contractholders has already received that prospectus).

34. In addition to the prospectus supplements distributed to owners of Variable Contracts, within five days after the proposed substitutions, and Contractholders who were affected by the substitutions will be sent a written notice informing them that the substitutions were carried out and that they may make one transfer of all account value under a Variable Contract invested in any one of the affected sub-accounts on the date of the notice to another sub-account available under their Variable Contract without that transfer counting as one of the number of transfers per year guaranteed to be free of charge. The notice will also reiterate the fact that the Applicant insurance companies will not exercise any rights reserved by either under any of the Variable Contracts to impose additional restrictions on transfers until at least 30 days after the proposed substitutions. The notice as delivered in certain states also may explain that, under the insurance regulations in those states. Contractholders who are affected by the substitutions may exchange their Variable Contracts for fixed-benefit life insurance contracts or annuity contracts, as applicable, issued by the Applicant insurance companies (or one of their affiliates) during the 60 days following the proposed substitutions.

35. The Applicant insurance companies are also seeking approval of the proposed substitutions from any state insurance regulators whose approval may be necessary or appropriate.

Applicants' Legal Analysis

1. Section 26(b) states that it ''shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. The Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title.'' The purpose of Section 26(b) is to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate the shares of a particular issuer and to prevent unscrutinized substitutions which might, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial purchase payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Section 26(b) affords this protection to investors by preventing a depositor or trustee of a unit investment trust holding the shares of one issuer from substituting for those shares the shares of another issuer, unless the Commission approves that substitution.

2. Applicants request that the Commission issue an order pursuant to Section 26(b) of the Act approving the substitutions by the Applicant insurance companies of shares held by the Applicant separate accounts as follows: (1) shares of IGIF for shares of SIF; and (2) shares of IGIF for shares of SIP.

3. Applicants state that the Variable Contracts expressly reserve for the Applicant insurance companies the right, subject to compliance with applicable law, to substitute shares of another investment company for shares of an investment company held by a separate account or a sub-account of a separate account. Applicants maintain that the prospectuses for the Variable Contracts and the separate accounts contain appropriate disclosure of this right. Applicants note that the Applicant insurance companies each reserved this right of substitution both to protect themselves and their Contractholders in situations where either might be harmed or disadvantaged by circumstances surrounding the issuer of the shares held by one or more of their separate accounts and to afford the opportunity to replace such shares where to do so could benefit itself and Contractholders.

4. Applicants state that, in the case of the proposed substitution of shares of IGIF for shares of SIF, SIF would be replaced by a Fund with a similar investment objective but which has a lower investment advisory fee, a better long-term performance record, and a larger asset base, potentially resulting in lower expenses. Applicants maintain that, in the case of the proposed substitution of shares of IGIF for shares of SIP, the interests of Contractholders will be better served primarily because SIP would be replaced by a Fund with similar investment objectives but which has a larger asset base, potentially resulting in lower expenses, and a better performance record.

5. Applicants generally submit that the proposed substitutions meet the standards that the Commission and its staff have applied to similar substitutions that have been approved in the past.

6. Applicants anticipate that Contractholders will be at least as well off with the proposed array of separate accounts and sub-accounts after the proposed substitutions as they have

been with the array of separate accounts and sub-accounts offered prior to the substitutions. Applicants maintain that the proposed substitutions retain for Contractholders the investment flexibility which is a central feature of the Variable Contracts. Applicants represent that, if the proposed substitutions are carried out, all Contractholders will be permitted to allocate purchase payments and transfer account values between and among the same number of separate accounts or sub-accounts as they could before the proposed substitutions.[3]

7. Applicants submit that neither of the proposed substitutions is of the type that Section 26(b) was designed to prevent and that, unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Variable Contracts provide each Contractholder with the right to exercise his or her own judgment and transfer account values into other sub-accounts. Applicants state that, moreover, the Variable Contracts will offer Contractholders the opportunity to transfer amounts out of the affected sub-accounts into any of the remaining sub-accounts without cost or other disadvantage. Applicants contend, therefore, that the proposed substitutions will not result in the type of costly forced redemption which Section 26(b) was designed to prevent.

8. Applicants state that the proposed substitutions also are unlike the type of substitution which Section 26(b) was designed to prevent in that, by purchasing a Variable Contract, Contractholders select much more than a particular investment company in which to invest their account values. Applicants explain that Contractholders may also select the specific type of insurance coverage offered by either or both of the Applicant insurance companies under their Variable Contract as well as numerous other rights and privileges set forth in the Variable Contract. Applicants also believe that Contractholders may have considered each or both Applicant insurance companies' size, financial condition, type and reputation for service in selecting their Variable Contract. Applicants represent that these factors will not change as a result of the proposed substitutions.

9. Applicants request an order of the Commission pursuant to Section 26(b) of the Act approving the proposed substitutions by the Applicant insurance companies. Applicants submit that, for all of the reasons stated above, the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

10. Applicants request an order pursuant to Section 17(b) of the Act exempting them from the provisions of Section 17(a) of the Act to the extent necessary to permit them to effect (i) the substitutions proposed in this application by means of in-kind redemptions and purchases of shares and (ii) any subsequent consolidation of sub-accounts of the Applicant separate accounts as discussed in this application.

11. Sections 17(a)(1) and (2) of the Act, in relevant part, prohibit any affiliated person of a registered investment company, or any affiliated person of such a person, or any principal underwriter for such company (collectively, ''Transaction Affiliates''), acting as principal, from knowingly selling to or purchasing from that registered investment company any security or other property.

12. Section 2(a)(3) of the Act defines the term ''affiliated person of another person'' in relevant part as: (A) any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more the outstanding voting securities of such other person; (B) any person 5 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; and (C) any person directly or indirectly controlling, controlled by, or under common control with, such other person.

13. Applicants submit that they may be deemed to be Transaction Affiliates of one another based upon this definition. Applicants state that, because the proposed substitutions may be affected by means of an in-kind redemption and a subsequent purchase of shares, also in an in-kind transaction, the substitutions may be deemed to involve on or more purchases or sales of securities or property between Transaction Affiliates. Applicants state that, because the Applicant separate accounts (as well as other separate accounts of the Applicant insurance companies) are registered collectively with the Commission as a single unit investment trust of which the Applicant insurance companies are the depositors, the Applicant separate accounts are affiliates persons of each other. Applicants further state that, because all of the Applicant separate accounts are under the common control of the Applicant insurance companies, they are all affiliated persons of each other.

14. Applicant assert that, while they do not concede that Section 17(a) applies to the proposed substitutions, the combining of sub-accounts under the Applicants separate accounts, because it could be deemed to involve the transfer of assets from one entity to another, arguably would involve these entities, acting as principal, in buying and selling securities or other property from one to another in contravention of Section 17(a).

15. Section 17(b) of the Act provides that the Commission may, upon application, grant an order exempting any proposed transaction from the provisions of Section 17(a) if the evidence establishes that (1) 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; (2) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act; and (3) the proposed transaction is consistent with the general purposes of the Act.

16. Applicants submit that, to the extent that the substitutions and any subsequent combination of sub-accounts that hold identical securities are deemed to involve principal transactions among Transaction Affiliates, the manner in which such substitutions and any combinations are to be implemented is sufficient to assure that such transactions do not involve overreaching on the part of any Applicant or other person, and are fair and reasonable and consistent with the policies and purposes underlying the Act. Applicants further submit that the facts and procedures recited in their application demonstrate that neither the Underlying Funds nor any of the Applicant separate accounts will be participating in the substitutions or any subsequent combination on a basis less advantageous than that of any other participant. Finally, Applicants state that, but for the fact that the substitutions may be effected by means of in-kind redemption and purchase transactions, rather than in cash, the procedures described in their application would comply with all of the conditions of Rule 17a–7 under the Act.[7]

[3] No sub-accounts will be combined at the time the proposed substitution is effected. The number of underlying investment options for each of the 19 Applicant separate accounts currently varies from six to 24.

[7] Applicants note that Rule 17a–7 under the Act is not available to them in connection with the

Continued

17. Accordingly, Applicants request an order of the Commission pursuant to Section 17(b) of the Act to permit the substitutions and related transactions described in this application. Applicants submit the proposed substitutions are consistent with the policies of each of the Applicant separate accounts and the Underlying Funds and with the general purposes of the Act.

18. Applicants assert that the Commission, in recent years, has issued several orders pursuant to Sections 17(b) and 26(b) of the Act under circumstances similar to those presented in their application, each of which provides substantial precedent for the relief requested by this application. Applicants submit that these orders involved transactions in which registered separate accounts that serve as funding vehicles for variable contract were permitted to substitute, by means of in-kind redemptions and subsequent purchases, shares of one mutual fund for shares and another affiliated mutual fund. Applicants state that certain of the transactions also were followed by a consolidation of the underlying sub-accounts. Applicants maintain that these orders were conditioned on certain representations by the respective applicants, which they believe appear to fall into five categories:

(i) The funds to be substituted have objectives, policies and restrictions sufficiently similar to the objective of the replaced funds so that the policy owners objectives can continue to be met;

(ii) Variable contract owners would be given sufficient notice of information about the substitutions and an opportunity to ''opt out'' of the substitution and transfer their policy values, without charge, to any other investment option available under the policy held;

(iii) Substitutions would take place at relative net asset value and without the imposition of any additional expense or charge, such that no change in the amount of any variable contract owners's investment or expenses would result;

(iv) Neither the rights of variable contract owners, nor the obligations of applicant insurance companies under the variable contract would be altered as a result of the substitutions; and

(v) All necessary regulatory requirements would be satisfied prior to the effective date of the substitutions, including compliance with applicable insurance law and the issuance of the Commission's order approving the substitution.

Applicants represent that the facts and circumstances underlying their application meet each of the conditions listed in (i) through (v) above and are sufficient to assure that the substitutions and any subsequent account combination will be carried out in a manner that is consistent with Sections 17(b) and 26(a) of the Act.

19. Applicants request that the Commission issue an order pursuant to Section 17(b) of the Act exempting them from the provisions of Section 17(a) of the Act to the extent necessary to permit the Applicant insurance companies to carry out the substitution transactions described herein. The Applicants represent that, for all the reasons stated above, the terms of the proposed substitutions as set forth herein, including any consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. Furthermore, the Applicants represent that the proposed substitutions will be consistent with the policies of the Applicant insurance companies and the Underlying Funds as stated in the current registration statement and reports filed under the Act by each and with the general purposes of the Act.

Conclusion

Applicants submit that for the reasons and upon the facts set forth above, the requested order of approval pursuant to Section 26(b) and the requested order granting exemptive relief pursuant to Section 17(b) should be granted.

Margaret H. McFarland,

Deputy Secretary.

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substitutions because: (i) affiliations among the Applicants do not rise solely by reason of having common investment advisers, director and/officers; and (ii) the contemplated redemptions and subsequent purchases of shares of IGIF may be effected in-kind and not for cash.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42769; File No. SR–OCC–00–01]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Relating to Exercise Settlement Values for Expiring Index Options

May 9, 2000.

On January 19, 2000, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–OCC–00–01) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') and on March 14, 2000, amended the proposed rule change.[1] Notice of the proposal was published in the **Federal Register** on March 31, 2000.[2] No comments letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change adds new subparagraph (3) to Article XVII, Section 4 of OCC's By-Laws [3] to allow OCC to establish the exercise settlement value for expiring index options in conformity with the establishment of the final settlement value for related index futures and options on index futures when the primary market(s) for one or more component securities of the index is closed on the last trading day before expiration.[4] OCC's current method for setting the exercise settlement amount for an underlying index when the primary market(s) for securities representing a substantial portion of the value of the index are closed on the last trading day before expiration is to use the reported level of the underlying index at the close of trading on the last preceding day for which a closing index level was reported.[5]

However, the valuation method that would be used by the Chicago Mercantile Exchange (''CME'') is to set the settlement value for index futures whenever the primary market for a single component stock of the index is closed the last trading day before expiration. In such a situation, CME would determine the settlement value of the index by using the reported opening values for index stocks affected by the closing when the primary market(s) for such stocks reports.[6] The use of

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 42575 (March 24, 2000), 65 FR 17328.

[3] Section 4 sets forth OCC's procedures for establishing the exercise settlement value for an index option when the current value for the index is unavailable or inaccurate.

[4] The rule change will only apply to series of index options introduced after the later of: (1) The date of the Commission's approval of this rule filing or (2) the date specified in a new Options Disclosure document or supplement thereto that discloses the substance of this rule change.

[5] OCC By-laws, Article XVII, Section 4(a)(2).

[6] For example, CME Rule 4003 states. ''[I]f the New York Stock Exchange (NYSE) does not open on the day scheduled for the determination of the Final Settlement Price [of S&P 500 index futures], then the NYSE-stock component of the Final Settlement Price shall be based on the next opening prices of NYSE stocks.''

different dates and hence potentially different index values for fixing the final settlement values for options and futures on the same index creates uncertainty and risk.[7] Therefore, OCC is amending its By-Laws so that if the primary market(s) for one or more component securities of an index does not open for trading on the last trading day before expiration of a series of options on the index, an adjustment panel acting pursuant to Article XVII may fix the exercise settlement amount for such options by using the opening prices of the affected security or securities when the primary market reopens.

OCC also is amending Article XVII to make clear that (1) OCC has the discretion to determine which market is a security's primary market and (2) when OCC fixes a settlement price based on an index level at the close of trading, the price will be fixed based on the index level at the close of regular trading hours, as determined by OCC.

II. Discussion

In Section 17A, Congress stated its finding that the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors. Congress then directed the Commission to facilitate the establishment of coordinated facilities for the clearance and settlement of transactions in securities, securities options, futures, and options on futures.[8] The Commission believes that the approval of OCC's rule change is in line with this finding and directive of Congress. The current practice of using different dates and hence potentially different index values for fixing the final settlement values for options and futures on the same index has the potential to create uncertainty and risks for many market participants. This risk should be minimized by OCC's new procedure which will allow OCC to conform its method of establishing the expiration settlement value for index options with that used for establishing the final settlement price for related index futures and options on index futures.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–00–01) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–12134 Filed 5–12–00; 8:45 am]

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[7] For example, many market participants use trading strategies whereby they trade index options and index futures based on the expectation that the settlement values will have a predictable relationship.

[8] 15 U.S.C. 78q–1(a)(1)(D).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42764; File No. SR–PHLX–00–06]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Giving Preference to Options Specialist Units Which Resign From Option Trading Privileges in the Best Interest of the Exchange in Future Allocation Decisions Regarding Such Options

May 8, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[1] notice is hereby given that on February 1, 2000, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes new Rule 513, Voluntary Resignation of Options Privileges, which provides that when an option specialist unit voluntarily resigns from trading privileges in an option in the best interest of the Exchange, the option specialist unit which last traded that option will be given preference in any future allocation decision regarding that option, barring any performance or disciplinary issues. The text of the proposed rule is as follows:

Voluntary Resignation of Options Privileges

Rule 513. (a) If an option specialist unit voluntarily resigns from registration in a particular option and the Committee determines such resignation to be in the best interest of the Exchange, and that option is subsequently delisted, barring any specialist performance or disciplinary issues, the option specialist unit which last traded that option will be given preference in any future allocation decision regarding that option.

(b) The preference set forth in Section (a) of this rule shall be in effect for a period of one year from the date of resignation from trading privileges by the specialist unit.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, the Exchange and the Options Price Reporting Authority (''OPRA'') have serious concerns regarding mitigation of quote traffic and maximizing computer capacity. To address those concerns, proposed Rule 513 is intended to provide incentive for options specialists to create more computer capacity by resigning from relatively low volume/high quote traffic options. To provide that incentive, proposed Rule 513 states that the specialist unit which last traded that option will be given preference in any future allocation decision regarding that option.

Mitigation of excessive quote traffic and concomitant preservation of computer capacity is currently an industry-wide concern, and the Exchange believes that a preference provision such as the one contemplated

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

in the proposed rule addresses this concern. In this context, the ''best interest of the Exchange'' is served by specialist units that voluntarily resign from trading privileges in options that trade at a relatively low volume, but which generate a high number of quotes to be disseminated from, and received by, the Exchange.

The rule does not provide an absolute guarantee that the specialist unit that last traded the option will be allocated the option in the event that it is certified and resolicited to the Exchange's options specialist units. All options specialist units will be allowed to apply for trading privileges in relisted options, and all applications will be considered by the Exchange's Allocation, Evaluation and Securities Committee (''Committee'').[3] The proposed rule contemplates that the Committee may review the performance of a specialist unit that applies for an option from which it had previously resigned (''applicant''). In order to qualify for preferential treatment in the allocation of a relisted option, the performance of the applicant must be consistent with the standards set forth in the Exchange's rules.[4] The Committee will also take into account the disciplinary record of the applicant when considering the application, and preferential treatment of the specialist unit applicant will not be given if the applicant demonstrates the inability to adhere to the Exchange's disciplinary rules and those of the Commission.

In approving Rule 513 for filing with the Commission, the Exchange's Board of Governors has determined that specialist units would be more willing to resign from trading privileges in options in order to mitigate quote traffic and to conserve computer capacity on the Exchange, if they are given some form of preference in the event that the options from which they have resigned in the best interest of the Exchange are to be relisted on the Exchange in the future.

Over time, material changes in the composition, personnel, capitalization, and other aspects of specialist units which resign from option trading privileges may occur, which would affect the Committee's decisions regarding future allocations to those specialist units. For this reason, the proposed rule limits the Committee's preference in such future allocations to one year.

[3] *See* Phlx Rule 506. This rule provides that the Committee will solicit applications from all eligible specialist units.

[4] *See* Phlx Rules 511 and 515.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and Section 6(b)(5) of the Act,[6] in particular, in that it is designed to perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest. By giving Exchange option specialists incentive to resign from trading privileges in certain high quote/low volume options, the Exchange will continue to serve the investing public and its markets by mitigating quote traffic and, thus, providing the most current quote and execution information possible.

B. Self-Regulatory Organization's Statement on Burden on Competition

Phlx does not believe that the proposed rule change will result in any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Phlx has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–00–06 and should be submitted by June 5, 2000.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).[7] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.[9]

The Commission has previously note that the aggregate message traffic generated by the options exchanges is rapidly approaching the outside limit of OPRA's systems capacity.[10] OPRA's processor has informed the Commission that current plans to enhance OPRA's systems are not expected to be completed before the end of the second quarter of this year, at the earliest. Accordingly, proposals that may mitigate quote traffic and conserve computer capacity, such as proposed Phlx Rule 513, should benefit investors and other participants in the options markets.

Pursuant to Section 19(b)(2),[11] the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in the **Federal Register**. The Commission believes that granting accelerated approval of the proposal will allow Phlx to expeditiously implement the incentive program without any unnecessary delay.

It Is Therefore Ordered, pursuant to Section 19(b)(2)[12] of the Act, that the proposed rule change (SR–Phlx–00–06) is approved on an accelerated basis.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] *See* Securities Exchange Act Release No. 42493 (March 3, 2000), 65 FR 12597 (March 9, 2000).

[11] 15 U.S.C. 78s(b)(2).

[12] *Id.*

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–12135 Filed 5–12–00; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Social Security Ruling, SSR 00–3p. Titles II and XVI: Evaluation of Obesity

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling, SSR 00–3p. This Ruling provides guidance on the evaluation of disability claims involving obesity following our deletion of listing 9.09, Obesity, from the Listing of Impairments. The final rule deleting listing 9.09 was effective on October 25, 1999 (64 FR 46122 (1999)).

EFFECTIVE DATE: May 15, 2000.

FOR FURTHER INFORMATION CONTACT: Bonnie Davis, Office of Disability, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–4172.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 402.35(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and policy interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Programs 96.001 Social Security—Disability Insurance; 96.006 Supplemental Security Income)

Dated: May 3, 2000.

Kenneth S. Apfel,

Commissioner of Social Security.

Policy Interpretation Ruling Titles II and XVI: Evaluation of Obesity

Purpose

To provide guidance on SSA policy concerning the evaluation of obesity in disability claims filed under titles II and XVI of the Social Security Act (the Act).

Citations

Sections 216(i), 223(d), 223(f), 1614(a), and 1614(c) of the Act, as amended; Regulations No. 4, subpart P, sections 404.1502, 404.1508, 404.1509, 404.1512, 404.1520, 404.1521, 404.1523, 404.1525, 404.1526, 404.1528, 404.1529, 404.1530, 404.1545, 404.1546, 404.1561, 404.1594, and appendix 1; and Regulations No. 16, subpart I, sections 416.902, 416.908, 416.909, 416.912, 416.920, 416.921, 416.923, 416.924, 416.925, 416.926, 416.926a, 416.928, 416.929, 416.930, 416.933, 416.945, 416.946, 416.961, 416.994, and 416.994a.

Introduction

On August 24, 1999, we[1] published a final rule in the **Federal Register** deleting listing 9.09, *Obesity,* from the Listing of Impairments in 20 CFR, subpart P, appendix 1 (the listings). The final rule was effective on October 25, 1999. 64 FR 46122 (1999).

We stated in the preamble to the final rule that we deleted listing 9.09 because our experience adjudicating cases under this listing indicated that the criteria in the listing were not appropriate indicators of listing-level severity. In our experience, the criteria in listing 9.09 did not represent a degree of functional limitation that would prevent an individual from engaging in any gainful activity.

However, even though we deleted listing 9.09, we made some changes to the listings to ensure that obesity is still addressed in our listings. In the final rule, we added paragraphs to the prefaces of the musculoskeletal, respiratory, and cardiovascular body system listings that provide guidance about the potential effects obesity has in causing or contributing to impairments in those body systems. *See* listings sections 1.00F, 3.00I, and 4.00F. The paragraphs state that we consider obesity to be a medically determinable impairment and remind adjudicators to consider its effects when evaluating disability. The provisions also remind adjudicators that the combined effects of obesity with other impairments can be greater than the effects of each of the impairments considered separately. They also instruct adjudicators to consider the effects of obesity not only under the listings but also when assessing a claim at other steps of the sequential evaluation process, including when assessing an individual's residual functional capacity.

In response to public comments, we stated that we would provide additional guidance in a Social Security Ruling (SSR). (64 FR at 46126) This SSR provides that additional guidance by discussing how we evaluate obesity in disability claims filed by adults and children under titles II and XVI of the Act.

Policy Interpretation

General

1. What Is Obesity?

Obesity is a complex, chronic disease characterized by excessive accumulation of body fat. Obesity is generally the result of a combination of factors (*e.g.,* genetic, environmental, and behavioral).

In one sense, the cause of obesity is simply that the energy (food) taken in exceeds the energy expended by the individual's body. However, the influences on intake, the influences on expenditure, the metabolic processes in between, and the overall genetic controls are complex and not well understood.

The National Institutes of Health (NIH) established medical criteria for the diagnosis of obesity in its *Clinical Guidelines on the Identification, Evaluation, and Treatment of Overweight and Obesity in Adults* (NIH Publication No. 98–4083, September 1998). These guidelines classify overweight and obesity in adults according to Body Mass Index (BMI). BMI is the ratio of an individual's weight in kilograms to the square of his or her height in meters (kg/m^2). For adults, both men and women, the *Clinical Guidelines* describe a BMI of 25–29.9 as ''overweight'' and a BMI of 30.0 or above as ''obesity.''

The *Clinical Guidelines* recognize three levels of obesity. Level I includes BMIs of 30.0–34.9. Level II includes BMIs of 35.0–39.9. Level III, termed ''extreme'' obesity and representing the greatest risk for developing obesity-

[13] 17 CFR 200.30–3(a)(12).

[1] The terms *we* and *us* in this Social Security Ruling have the same meaning as in 20 CFR 404.1502 and 416.902. *We* or *us* refers to either the Social Security Administration or the State agency making the disability or blindness determination; *i.e.,* our adjudicators at all levels of the administrative review process and our quality reviewers.

related impairments, includes BMIs greater than or equal to 40. These levels describe the extent of obesity, but they do not correlate with any specific degree of functional loss.

In addition, although there is often a significant correlation between BMI and excess body fat, this is not always the case. The *Clinical Guidelines* also provide for considering whether an individual of a given height and weight has excess body fat when determining whether he or she has obesity. Thus, it is possible for someone whose BMI is below 30 to have obesity if too large a percentage of the weight is from fat. Likewise, someone with a BMI above 30 may not have obesity if a large percentage of the weight is from muscle. However, in most cases, the BMI will show whether the individual has obesity. It also will usually be evident from the information in the case record whether the individual should not be found to have obesity, despite a BMI of 30.0 or above. See question 4, below.

The *Clinical Guidelines* do not provide criteria for diagnosing obesity in children. However, a BMI greater than or equal to the 95th percentile for a child's age is generally considered sufficient to establish the diagnosis of obesity. (BMIs in the 95th percentile vary by age and sex of the child.) BMI-for-age-and-gender charts are published in medical textbooks or professional journals and by the National Center for Health Statistics. As with adults, the amount of body fat is considered in making the diagnosis of obesity in children.

Treatment for obesity is often unsuccessful. Even if treatment results in weight loss at first, weight lost is often regained, despite the efforts of the individual to maintain the loss. See question 13, below, for additional discussion of obesity treatment.

2. How Does Obesity Affect Physical and Mental Health?

Obesity is a risk factor that increases an individual's chances of developing impairments in most body systems. It commonly leads to, and often complicates, chronic diseases of the cardiovascular, pulmonary, and musculoskeletal body systems. Obesity increases the risk of developing impairments such as type II (so-called adult onset) diabetes mellitus-even in children; gall bladder disease; hypertension; heart disease; peripheral vascular disease; dyslipidemia (abnormal levels of fatty substances in the blood); stroke; osteoarthritis; and sleep apnea. It is associated with endometrial, breast, prostate, and colon cancers, and other physical impairments. Obesity may also cause or contribute to mental impairments such as depression. The effects of obesity may be subtle, such as the loss of mental clarity and slowed reactions that may result from obesity-related sleep apnea.

The fact that obesity is a risk factor for other impairments does not mean that individuals with obesity necessarily have any of these impairments. It means that they are at greater than average risk for developing the other impairments.

3. How Do We Consider Obesity in the Sequential Evaluation Process [2]

We will consider obesity in determining whether:

- The individual has a medically determinable impairment. See question 4.
- The individual's impairment(s) is severe. See question 6.
- The individual's impairment(s) meets or equals the requirements of a listed impairment in the listings. See question 7. (We use special rules for some continuing disability reviews. See question 11.)
- The individual's impairment(s) prevents him or her from doing past relevant work and other work that exists in significant numbers in the national economy. However, these steps apply only in title II and adult title XVI cases. See questions 8 and 9.

4. How Is Obesity Identified as a Medically Determinable Impairment?

When establishing the existence of obesity, we will generally rely on the judgment of a physician who has examined the claimant and reported his or her appearance and build, as well as weight and height. Thus, in the absence of evidence to the contrary in the case record, we will accept a diagnosis of obesity given by a treating source or by a consultative examiner. However, if there is evidence that indicates that the diagnosis is questionable and the evidence is inadequate to determine whether or not the individual is disabled, we will contact the source for clarification, using the guidelines in 20 CFR 404.1512(e) and 416.912(e).

When the evidence in a case does not include a diagnosis of obesity, but does include clinical notes or other medical records showing consistently high body weight or BMI, we may ask a medical source to clarify whether the individual has obesity. However, in most such cases we will use our judgment to establish the presence of obesity based on the medical findings and other evidence in the case record, even if a treating or examining source has not indicated a diagnosis of obesity. Generally, we will not purchase a consultative examination just to establish the diagnosis of obesity.

When deciding whether an individual has obesity, we will also consider the individual's weight over time. [3] We will not count minor, short-term weight loss. We will consider the individual to have obesity as long as his or her weight or BMI shows essentially a consistent pattern of obesity. (See question 13 for a discussion of weight loss and medical improvement.)

Finally, there are a number of methods for measuring body fat and, if such information is in a case record, we will consider it. However, we will not purchase such testing. In most cases, the medical and other evidence in the case record will establish whether the individual has obesity.

5. Can We Find an Individual Disabled Based on Obesity Alone?

If an individual has the medically determinable impairment obesity that is ''severe'' as described in question 6, we may find that the obesity medically equals a listing. (In the case of a child seeking benefits under title XVI, we may also find that it functionally equals a listing.) We may also find in a title II claim, or an adult claim under title XVI, that the obesity results in a finding that the individual is disabled based on his or her residual functional capacity (RFC), age, education, and past work experience. However, we will also consider the possibility of coexisting or related conditions, especially as the level of obesity increases. We provide an example of when we may find obesity to medically equal a listing in question 7.

[2] For ease of reading, we refer in this Ruling only to the steps of the sequential evaluation processes for initial adult and childhood claims. 20 CFR 404.1520, 416.920, and 416.924. We use separate sequential evaluation processes when we do continuing disability reviews; *i.e.* reviews to determine whether individuals who are receiving disability benefits are still disabled or when we determine whether an individual has a ''closed period of disability.'' These rules are set out in 20 CFR 404.1594, 416.994, and 416.994a, and the guidance in this Ruling applies to all of the appropriate steps in those regulations as well. However, in some continuing disability review cases, we will still consider the provisions of former listings 9.09 and 10.10. See question 11.

[3] As with all impairments, to establish a finding of disability based on obsesity, in whole or in part, the statutory duration requirement must be satified. See 20 CFR 404.1509 or 416.909, and SSR 82–52, ''Titles II and XVI: Duration of the Impairment'' (superseded in part by SSR 91–7c).

Sequential Evaluation: Step 2, Severe Impairment

6. When Is Obesity a ''Severe'' Impairment?

As with any other medical condition, we will find that obesity is a ''severe'' impairment when, alone or in combination with another medically determinable physical or mental impairment(s), it significantly limits an individual's physical or mental ability to do basic work activities. (For children applying for disability under title XVI, we will find that obesity is a ''severe'' impairment when it causes more than a minimal functional limitation.) We will also consider the effects of any symptoms (such as pain or fatigue) that could limit functioning. (See SSR 85–28, ''Titles II and XVI: Medical Impairments That Are Not Severe'' and SSR 96–3p, ''Titles II and XVI: Considering Allegations of Pain and Other Symptoms In Determining Whether a Medically Determinable Impairment Is Severe.'') Therefore, we will find that an impairment(s) is ''not severe'' only if it is a slight abnormality (or a combination of slight abnormalities) that has no more than a minimal effect on the individual's ability to do basic work activities (or, for a child applying under title XVI, if it causes no more than minimal functional limitations).

There is no specific level of weight or BMI that equates with a ''severe'' or a ''not severe'' impairment. Neither do descriptive terms for levels of obesity (*e.g.,* ''severe,'' ''extreme,'' or ''morbid'' obesity) establish whether obesity is or is not a ''severe'' impairment for disability program purposes. Rather, we will do an individualized assessment of the impact of obesity on an individual's functioning when deciding whether the impairment is severe.

Sequential Evaluation Step 3, The Listings

7. How Do We Evaluate Obesity at Step 3 of Sequential Evaluation, The Listings?

Obesity may be a factor in both ''meets'' and ''equals'' determinations.

Because there is no listing for obesity, we will find that an individual with obesity ''meets'' the requirements of a listing if he or she has another impairment that, by itself, meets the requirements of a listing. We will also find that a listing is met if there is an impairment that, in combination with obesity, meets the requirements of a listing. For example, obesity may increase the severity of coexisting or related impairments to the extent that the combination of impairments meets the requirements of a listing. This is especially true of musculoskeletal, respiratory, and cardiovascular impairments. It may also be true for other coexisting or related impairments, including mental disorders.

For example, when evaluating impairments under mental disorder listings 12.05C, 112.05D, or 112.05F, obesity that is ''severe,'' as explained in question 6, satisfies the criteria in listing 12.05C for a physical impairment imposing an additional and significant work-related limitation of function and in listings 112.05D and 112.05F for a physical impairment imposing an additional and significant limitation[s] of function. We will find the requirements of those listings are met if an individual meets all of the other requirements of the listings, including the capsule definition of mental retardation contained in the listings. (See SSR 98–1p, ''Title XVI: Determining Medical Equivalency in Childhood Disability Claims When a Child Has Marked Limitations in Cognition and Speech.'')

We may also find that obesity, by itself, is medically equivalent to a listed impairment (or, in the case of a child applying under title XVI, also functionally equivalent to a listed impairment). For example, if the obesity is of such a level that it markedly limits the individual's ability to walk and stand, it may substitute for arthritis (and its associated criteria) of a weight-bearing joint with ''gross anatomical deformity of a hip or knee'' in listing 1.03A, and we will then make a finding of equivalence. (See question 8 for further discussion of evaluating the functional effects of obesity, including functional equivalence determinations for children applying for benefits under title XVI.)

We will also find equivalence if an individual has multiple impairments, including obesity, no one of which meets or equals the requirements of a listing, but the combination of impairments is equivalent in severity to a listed impairment. For example, obesity affects the cardiovascular and respiratory systems because of the increased workload the additional body mass places on these systems. Obesity makes it harder for the chest and lungs to expand. This means that the respiratory system must work harder to provide needed oxygen. This in turn makes the heart work harder to pump blood to carry oxygen to the body. Because the body is working harder at rest, its ability to perform additional work is less than would otherwise be expected. Thus, we may find that the combination of a pulmonary or cardiovascular impairment and obesity has signs, symptoms, and laboratory findings that are of equal medical significance to one of the respiratory or cardiovascular listings.[4]

However, we will not make assumptions about the severity or functional effects of obesity combined with other impairments. Obesity in combination with another impairment may or may not increase the severity or functional limitations of the other impairment. We will evaluate each case based on the information in the case record.

Sequential Evaluation: Steps 4 and 5, Assessing Functioning in Adults Step 3, Assessing Functional Equivalence in Children

8. How Do We Evaluate Obesity in Assessing Residual Functional Capacity in Adults and Functional Equivalence in Children?

Obesity can cause limitation of function. The functions likely to be limited depend on many factors, including where the excess weight is carried. An individual may have limitations in any of the exertional functions such as sitting, standing, walking, lifting, carrying, pushing, and pulling. It may also affect ability to do postural functions, such as climbing, balance, stooping, and crouching. The ability to manipulate may be affected by the presence of adipose (fatty) tissue in the hands and fingers. The ability to tolerate extreme heat, humidity, or hazards may also be affected.

The effects of obesity may not be obvious. For example, some people with obesity also have sleep apnea. This can lead to drowsiness and lack of mental clarity during the day. Obesity may also affect an individual's social functioning.

An assessment should also be made of the effect obesity has upon the individual's ability to perform routine movement and necessary physical activity within the work environment. Individuals with obesity may have problems with the ability to sustain a function over time. As explained in SSR 96–8p (''Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims''), our RFC assessments must

[4] For our regualtions and rulings on the consideration of medical or psychological consultant opinions in determining medical equivalence, see 20 CFR 404.1526(c) and 416.926(c), and SSR 96–6p, ''Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence.''

consider an individual's *maximum* remaining ability to do sustained work activities in an ordinary work setting on a regular and continuing basis. A ''regular and continuing basis'' means 8 hours a day, for 5 days a week, or an equivalent work schedule.[5] In cases involving obesity, fatigue may affect the individual's physical and mental ability to sustain work activity. This may be particularly true in cases involving sleep apnea.

The combined effects of obesity with other impairments may be greater than might be expected without obesity. For example, someone with obesity and arthritis affecting a weight-bearing joint may have more pain and limitation than might be expected from the arthritis alone.

For a child applying for benefits under title XVI, we will evaluate the functional consequences of obesity (either alone or in combination with other impairments) to decide if the child's impairment(s) functionally equals the severity of a listed impairment that includes disabling functional limitations among its criteria. For example, the functional limitations imposed by obesity, by itself or in combination with another impairment(s), may establish an extreme limitation in one broad area of functioning (*e.g.*, motor) or marked limitations in two broad areas of functioning (*e.g.*, motor and social). We may also find that the functional limitations imposed by obesity establish functional equivalence based on one of the other methods set out in 20 CFR 416.926a.

As with any other impairment, we will explain how we reached our conclusions on whether obesity caused any physical or mental limitations.

9. How Can We Consider Obesity in the Assessment of RFC When SSR 96–8p Says, ''Age and Body Habitus Are Not Factors in Assessing RFC''?

The SSR goes on to say that ''[i]t is incorrect to find that an individual has limitations beyond those *caused by his or her medically determinable impairment(s) and any related symptoms*, due to such factors as age and natural body build, and the activities the individual was accustomed to doing in his or her previous work.'' (Emphasis added.) We included the italicized statement in the SSR to distinguish between individuals who have a medically determinable impairment of obesity and individuals who do not. When we identify obesity as a medically determinable impairment (see question 4, above), we will consider any functional limitations resulting from the obesity in the RFC assessment, in addition to any limitations resulting from any other physical or mental impairments that we identify.

Effect of the Rules Change: Claims in Which Prior Listings Apply and Do Not Apply

10. How Does the Deletion of Listing 9.09 Affect Claims Pending on October 25, 1999?

The final rules that deleted the listing became effective on October 25, 1999. The final rules deleting listing 9.09 apply to claims that were filed before October 25, 1999, and that were awaiting an initial determination or that were pending appeal at any level of the administrative review process or that had been appealed to court. The change affected the entire claim, including the period before October 25, 1999. This is our usual policy with respect to any change in our listings.

However, different rules apply to individuals who were already found eligible to receive benefits prior to October 25, 1999. For an explanation of how we apply listing 9.09 in continuing disability reviews, see question 11.

11. How Does Deletion of Listing 9.09 Affect Claims Already Allowed?

Deletion of listing 9.09 does not affect the entitlement or eligibility of individuals receiving benefits because their impairment(s) met or equaled that listing. We will not find that their disabilities have ended just because we deleted listing 9.09.

We must periodically review all claims to determine whether the individual's disability continues. When we conduct a periodic continuing disability review (CDR), we will not find that an individual's disability has ended based on a change in a listing. For individuals receiving disability benefits under title II and adults receiving payments under title XVI, we apply the medical improvement review standard described in 20 CFR 404.1594 and 416.994.

We will first evaluate whether the individual's impairment(s) has medically improved and, if so, whether any medical improvement is related to the ability to work. If the individual's impairment(s) has not medically improved, we will find that he or she is still disabled, unless we find that an exception to the medical improvement standard applies. Even if the impairment(s) has medically improved, we will find that the improvement is not related to the ability to work if the impairment(s) continues to meet or equal the same listing section used to make our most recent favorable decision. This is true even if we have since deleted the listing section that we used to make the most recent favorable decision. See 20 CFR 404.1594(c)(3)(i) and 416.994(b)(2)(iv)(A). We apply a similar provision when we do CDRs for individuals who have not attained age 18 and who are eligible for title XVI benefits based on disability (20 CFR 416.994a(b)(2)).

Even if the individual's impairment(s) has medically improved and no longer meets or equals prior listing 9.09, we must still determine whether he or she is currently disabled, considering all of the impairments.

12. What Amount of Weight Loss Would Represent ''Medical Improvement''?

Because an individual's weight may fluctuate over time and minor weight changes are of little significance to an individual's ability to function, it is not appropriate to conclude that an individual with obesity has medically improved because of a minor weight loss. A loss of less than 10 percent of initial body weight is too minor to result in a finding that there has been medical improvement in the obesity. However, we will consider that obesity has medically improved if an individual maintains a consistent loss of at least 10 percent of body weight for at least 12 months. We will not count minor, short-term changes in weight when we decide whether an individual has maintained the loss consistently.

If there is a coexisting or related condition(s) and the obesity has not improved, we will still consider whether the coexisting or related condition(s) has medically improved.

If we find that there has been medical improvement in obesity or in any coexisting or related condition(s), we must also decide whether the medical improvement is related to the ability to work. If necessary, we will also decide whether any exceptions to the medical improvement review standard apply and, if appropriate, whether the individual is currently disabled.

13. What Are the Goals and Methods of Treatment for Obesity?

Obesity is a disease that requires treatment, although in most people the

[5] However, see footnote 2 of SSR 96–8p. That footnote explains that the ability to work 8 hours a day for 5 days a week is not always required for a finding at step 4 of the sequential evaluation process for adults when an individual can do past relevant work that was part-time work, if that work was substantial gainful activity, performed within the applicable period, and lasted long enough for the person to learn to do it.

effect of treatment is limited. However, if untreated, it tends to progress.

A common misconception is that the goal of treatment is to reduce weight to a ''normal'' level. Actually, the goal of realistic medical treatment for obesity is only to reduce weight by a reasonable amount that will improve health and quality of life. People with extreme obesity, even with treatment, will generally continue to have obesity. Despite short-term progress, most treatments for obesity do not have a high success rate.

Recommended treatment for obesity depends upon the level of obesity. At levels I and II (BMI 30.0–39.9), treatment usually consists of behavior modification (diet and exercise) with the option of medication, usually either in the form of a fat-blocking drug or an appetite suppressant. Some people do not respond to medication, while others experience negative side effects. (In making our decision, we will also consider any side effects of medication the individual experiences.) Individuals with coexisting or related conditions may not be able to take medication because of its effects on their other conditions.

Generally, physicians recommend surgery when obesity has reached level III (BMI 40 or greater). However, surgery may also be an option at level II (BMI 35–39.9) if there is a serious coexisting or related condition. Obesity surgery modifies the stomach, the intestines, or both in order to reduce the amount of food that the individual can eat at one meal or the time food is available for digestion and absorption. Surgery is generally a last resort with individuals for whom other forms of treatment have failed. Some individuals also experience significant negative side effects from surgery (*e.g.,* ''dumping syndrome''—that is, rapid emptying of the stomach's contents marked by various signs and symptoms).

Obesity is a life-long disease. Even when treatment has been successful, individuals with obesity generally need to stay in treatment or they will gain weight again, just as individuals with other impairments may need to stay in treatment. Individuals who have had surgery should receive continuing follow-up care because of health risks related to the surgery. As with other chronic disorders, effective treatment of obesity requires regular medical follow-up.

14. How Do We Evaluate Failure To Follow Prescribed Treatment in Obesity Cases?

Before failure to follow prescribed treatment for obesity can become an issue in a case, we must first find that the individual is disabled because of obesity or a combination of obesity and another impairment(s). Our regulations at 20 CFR 404.1530 and 416.930 provide that, in order to get benefits, an individual must follow treatment prescribed by his or her physician if the treatment can restore the ability to work, unless the individual has an acceptable reason for failing to follow the prescribed treatment. We will rarely use ''failure to follow prescribed treatment'' for obesity to deny or cease benefits.

SSR 82–59, ''Titles II and XVI: Failure To Follow Prescribed Treatment,'' explains that we will find failure to follow prescribed treatment only when all of the following conditions exist:

- The individual has an impairment(s) that meets the definition of disability, including the duration requirement, and
- A treating source has prescribed treatment that is clearly expected to restore the ability to engage in substantial gainful activity, and
- The evidence shows that the individual has failed to follow prescribed treatment without a good reason.

If an individual who is disabled because of obesity (alone or in combination with another impairment(s)) does not have a treating source who has prescribed treatment for the obesity, there is no issue of failure to follow prescribed treatment.

The treatment must be prescribed by a treating source, as defined in our regulations at 20 CFR 404.1502 and 416.902, not simply recommended. A treating source's statement that an individual ''should'' lose weight or has ''been advised'' to get more exercise is not prescribed treatment.

When a treating source has prescribed treatment for obesity, the treatment must clearly be expected to improve the impairment to the extent that the person will not be disabled. As noted in question 13, the goals of treatment for obesity are generally modest, and treatment is often ineffective. Therefore, we will not find failure to follow prescribed treatment unless there is clear evidence that treatment would be successful. The obesity must be expected to improve to the point at which the individual would not meet our definition of disability, considering not only the obesity, but any other impairment(s).

Finally, even if we find that a treating source has prescribed treatment for obesity, that the treatment is clearly expected to restore the ability to engage in SGA, and that the individual is not following the prescribed treatment, we must still consider whether the individual has a good reason for doing so. In making this finding, we will follow the guidance in our regulations and SSR 82–59, which provide that acceptable justifications for failing to follow prescribed treatment include, but are not limited to, the following:

- The specific medical treatment is contrary to the teaching and tenets of the individual's religion.
- The individual is unable to afford prescribed treatment that he or she is willing to accept, but for which free community resources are unavailable.
- The treatment carries a high degree of risk because of the enormity or unusual nature of the procedure.

In this regard, most health insurance plans and Medicare do not defray the expense of treatment for obesity. Thus, an individual who might benefit from behavioral or drug therapy might not be able to afford it. Also, because not enough is known about the long-term effects of medications used to treat obesity, some people may be reluctant to use them due to the potential risk.

Because of the risks and potential side effects of surgery for obesity, we will not find that an individual has failed to follow prescribed treatment for obesity when the prescribed treatment is surgery.

Effective Date: This Ruling is effective May 15, 2000.

Cross-References: SSR 82–52, ''Titles II and XVI: Duration of the Impairment;'' SSR 82–59, ''Titles II and XVI: Failure To Follow Prescribed Treatment;'' SSR 85–28, ''Titles II and XVI: Medical Impairments That Are Not Severe;'' SSR 96–3p, ''Titles II and XVI: Considering Allegations of Pain and Other Symptoms In Determining Whether a Medically Determinable Impairment Is Severe;'' SSR 96–6p, ''Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence;'' SSR 96–8p, ''Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims;'' SSR 98–1p, ''Title XVI: Determining Medical Equivalency in Childhood Disability Claims When a Child Has Marked Limitations in Cognition and Speech;'' and Program Operations Manual System sections DI 23010.005 ff., DI 24510.006, DI 24570.001, DI 34001.010, DI 34001.014, and DI 34001.016.

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DEPARTMENT OF STATE

[Public Notice 3314]

Bureau of Educational and Cultural Affairs

PROGRAM TITLE: Great Lakes Reconciliation Project: Justice and Journalism.

NOTICE: Request for Proposals.

SUMMARY: The Near East/South Asia/Africa Division of the Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs (ECA), announces an open competition to promote a justice and journalism program for the Great Lakes region of Africa. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to develop an exchange and training program for media and legal professionals from the Democratic Republic of the Congo (DRC), Rwanda, Burundi, Uganda and Zimbabwe. One grant award is anticipated for a maximum of $274,500.

PROGRAM INFORMATION: *Overview:* The Office of Citizen Exchanges works with U.S. non-profit organizations on cooperative international group projects that introduce American and foreign participants to each others' social, economic, and political structures, and international interests, as well as provide for professional development. In coordination with the Public Affairs Section of the U.S. Embassy, Kinshasa, the Office will support a coordinated set of public diplomacy activities to meet the goals of President Clinton's Great Lakes Justice Initiative and regional reconciliation objectives.

Great Lakes Justice Initiative (GLJI): GLJI supports efforts in the Democratic Republic of the Congo, Rwanda and Burundi to bring an end to the culture of impunity. GLJI goals include supporting effective, nondiscriminatory justice systems, assisting reconciliation processes, and promoting inter-group cooperation. U.S. policy concerning the conflict in the Democratic Republic of the Congo (DRC) focuses strongly on promoting a successful outcome of the Lusaka cease-fire agreement. The parties to the agreement have re-iterated their commitment to the peace process; however, regional reconciliation will be contingent in large part on the role of opinion leaders, particularly those in the media and civil society, in promoting peace. The role of the media is particularly important in countries whose governments and militaries are involved in the DRC conflict, but where domestic policy debate and public discourse may marginalize the issue. Media and legal professionals and NGOs can work together to strengthen support for the rule of law, as well as increase public information on justice issues that affect regional peace building efforts.

Justice and Journalism: The media, in Africa and elsewhere, often appear to operate from the premise that conflict is more newsworthy than compromise. Conflict typically gets more airtime and column-inches than positive cross-border interactions and efforts at problem solving. If solutions are to be found to the problems that confront the Great Lakes region, media and civil society opinion leaders should call for solutions which reduce polarization and inflammatory rhetoric and which are inclusive rather than exclusive.

Professionalism in the media—*i.e.,* gaining an appreciation of and skill for objective reporting; developing subject specialization (*e.g.* justice/legal issues); giving fair coverage to positive as well as negative news; separating comment from news coverage; avoiding inflammatory presentations; maintaining independence from special interests; etc.—remains an area in which serious efforts must be expended if the fourth estate is to fulfill its potential as a pillar of democratic society. Concomitantly, attention must be given to laws, which constrain freedom of information, and to forces, which urge journalists, editors, producers and publishers to censor themselves, lest governments punish the media for having conveyed the message. Exchange programs can be designed to improve professionalism generally in the media and to strengthen specific efforts of individuals and organizations that report on issues of importance to regional development.

Guidelines: This Great Lakes Reconciliation Project should bring together, in a structured format, a minimum of 16 media and legal professionals from the DRC, Rwanda, Burundi, Uganda, and Zimbabwe who are concerned with conflict resolution and regional reconciliation and development. Project activities should explore how participants from these four countries with different perspectives and interests on conflict in the DRC can cooperate to decrease misunderstandings and hostility, increase meaningful communication among individuals and groups, and promote the rule of law and respect for human rights through the media. Programming emphasis should be on the development of the media, but legal practitioners may also be included to the extent that they can assist in improving the working environment for the media and in clarifying the terms of conflict for resolution and reconciliation.

Competitive proposals should include a multi-phase, integrated approach to program activities, which build sequentially from exploratory work to cooperative action plans. Suggested activities include:

1. A U.S.-based program that includes: orientation to program purposes and to U.S. society; study tour/site visits/mini-internships; interaction and dialogue; hands-on training in conflict resolution methods; professional development; and action plan development.

2. *Capacity-building workshops* in the DRC and one other country in the Great Lakes region to help participants to identify priorities, create work plans, strengthen conflict resolution skills, share their experience to committed people within each country, and become active in a practical and valuable way.

3. Seed grants/sub-grants to participants to support ''Justice and Journalism'' projects (e.g. radio programs, newspaper articles, televised town meetings, etc.) that address issues of local and regional reconciliation.

4. *Site visits* by U.S. facilitators/experts to monitor projects in the Great Lakes region and to provide additional training and consultations as needed.

The Office of Citizen Exchanges encourages applicants to be creative in planning project activities. Activities should include practical, hands-on, community-based initiatives, designed to achieve concrete objectives in the field. The proposal should not focus on theoretical/academic workshops, seminars or studies.

Applicants should identify any partner organizations and/or individuals in the United States or the Great Lakes region with whom they are proposing to collaborate and describe in detail previous cooperative programming and contacts. Specific information about the partners' activities and accomplishments is required and should be included in the section on ''Institutional Capacity.''

Selection of Participants

Successful applications should include a description of an open, merit-based selection process, including advertising, recruitment and selection. A sample application should be submitted with the proposal. Applicants should expect to work closely with the U.S. Embassies abroad to carry out the selection process, but ECA and U.S. Embassies retain the right to nominate participants and to approve or reject participants recommended by the

grantee institution. Priority should be given to foreign participants who have not traveled to the United States. ECA encourages applicants to design programs for non-English speakers, as appropriate.

Note: The grant award covers only assistance through non-governmental organizations. No direct assistance to the DRC or Burundi governments is permitted with funds available through this agreement. Potential applicants should therefore be advised that support cannot be provided for university professors, magistrates, government officials, and others who are on the government payrolls of the DRC or Burundi. Cooperation with U.S. Embassies in the selection of participants will be essential to this project.

Public Affairs Section (PAS) Involment

The Public Affairs Sections of the U.S. Embassies (formerly known as USIS posts) play a key role throughout every phase of project development. Posts evaluate project proposals; coordinate planning with the grantee organization and in-country partners; facilitate in-country activities; nominate participants and vet grantee nominations; observe in-country activities; debrief participants; and evaluate project impact. Posts are responsible for issuing IAP–66 forms in order for overseas participants to obtain necessary J–1 visas for entry to the United States. They also serve as a link to in-country partners and participants.

Project administration and implementation are the responsibility of grantee. The grantee must inform the PAS in participating countries of its operations and procedures and coordinate with and involve PAS officers in the development of project activities. The PAS should be consulted regarding country priorities, current security issues, and related logistical and programmatic issues.

Evalution

Short-and long-term evaluation is critical to the success of any professional development program. In accordance with the Government Performance and Results Act of 1993, Federal Agencies must create strategic plans, set performance goals, and develop methods for measuring how well the goals of this program are realized. The grantee would be required to work closely with the Bureau to fulfill this responsibility.

Applicants are asked to submit an evaluation plan that would address the Result Act's requirements and assess the long-term impact and effectiveness of this program. The evaluation plan should include a summation of goals and results desired, and an indication of what types of information would be used to determine if these goals were met or results achieved, as well as a description of how the applicant would gather and evaluate this information. Please include with the proposal any evaluation tools (survey/focus group questions) that would be used as part of the overall plan.

Visa Regulations

Foreign participants on programs sponsored by ECA are granted J–1 Exchange Visitor visas by the U.S. Embassy in the sending country. All programs must comply with J–1 visa regulations. Please refer to the Proposal Submission Instructions (PSI) for further information.

Budget Guidelines

Applicants must submit a comprehensive line item budget based on specific guidance provided in the Proposal Submission Instructions (PSI) of the Solicitation Package. A maximum grant award of $274,500 is available. Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

While a comprehensive line item budget based on the model of the Solicitation Package must be submitted, separate component budgets are optional. The following program costs are eligible for funding consideration:

1. International and domestic airfares; visas (for entry to African countries); transit costs; ground transportation costs. (Note: There is no charge for J–1 visas for participants in ECA-sponsored programs.)

2. Per Diem. For both U.S.-based and Africa-based programming, organizations should be guided in budgeting by the published U.S. Federal per diem rates for individual cities. Applicants should budget realistic costs that reflect the local economy, but per diem costs must not exceed the published U.S. Federal rates. Per Diem rates may be accessed at *http://www.policyworks.gov/.*

3. Interpreters. If needed, interpreters for the U.S. program are available through the U.S. Department of State Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who require interpreting. ECA grants do not pay for foreign interpreters to accompany delegations from their home country. When U.S. Department of State interpreters are to be employed, grant proposal budgets should contain a flat $160/day per diem for each U.S. Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget. Locally-arranged interpreters with adequate skills and experience may be used by the grantee in lieu of State Department interpreters, with the same 1:4 interpreter: participant ratio. Costs associated with using their services may not exceed rates for U.S. Department of State interpreters.

4. Book and cultural allowance. Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses when they escort participants to cultural events. U.S. program staff are not eligible to receive these benefits.

5. Consultants. Consultants may be used to provide specialized expertise or to make presentations. Honoraria should not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal. Subcontracts should be itemized in the budget.

6. Room rental. Room rental may not exceed $250 per day.

7. Materials development. Proposals may contain costs to purchase, develop and translate materials for participants.

8. Equipment. Proposals may contain limited costs to purchase equipment crucial to the success of the program, such as computers, fax machines and copy machines. However, equipment costs must be kept to a minimum, and costs for furniture are not allowed.

9. Working meal. The grant budget may provide for only one working meal during the program. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. Interpreters must be included as participants.

10. Return travel allowance. A return travel allowance of $70 for each foreign participant may be included in the budget. This may be used for incidental expenses incurred during international travel.

11. Health Insurance. Foreign participants will be covered under the terms of a U.S. Department of State-sponsored health insurance policy. The premium is paid by the U.S. Department of State directly to the insurance company. Applicants are permitted to include costs for travel insurance for U.S. participants in the budget.

12. Seed Grants/Sub-Grants: Applicants should allocate funding to

eligible African NGOs/participants to support media-based reconciliation activities in their communities.

13. Administrative Costs. Costs necessary for the effective administration of the program may include salaries for grant organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While this announcement does not prescribe a rigid ratio of administrative to program costs, priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total requested from ECA.

14. Cost Sharing: Proposals should show cost-sharing contributions from the applicant, U.S. and African partners and other sources. While no rigid percentage for cost sharing is stipulated in this RFP, ECA sees cost sharing as an important way to demonstrate program commitment and to increase impact, and it will be a criterion for evaluating grant proposals.

Please note that all air travel must be in compliance with the Fly America Act.

Please refer to the Proposal Submission Instructions (PSI) for complete budget guidelines and formatting instructions.

Announcement Title and Number

All correspondence with the Bureau concerning this RFP should reference the above title and number *ECA/PE/C–00–62.*

FOR FURTHER INFORMATION, CONTACT: The Office of Citizen Exchanges, ECA/PE/C, Room 220, U.S. Department of State, 301 4th Street, S.W., Washington, D.C. 20547, attention: Orna Blum, telephone: (202) 260–2754 and fax number: (202) 619–4350, Internet address: oblum@pd.state.gov, to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Orna Blum on all other programmatic inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package VIA Internet

The entire Solicitation Package may be downloaded from the Bureau's website at *http: //e.usia.gov/education/rfps* or *http: //exchanges.state.gov/education/rfps.* Please read all information before downloading.

Deadline for Proposals: All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, D.C. time on Friday, June 16, 2000. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and *10* copies of the application should be sent to: U.S. Department of State SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C–00–62, Program Management, ECA/EX/PM, Room 336, 301 4th Street, S.W., Washington, D.C. 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the Public Affairs section at the US Embassy for its review, with the goal of reducing the time it takes to get embassy comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

Year 2000 Compliance Requirement (Y2K Requirement)

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program specific requirements including data exchange with the Bureau. The inability to process information in accordance with Federal requirements could result in grantees' being required to return funds that have not been accounted for properly.

The Bureau therefore requires all organizations use Y2K compliant systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Services Administration's Office of Information Technology website at *http://www.itpolicy.gsa.gov*.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be forwarded to panels of Bureau officers for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Under Secretary for Public Diplomacy and Public Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered, and all are important in the proposal evaluation:

1. Program Planning and Ability to Achieve Objectives: Program objectives should be stated clearly and precisely and should reflect the applicant's expertise in the subject area and the region. Objectives should respond to the

priority topics in this announcement and should relate to the current conditions in the Great Lakes region. Objectives should be reasonable and attainable. A detailed work plan should explain step-by-step how objectives would be achieved and should include a timetable for completion of major tasks. The substance of workshops, presentations, consultations, site visits and seed grant projects should be included as attachments. Responsibilities of U.S. participants and in-country partners should be clearly described.

2. Institutional Capacity: The proposal should include: (1) The U.S. institution's mission and date of establishment; (2) detailed information about the capacity of any partner institutions, and the history of the partnership(s); (3) an outline of prior awards—U.S. government and private support received for the target theme/region; and (4) descriptions of experienced staff members and other resource persons who would implement the program. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The narrative should demonstrate proven ability to handle logistics. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country/region(s).

3. Cost Effectiveness and Cost Sharing: Overhead and administrative costs for the proposal, including salaries, honoraria and subcontracts for services, should be kept to a minimum. Applicants are encouraged to cost share a portion of overhead and administrative expenses. Cost sharing, including contributions from the applicant, U.S. or African partners, and other sources, should be included in the budget.

4. Program Evaluation: The proposal must include a plan and methodology to evaluate the program's successes, both as activities unfold and at the program's conclusion. ECA recommends that the proposal include a draft survey questionnaire or other technique (such as a series of questions for a focus group) to link outcomes to original program objectives.

5. Multiplier Effect/Impact: The proposal should show how the program would strengthen long-term mutual understanding and institutionalization of program objectives. Applicants should describe how responsibility and ownership of the program would be transferred to the African participants to ensure continued activity and impact. ECA places a priority on programs that include convincing plans for sustainability.

6. Follow-on Activities: The proposal should provide a plan for continued follow-on activity (beyond the ECA grant period), ensuring that ECA-supported programs are not isolated events. Follow-on activities sponsored by the applicant should be clearly outlined.

7. Support of Diversity: The proposed project should demonstrate substantive support of the Bureau's policy on diversity. Program content (training sessions, resource materials, follow-on activities) and program administration (participant selection process, orientation, evaluation, resource/staff persons) should address diversity in a comprehensive and innovative manner. Applicants should refer to ECA's Diversity, Freedom and Democracy Guidelines on page four of the Proposal Submission Instructions (PSI).

8. Value to U.S.-Partner Country Relations: The proposed project should receive positive assessments by the Bureau's geographic area desk and overseas officers of program need, potential impact, and significance in the partner country. The project should meet the priorities of the Great Lakes Justice Initiative (GLJI), as outlined above.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through Economic Support Funds under the Great Lakes Justice Initiative. Use of these funds in the conflict resolution, reconciliation, and democratic initiatives process will support USG efforts to uphold and further the Lusaka Accords.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding.

Issuance of the RFP does not constitute an award commitment on the part of the Government. An award for this project is subject to the availability of funds anticipated through an inter-agency transfer. The Bureau reserves the right to cancel the competition in the event the transfer does not take place in a timely manner. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: May 8, 2000.

Evelyn S. Lieberman,

Under Secretary for Public Diplomacy And Public Affairs, Department of State

[FR Doc. 00–12138 Filed 5–12–00; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice Number 3308]

Overseas Schools Advisory Council; Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Annual Meeting on Tuesday, June 27, 2000, at 9:30 a.m. in Conference Room 1107, Department of State Building, 2201 C Street, NW., Washington, DC. The meeting is open to the public.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas, which are assisted by the Department of State and which are attended by dependents of U.S. Government families and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools. The agenda includes progress reports on the 1999 and 2000 Programs of Educational Assistance and efforts to secure financial support from U.S. firms for the 2000 program and presentations on the impact of the U.S. Standards of Learning Movement on overseas schools and the outlook for international education.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. Access to the State Department is controlled, and individual building passes are required for all attendees. Persons who plan to attend should so advise the office of Dr. Keith D. Miller, Department of State, Office of Overseas Schools, Room H328, SA–1, Washington, D.C. 20522–0132, telephone 202–261–8200, prior to June 17, 2000. Each visitor will be asked to provide a date of birth and Social Security number at the time of registration and attendance and must carry a valid photo ID to the meeting. All attendees must use the C Street entrance to the building.

Dated: May 8, 2000.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council, Department of State.

[FR Doc. 00–12140 Filed 5–12–00; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice #: 3309]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy, reauthorized pursuant to Public Law 106–113 (H.R. 3194, consolidated Appropriations Act, 2000), will meet on Thursday, May 18, 2000, in Room 600, 301 4th St., SW, Washington, DC from 2:00 pm to 3:00 pm.

The Commission will discuss its plans for assessing the consolidation of USIA into the State Department and the effectiveness of U.S. public diplomacy in the former Soviet Union.

Members of the general public may attend the meeting, though attendance of public members will be limited to the seating available. Access to the building is controlled, and individual building passes are required for all attendees. Persons who plan to attend should contact David J. Kramer, Executive Director, at (202) 619–4463.

Dated: May 10, 2000.

David J. Kramer,

Executive Director, U.S. Advisory Commission on Public Diplomacy, Department of State.

[FR Doc. 00–12279 Filed 5–11–00; 3:10 pm]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Delegation of Authority No. 236–2]

Functions Delegated to the Assistant Secretary of State for Educational and Cultural Affairs

By virtue of the authority vested in me as the Under Secretary of State for Public Diplomacy and Public Affairs by law, including by Delegation of Authority No. 234 of October 1, 1999, and the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681 *et seq.*), and to the extent permitted by law, Delegation of Authority No. 236–1 is hereby amended to read as follows:

1. By virtue of the authority vested in me as the Under Secretary of State for Public Diplomacy and Public Affairs by law, including by Delegation of Authority No. 234 of October 1, 1999, and the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681 *et seq.*), and to the extent permitted by law, I hereby delegate to the Assistant Secretary for Educational and Cultural Affairs and, in his absence, to his Principal Deputy Assistant Secretary and Deputy Assistant Secretary for Policy and Resources:

a. The functions in P.L. 89–259 (79 Stat. 985) (22 U.S.C. 2459) (providing for immunity from judicial seizure for cultural objects imported into the U.S. for temporary exhibits).

b. The functions in sections 101(1)(15)(J) and 212(j) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J) and 1182(J)), and section 641 of P.L. 104–208 (8 U.S.C. 1372(h)(2)(A)) (relating to the designation of exchange visitor programs and related functions).

c. The functions in the North/South Center Act of 1991 (22 U.S.C. 2075) (relating to the operation of the Center for Cultural and Technical Interchange Between North and South).

d. The functions in the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054) (relating to the operation of the Center for Cultural and Technical Interchange Between East and West).

e. The functions in Executive Order 12555 of March 10, 1986 (delegating functions under the Convention on Cultural Property Implementation Act (19 U.S.C. 2601)).

f. The functions in the Arts and Artifacts Indemnity Act (20 U.S.C. 971) (relating to the certification of national interest for exhibits to provide indemnification).

g. Representation of the Secretary of State on the Federal Council on the Arts and Humanities (pursuant to 20 U.S.C. 958).

h. Representation of the Secretary of State on the United States Panel of the Joint Committee on United States-Japan Cultural and Educational Cooperation/ Japan-United States Friendship Commission (pursuant to 22 U.S.C. 2901; one of two Department of State members).

2. Notwithstanding any other provision of this order, the Under Secretary of State for Public Diplomacy and Public Affairs may at any time exercise any function or authority delegated or reserved by this delegation of authority.

3. Functions delegated by this delegation of authority may be redelegated, to the extent consistent with law.

4. Any reference in this delegation of authority to any statute or delegation of authority shall be deemed to be a reference to such statute or delegation of authority as amended from time to time.

5. This delegation shall be published in the **Federal Register**.

Dated: May 8, 2000.

Evelyn S. Lieberman,

Under Secretary for Public Diplomacy and Public Affairs, Department of State.

[FR Doc. 00–12139 Filed 5–12–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary Office of Aviation Analysis; Notice of request for renewal of a previously approved collection.

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended), this notice announces the Department of Transportation's, DOT intention to request renewal of a previously approved collection.

DATES: Comments on this notice must be received by July 14, 2000.

ADDRESSES: Comments should be directed to the Air Carrier Fitness Division, X–56, Office of Aviation Analysis, Office of the Secretary, US Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Delores King, Air Carrier Fitness Division, X–56, Office of Aviation Analysis, Office of the Secretary, US Department of Transportation, 400

Seventh Street, SW., Washington, DC 20590, (202) 366–2343.

SUPPLEMENTARY INFORMATION:

Title: Use and Change of Names of Air Carriers, Foreign Air Charters, and Commuter Air Carriers, 14 CFR Part 215.

OMB Control Number: 2106–0043.

Type of Request: Renewal without change, of a previously approved collection.

Abstract: In accordance with the procedures set forth in 14 CFR Part 215, before a holder of certificated, foreign, or commuter air carrier authority may hold itself out to the public in any particular name or trade name, it must register that name or trade name with the Department, and notify all other certificated, foreign, and commuter air carriers that have registered the same or similar name(s) of the intended name registration.

Respondents: Persons seeking to use or change the name or trade name in which they hold themselves out to the public as an air carrier or foreign air carrier.

Estimated Number of Respondents: 19.

Average Annual Burden per Respondent: 4.6 hours.

Estimated Total Burden on Respondents: 87.4 hours.

This information collection is available for inspection at the Air Carrier Fitness Division, X–56, Office of Aviation Analysis, DOT, at the address above. Copies of 14 CFR Part 215 can be obtained from Ms. Delores King at the address and telephone number shown above.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

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

Issued in Washington, DC on May 5, 2000.

Randall D. Bennett,

Acting Director, Office of Aviation Analysis.

[FR Doc. 00–12035 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary, Office of Aviation Analysis; Procedures and Evidence Rules for Air Carrier Authority Notice of Request for Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below will be forwarded to the Office of Management and Budget (OMB) for renewal.

DATES: Comments on this notice must be received on or before July 14, 2000.

ADDRESSES: Comments should be directed to the Air Carrier Fitness Division, (X–56), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Delores King, Air Carrier Fitness Division (X–56), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2343.

SUPPLEMENTARY INFORMATION:

Title: Procedures and Evidence Rules for Air Carrier Authority Applications:

14 CFR Part 201—Air Carrier Authority under Subtitle VII of title 49 of the United States Code—(Amended);

14 CFR Part 204—Data to Support Fitness Determinations;

14 CFR Part 291—Cargo Operations in Interstate Air Transportation.

OMB Control Number: 2106–0023.

Type of Request: Renewal without change, of previously approved collection.

Abstract: In order to determine the fitness of persons seeking authority to engage in air transportation, the Department collects information from them about their ownership, citizenship, managerial competence, operating proposal, financial condition, and compliance history. The specific information to be filed by respondents is set forth in 14 CFR Parts 201 and 204.

Respondents: Persons seeking initial or continuing authority to engage in air transportation of persons, property, and/or mail.

Estimated Number of Respondents: 139.

Average Annual Burden per Respondent: 35.25 hours.

Estimated Total Burden on Respondents: 4,900 hours.

This information collection is available for inspection at the Air Carrier Fitness Division (X–56), Office of Aviation Analysis, DOT, at the address above. Copies of 14 CFR Parts 201 and 204 can be obtained from Ms. Delores King at the address and telephone number shown above.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection, (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

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

Issued in Washington, DC, on May 5, 2000.

Randall D. Bennett,

Acting Director, Office of Aviation Analysis.

[FR Doc. 00–12146 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Change to Appendix 3 of Advisory Circular 150/5345–53B, Airport Lighting Equipment Certification Program

AGENCY: Federal Aviation Administration (FAA), US DOT.

ACTION: Request for comments.

SUMMARY: The FAA proposes to expand the list of equipment types that may be certified under the Airport Lighting Equipment Certification Program to include Underground Electrical Cable for Airport Lighting Circuits (L–824) and Power and Control Units for Land and Hold Short Lighting Systems (L–884). The Secretary of Transportation is providing notice and opportunity for public comment on the addition of Underground Electrical Airport Cable for Airport Lighting Circuits (L–824) and Power and Control Unit for Land and Hold Short Lighting Systems (L–884) to the Airport Lighting Equipment Certification Program.

DATES: Comments must be submitted at or before June 14, 2000.

ADDRESSES: Send all comments on the proposed change to the Federal Aviation Administration, Attn: Engineering and Specifications Division, AAS–200, 800 Independence Avenue SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Rice, Manager, Engineering Specifications Division, AAS–200, Room 619, FAA, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–8745.

SUPPLEMENTARY INFORMATION:

Comments Invited

Since 1990 the FAA has issued a list of airfield lighting equipment that has been certified as meeting FAA specifications by independent third party testing laboratories. The certified equipment list provides a readily available means for airport sponsors, or their representatives to use when specifying airfield lighting equipment that is required to meet FAA specifications.

Underground electrical cable for airport lighting circuits is considered to be an integral part of airport lighting systems and should be certified as meeting FAA specifications to enhance system reliability in the same way that other components of airfield lighting systems are certified. Power and control units for land and hold short lighting systems are new pieces of equipment, which have never been certified through the Airport Lighting Equipment Certification Program. Advisory Circular 150/5345–53B, Airport Lighting Equipment Certification Program, the latest certified equipment list, and the address list of certified airport lighting equipment manufacturers are available on the Internet at the FAA Office of the Associate Administrator for Airports (ARP) home page on the Internet's World Wide Web (www). The direct Internet address is: *www.faa.gov/arp/arphome.htm.*

A copy of the subject change may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT** or by downloading the draft change from the following Internet website: *http://www.faa.gov/arp/draftacs.htm.* Interested parties are invited to comment on the proposed change and to submit written data, views, or arguments, as they desire. Commentors must identify the subject of the change and submit comments in duplicate to the address specified above. The Engineering and Specifications Division will consider all communications received on or before the closing date for comments before issuance to the final change.

Proposed Change to Appendix 3

The complete text of Appendix 3 with the proposed changes appears below.

Appendix 3—Certified Airport Lighting Equipment

Notice to Users

This appendix provides a list of the current equipment under the certification program. The specification for each type of equipment listed below in this document is contained in the AC given. The equipment specification defines the type, class, and style classifications used in the listing. Not all combinations of type, class, and style are permissible. The equipment specification should be consulted for approved equipment configurations.

An addendum to this appendix listing all current certified equipment with the manufacturer is updated monthly. It is available on the Internet at FAA Office of the Associate Administrator for Airports (ARP) home page (www.faa.gov/arp/arphome.htm) under ''Advisory Circulars'' in the file titled ''150/5345–53 Addendum.'' This addendum can also be obtained from the Office of Airport Safety and Standards, Attention: AAS–200, Federal Aviation Administration, 800 Independence Ave. SW, Washington, DC 20591, or from those FAA offices as listed in AC 150/5000–3, current edition.

For the sake of brevity in the addendum, manufacturers who have qualified an entire equipment series or product line have the equipment listed under a single general catalog number. These general numbers are not intended for use in ordering equipment, and users should consult equipment manufacturers' catalogs or literature for complete ordering information, especially for equipment having optional features. For each fixture, the number in parentheses ( ) after the manufacturer's catalog number indicates the specific lamp type used in testing the equipment. A description of each lamp use is provided in the addendum.

L–801 Beacons, Medium Intensity (AC 150/5345–12)
L–802 Beacons, High Intensity (AC 150/5345–12)
L–804 Light, Holding Position Edge (AC 150/5345–46)
L–806 Wind Cones, Frangible (AC 150/5345–27)
L–807 Wind Cones, Rigid (AC 150/5345–27)
L–810 Lights, Obstruction (AC 150/5345–43)
L–821 Panel, Airport Lighting Control (AC 150/5345–3)
L–823 Connectors, Cable (AC 150/5345–26)
L–824 Underground Electrical Cable for Airport Lighting Circuits (AC 150/5345–7D)
L–827 Monitors, Regulator (AC 150/5345–10)
L–8281 Regulators, Constant Current (AC 150/5345–10)
L–829 Regulators, Monitored Constant Current (AC 150/5345–10)
L–830 Isolation Transformers, 60Hz (AC 150/5345–47)
L–831 Isolation Transformers, 50Hz (AC 150/5345–47)
L–841 Cabinet, Auxiliary Relay (AC 150/5345–13)
L–847 Switch, Circuit Selector (AC 150/5345–5)
L–849 Lights, Runway End Identification (AC 150/5345–51)
L–850 Lights, Runway, Inpavement (AC 150/5345–46)
L–852 Lights, Taxiway, Inpavement (AC 150/5345–46)
L–853 Markers, Retroreflective (AC 150/5345–39)
L–854 Radio Controls (AC 150/5345–49)
L–856 Lights, Obstruction, High Intensity, White, 40 FMP (AC 150/5345–43)
L–857 Lights, Obstruction, High Intensity, White, 60 FPM (AC 150/5345–43)
L–858 Signs, Runway and Taxiway (AC 150/5345–44)
L–859 Lights, Flashing, Omnidirectional (AC 150/5345–51)
L–860 Lights, Runway Edge, Low Intensity (AC 150/5345–46)
L–861 Lights, Runway & Taxiway Edge, Medium Intensity (AC 150/5345–46)
L–862 Lights, Runway Edge, High Intensity (AC 150/5345–46)
L–863 Lights, Portable Runway (AC 150/5345–50)
L–864 Lights, Obstruction, Red, 20–40 FPM (AC 150/5345–43)
L–865 Lights, Obstruction, Medium Intensity, White, 40 FMP (AC 150/5345–43)
L–866 Lights, Obstruction, Medium Intensity, White, 60 FPM (AC 150/5345–43)
L–867 Light Base, Non-Load Bearing (AC 150/5345–42)
L–868 Light Base, Load Bearing (150/5345–42)
L–869 Junction Box (AC 150/5345–42)
L–880 Precision Approach Path Indicator (AC 150/5345–28)
L–881 Abbreviated Precision Approach Path Indicator (AC 150/5345–28)
L–882 Generic Visual Approach Descent Indicator (AC 150/5345–52)
L–883 Generic Visual Approach Descent Indicator (AC 150/5345–52)
Light Structure, Lightweight (AC 150/5345–45)
L–884 Power and Control Unit for Land and Hold Short Lighting Systems (AC 150/5345–54)
L–885 Lights, Obstruction (AC 150/5345–43)

Issued in Washington, DC on May 5, 2000.

David L. Bennett,

Director, Office of Airport Safety and Standards.

[FR Doc. 00–12172 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular; Continued Airworthiness Assessments of Powerplant and Auxiliary Power Unit Installations on Transport Category Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed advisory circular and request for comments.

SUMMARY: This notice announces the availability of proposed Advisory Circular (AC) No. 39XX, Continued Airworthiness Assessments of Powerplant and Auxiliary Power Unit Installations on Transport Category Airplanes.

DATES: Comments must be received on or before July 14, 2000.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attn: Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA, 01803–5299.

FOR FURTHER INFORMATION CONTACT: Ann Azevedo, Engine and Propeller Standards Staff, ANE–110, at the above address, telephone (781) 238–7117, fax (781) 238–7199. A copy of the subject AC may also be obtained electronically by writing to the following Internet address: ''ann.azevedo@faa.gov''. Additionally, you may obtain a copy of the AC directly from the internet at the following address: http://www.faa.gov/avr/air/acs/draftach.htm.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the subject AC may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**. Interested persons are invited to comment on the proposed AC, and to submit such written data, views, or arguments as they desire. Commenters must identify the subject of the AC, and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Engine and Propeller Directorate, Aircraft Certification Service, before issuance of the final AC.

Background

This Advisory Circular (AC) describes the Continued Airworthiness Assessment Methodologies (CAAM). The Federal Aviation Administration (FAA) Engine & Propeller Directorate (E&PD) and the Transport Airplane Directorate (TAD) may use CAAM, supplemented to meet each Directorate's needs, to identify those unsafe conditions in products that deserve priority attention. The FAA may issue an Airworthiness Directive (AD) under Part 39 of Title 14 of the Code of Federal Regulations (14 CFR part 39) to prescribe corrective actions that must be taken to address an unsafe condition in a product when ''the unsafe condition is likely to exist or develop in other products of the same type design.'' CAAM, as described in this proposed AC, is intended to be used for products associated with the Powerplant or Auxiliary Power Unit (APU) Installations on Transport Category Airplanes.

Continued airworthiness requires that safety concerns within the existing fleet be addressed, and the knowledge gained applied for the benefit of future fleets as well. This AC provides CAAM guidance for estimating the risks associated with identified unsafe conditions; defining, prioritizing, and selecting suitable corrective actions for all identified unsafe conditions; and verifying that the corrective actions were effective. This AC is intended to present a tangible means of logically assessing and responding to the safety risks posed by unsafe conditions.

This AC does not establish any requirement that the FAA must perform a risk assessment before issuing an AD, or that the FAA must wait to issue an AD until the design approval holder performs a risk assessment, or that the FAA must accept the findings of a risk assessment performed by the design approval holder. CAAM, as described in this proposed AC, assists the FAA in making decisions concerning the priority in which unsafe conditions should be addressed. The FAA may issue an AD for a particular unsafe condition before a risk assessment is performed, or without having an assessment performed at all.

In this regard, CAAM does not define ''unsafe condition'' in a powerplant or APU installation. Rather, CAAM is a tool that the FAA usually will use to make the kinds of decisions described above.

It is recognized that the proposed AC represents a significant change from the specific CAAM process detailed in draft AC39.XX that was published for public comment several years ago. Therefore, it is anticipated that comments will be received on the newly-proposed AC. The FAA does not intend to issue a final document until those comments have been appropriately reviewed and resolved.

The FAA recognizes that many manufacturers use risk assessment practices to evaluate continued airworthiness. The FAA considers these current practices to be acceptable, and no reassessment will take place until all comments with the proposed are properly dispositioned.

This proposed advisory circular, published under the authority granted to the Administrator by 49 U.S.C. 106(g), 40113, 44701–44702, 44704, provides guidance for the use of CAAM.

Issued in Burlington, Massachusetts, on May 4, 2000.

David A. Downey,

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

[FR Doc. 00–12145 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Acceptance of Noise Exposure Maps for Williams Gateway Airport, Mesa, Arizona

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the Noise Exposure Maps submitted by the Williams Gateway Airport Authority for the Williams Gateway Airport, Mesa, Arizona under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150, are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's acceptance of the Noise Exposure Maps for Williams Gateway Airport, Mesa, Arizona is May 2, 2000.

FOR FURTHER INFORMATION CONTACT: Brian Armstrong, Airport Planner, Airports Division, AWP–611.1, Federal Aviation Administration, Western-Pacific Region. Mailing address: P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007. Telephone (310) 725–3614. Street address: 15000 Aviation Boulevard, Hawthorne, California 90261. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the Noise Exposure Maps submitted for Williams Gateway Airport, Mesa, Arizona are in compliance with applicable requirements of Federal

Aviation Regulations (FAR) Part 150, effective May 2, 2000.

Under Section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA Noise Exposure Maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted Noise Exposure Maps that are found by FAA to be in compliance with the requirements of FAR Part 150, promulgated pursuant to Title I of the Act, may submit a Noise Compatibility Program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the Noise Exposure Maps and supporting documentation submitted by the Williams Gateway Airport Authority. The specific maps under consideration are Exhibit 1, ''1999 Noise Exposure Map'' and Exhibit 2, ''2004 Noise Exposure Map'' in the submission. The FAA has determined that these maps for Williams Gateway Airport are in compliance with applicable requirements. This determination is effective on May 2, 2000. FAA's acceptance of an airport operator's Noise Exposure Maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix (A) of FAR Part 150. Such acceptance does not constitute approval of the applicant's data, information or plans, or a commitment to approve a Noise Compatibility Program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a Noise Exposure Map, submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the Noise Exposure Maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under FAR part 150 or through FAA's review of the Noise Exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of Part 150, that the statutorily required consultation has been accomplished.

Copies of the Noise Exposure Maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, S.W., Room 617, Washington, DC 20591.

Federal Aviation Administration, Western-Pacific Region, Airports Division, AWP–600, 15000 Aviation Boulevard, Hawthorne, CA 90261.

Williams Gateway Airport Authority, 5835 S. Sossaman Road, Mesa, AZ 85212–0919.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California on May 2, 2000.

Herman C. Bliss,

Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 00–12170 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Birmingham International Airport, Birmingham, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Birmingham International Airport 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).

DATES: Comments must be received on or before June 14, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airport District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to the Mr. Loyce Clark, Director of Planning and Development, of the Birmingham Airport Authority at the following address: Birmingham Airport Authority, 5900 Airport Highway, Birmingham, AL 35212.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Birmingham Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Keafur Grimes, Program Manager, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, Phone 601–664–9886. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Birmingham International Airport 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).

On May 5, 2000, the FAA determined that the application to impose and use the revenue from a PFC submitted by Birmingham Airport Authority was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 25, 2000.

The following is a brief overview of the application.

PFC Application No.: 00–03–C–00–BHM.

Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 2000.

Proposed charge expiration date: November 30, 2002.

Total estimated PFC revenue: $8,000,000.

Brief description of proposed project(s): Rehabilitate aircarrier apron.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Birmingham Airport Authority.

Issued in Jackson, Mississippi on May 5, 2000.

Wayne Atkinson,

Manager, Jackson Airports District Office Southern Region.

[FR Doc. 00–12171 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine and Emergency Evacuation Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) and emergency evacuation (EE) issues.

DATES: The meeting is scheduled for May 30, 2000, from 10 am to 1 pm e.d.t.

ADDRESSES: Federal Aviation Administration, 800 Independence Avenue, Room 810, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Effie M. Upshaw, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–7626, FAX (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held May 30, 2000, at the Federal Aviation Administration, 800 Independence Ave., Room 810, Washington, DC. The meeting is being held to approve technical reports prepared under the accelerated process for reaching harmonization (66522 FR November 26, 1999). ARAC members agreed in March to hold a meeting/teleconference for the expressed purpose of voting on some of the remaining items identified under the accelerated process.

The agenda will include report presentations by the:

- Mechanical Systems Harmonization Working Group
- Loads and Dynamics Harmonization Working Group,
- Powerplant Installation Harmonization Working Group, and
- Cabin Safety Harmonization Working Group.

Attendance is open to the public, but will be limited to the availability of meeting room space and telephone lines. The public may participate by teleconference by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT** after May 24. The public must make arrangements by May 26 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the Assistance Executive Director for Transport Airplane and Engine issues or by providing copies at the meeting. Copies of the documents to be voted upon may be made available by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

If you are in need of assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on May 8, 2000.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 00–12143 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meeting

SUMMARY: Notice is hereby given of a meeting of the Aviation Security Advisory Committee.

DATES: The meeting will be held June 1, 2000, from 10:00 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue, SW., 10th floor, MacCracken Room, Washington, DC. 20591, telephone 202–267–7622.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 11), notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held June 1, at the Federal Aviation Administration, 800 Independence Avenue, SW., 10th floor, MacCracken Room, Washington, DC. The agenda for the meeting will include: State Fire Codes and the Impact in the Implementation of 14 CFR 107.14 Nationwide, Airport Construction Guidelines, Expansion of the List of Disqualifying Crimes in 14 CFR 108.33 and 107.31, Current Access Control Practices and Procedures, Screening of Persons with Disabilities, Status of Work Groups, and Security Initiatives. The June 1 meeting is open to the public but attendance is limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at any time. Persons wishing to present statements or obtain information should contact the Office of the Associate Administrator for Civil Aviation Security, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–7622.

Issued in Washington, DC, on May 9, 2000.

William S. Davis,

Deputy Associate Administrator for Civil Aviation Security.

[FR Doc. 00–12173 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 192; National Airspace Review Planning and Analysis

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 192 meeting to be held June 6, 2000, starting at 9:00 a.m. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036.

The agenda will be as follows: (1) Welcome and Introductory Remarks; (2) Overview and Coordination with Free Flight Select Committee; (3) Resolve Ballot Comments and Approve Working Group 1 Document (User Priorities for the National Airspace Redesign); (4) Review Working Group 2 Status; (5) Review Working Group 3 Status and Plenary Approval; (6) Review High-altitude Concept; (7) Date and Location of Next Meeting; (8) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman,

members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC, 20036; (202) 833–9339 (phone), (202) 833–9434 (fax), or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 8, 2000.

Janice L. Peters,

Designated Official.

[FR Doc. 00–12167 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 193/ EUROCAE Working Group 44; Terrain and Airport Databases

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 193/EUROCAE Working Group 44 meeting to be held June 5–9, 2000, starting at 9 a.m. The meeting will be held at The Sweetbrier Inn, 7125 SW Nyberg Road, Tualatin, Oregon 97062 (South of Portland).

The agenda will be as follows:

June 5 Opening Plenary Session

(1) Welcome and Introductions
(2) Review/Approval of Meeting Agenda
(3) Review Summary of the Previous Meeting
(4) Discussion of Interface Issues between Subgroups 2 and 3;
1 p.m. (5) Subgroup 2—Terrain and Obstacle Databases;
(a) Review of Summary of the Previous Meeting
(b) Review of Actions Items
(c) Review of the Draft Document
(d) Other Subgroup 2 Activities
(6) Subgroup 3—Airport Databases:
(a) Review of Previous Meeting Minutes
(b) Review of Actions Items
(c) Presentations
(d) Review of the Draft Document

June 6–8

(7) Subgroup 2—Continuation of Discussions
(8) Subgroup 3—Continuation of Discussions.

June 9 Closing Plenary Session

(9) Summary of Subgroups 2 and 3 Meetings
(10) Assign Tasks
(11) Other business
(12) Dates and Locations of Next Meeting
(13) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue NW, Washington, DC 20036; (202) 833–9339 (phone), (202) 833–9434 (fax), or http://www.rtca.org (web site) or the on-site contact, Mr. Walter Johnson, at (503) 443–3321 or email walt_johnson@fltdyn.com. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 5, 2000.

Janice L. Peters,

Designated Official.

[FR Doc. 00–12168 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA; Special Committee 195; Flight Information Services Communications (FISC)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee (SC)–195 meeting to be held June 6–8, 2000, starting at 8:30 a.m. each day. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue NW, Suite 1020, Washington, DC 20036.

The agenda will include:

June 6

Plenary convenes for 30 minutes:
(1) Welcome and Introductions;
(2) Agenda Overview
(3) Working Group (WG) 1, Aircraft Cockpit Weather Display
1 p.m. Plenary Reconvenes
(4) Review of Previous Meeting Minutes
(5) Report from WG–1 on Activities;
(6) Review of FIS–B Minimum Aviation System Performance Standards (MASPS) section 4.0, Procedures for Performance Requirement Verification, Development

June 7

(7) Review of FIS–B MASPS section 3.2.1, FIS Broadcast Network Interface and Appendix D, APDU Header Format
Detailed Review of FIS–B MASPS.

June 8

(8) Continue Detailed Review of FIS–B MASPS
(9) Address Future Work
(10) Review Issues (Action Items)
(11) Date and Location of Next Meeting
(12) Other Business
(13) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue NW, Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 5, 2000.

Janice L. Peters,

Designated Official.

[FR Doc. 00–12169 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In April 2000, there were five applications approved. Additionally, nine 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: City of Des Moines, Iowa.

APPLICATION NUMBER: 00–05–C–00–DSM.

APPLICATION TYPE: Impose and use a PFC.

PFC LEVEL: $3.00.

TOTAL PFC REVENUE APPROVED IN THIS DECISION: $1,150,000.

EARLIEST CHARGE EFFECTIVE DATE: May 1, 2006.

ESTIMATED CHARGE EXPIRATION DATE: November 1, 2006.

CLASS OF AIR CARRIERS NOT REQUIRED TO COLLECT PFC'S:

Part 135 air taxi/commercial operators.

DETERMINATION: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Des Moines International Airport.

BRIEF DESCRIPTION OF PROJECTS APPROVED FOR COLLECTION AND USE:

South passenger apron expansion and rehabilitation.

Terminal elevator—C concourse.

DECISION DATE: April 13, 2000.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, Central region Airports Division, (816) 329–2641.

PUBLIC AGENCY: Melbourne Airport Authority, Melbourne, Florida.

APPLICATION NUMBER: 00–04–C–00–MLB.

APPLICATION TYPE: Impose and use a PFC.

PFC LEVEL: $3.00.

TOTAL PFC REVENUE APPROVED IN THIS DECISION: $592,944.

EARLIEST CHARGE EFFECTIVE DATE: July 1, 2000.

ESTIMATED CHARGE EXPIRATION DATE: September 1, 2001.

CLASS OF AIR CARRIERS NOT REQUIRED TO COLLECT PFC'S:

Air taxi/commercial operators.

DETERMINATION: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Melbourne International Airport.

BRIEF DESCRIPTION OF PROJECTS APPROVED FOR COLLECTION AND USE:

Improve and renovate terminal building, phase 1—reroofing.

Acquire security improvements and police vehicle.

Runway 9L safety area wetland mitigation phase 2.

Improve and renovate terminal building, phase 2—wall and skylight repair.

Acquire Airport News and Training Network system.

Acquire aircraft rescue and firefighting vehicle and three proximity suits.

Improve and renovate terminal building, phase 3—restroom renovation.

Acquire aircraft loading bridge.

DECISION DATE: April 19, 2000.

FOR FURTHER INFORMATION CONTACT: Armondo L. Rovira, Orlando Airports District Office, (407) 812–6331, ext. 31.

PUBLIC AGENCY: Greater Orlando Aviation Authority, Orlando, Florida.

APPLICATION NUMBER: 00–07–C–00–MCO.

APPLICATION TYPE: Impose and use a PFC.

PCF LEVEL: $3.00.

TOTAL PCF REVENUE APPROVED IN THIS DECISION: $174,364,294.

EARLIEST CHARGE EFFECTIVE DATE: June 1, 2003.

ESTIMATED CHARGE EXPIRATION DATE: April 1, 2008.

CLASS OF AIR CARRIERS NOT REQUIRED TO COLLECT PFC'S:

None.

BRIEF DESCRIPTION OF PROJECTS APPROVED FOR COLLECTION AT ORLANDO INTERNATIONAL AIRPORT (MCO) AND USE AT MCO:

Mid crossfield taxiway bridges expansion—construction.

Heintzelman Boulevard construction.

South access road widening—construction.

South terminal complex, phase I: site grading and drainage—design and construction.

South terminal complex, design.

Fourth runway.

Taxiway system for the fourth runway.

BRIEF DESCRIPTION OF PROJECTS APPROVED FOR COLLECTION AT MCO AND USE AT ORLANDO EXECUTIVE AIRPORT:

Drainage improvements, design and construction.

Runway 7/25 high speed exit taxiways and holding bay 7 construction.

Runway 7/25 taxiway stubouts and holding bays 31 and 25, design.

DECISION DATE: April 19, 2000.

FOR FURTHER INFORMATION CONTACT: Pablo G. Auffant, Orlando Airports District Office, (407) 812–6331, ext. 30.

PUBLIC AGENCY: International Falls-Koochiching County Airport Commission, International Falls, Minnesota.

APPLICATION NUMBER: 00–03–C–00–INL.

APPLICATION TYPE: Impose and use a PFC.

PCF LEVEL: $3.00.

TOTAL PFC REVENUE APPROVED IN THIS DECISION: $316,992.

EARLIEST CHARGE EFFECTIVE DATE: July 1, 2000.

ESTIMATED CHARGE EXPIRATION DATE: August 1, 2006.

CLASS OF AIR CARRIERS NOT REQUIRED TO COLLECT PFC'S:

Part 135 air taxi.

DETERMINATION: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Falls International Airport.

BRIEF DESCRIPTION OF PROJECTS APPROVED FOR COLLECTION AND USE:

Terminal building modifications.

Acquire snow removal equipment.

Acquire aircraft rescue and firefighting vehicle.

Install high intensity runway lights.

Runway 13/31 shoulder paving.

Replace rotating beacon with tower and runway end identifier lights.

Acquire snow removal equipment.

Segmented circle design.

Engineering for rehabilitation of heating, ventilation, and air conditioning and baggage claim entrance canopy.

Safety fencing engineering study.

Environmental assessment.

Construct baggage claim entrance canopy.

PFC administration.

DECISION DATE: April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Sandra E. DePottey, Minneapolis Airports District Office, (612) 713–4363.

PUBLIC AGENCY: City of Minot, North Dakota.

APPLICATION NUMBER: 00–05–U–00–MOT.

APPLICATION TYPE: Use PFC revenue.

PFC LEVEL: $3.00.

TOTAL PFC REVENUE TO BE USED IN THIS DECISION: $203,841.

CHARGE EFFECTIVE DATE: March 1, 1999.

ESTIMATED CHARGE EXPIRATION DATE: February 1, 2004.

CLASS OF AIR CARRIERS NOT REQUIRED TO COLLECT PFC'S: No change from previous decision.

BRIEF DESCRIPTION OF PROJECT APPROVED FOR USE: Runway 8/26 restoration and extension.

DECISION DATE: April 21, 2000.

FOR FURTHER INFORMATION CONTACT: Irene R. Porter, Bismarck Airports District Office, (701) 250-4385.

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
92–01–C–03–GJT, Grand Junction, CO	03/17/00	$1,812,000	$1,794,117	03/01/04	04/01/03
96–02–U–02–GJT, Grand Junction, CO	03/17/00	NA	NA	03/01/04	04/01/03
97–03–C–01–GJT, Grand Junction, CO	03/17/00	$2,157,000	$1,932,000	03/01/04	04/01/03
92–01–C–07–SJC, San Jose, CA	03/30/00	NA	NA	09/01/03	09/01/03
96–01–I–02–BTV, Burlington, VT	04/14/00	$12,476,233	$22,966,283	03/01/06	12/01/10
96–02–C–01–BTV, Burlington, VT	04/14/00	$40,000	$40,000	03/01/06	12/01/10
98–04–C–01–CLM, Port Angeles, WA	04/17/00	$118,572	$122,650	11/01/01	11/01/00
98–02–C–02–IAD, London, VA	04/25/00	$34,919,777	$52,324,581	05/01/10	04/01/11
98–03–C–01–DCA, Arlington, VA	04/25/00	$23,563,086	$46,823,287	02/01/02	05/01/03

Issued in Washington, DC on May 4, 2000.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 00–12144 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2000–7325]

Remote Control Locomotives; Establishing Guidelines

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of technical conference.

SUMMARY: FRA is initiating a technical conference to examine the use of remote control locomotive operations in the railroad industry. FRA plans to hold a technical conference on July 19, 2000, to discuss the current status of remote operation and possible development of guidelines for remote operations with all interested parties. FRA is exploring the use of guidelines to provide consistent, safe, industry-wide remote control locomotive use.

DATES: 1. A technical conference will be held on July 19, 2000, beginning at 10 am.

2. The deadline to register for participation in the technical conference is close of business on July 12, 2000. Please see Public Participation Procedures in **SUPPLEMENTARY INFORMATION** section of this document for registration details.

ADDRESSES: 1.Technical conference: FRA Headquarters, 7th floor, conference rooms 1 and 2, 1120 Vermont Ave. NW, Washington DC.

2. FRA Docket Clerk: Federal Railroad Administration Docket Clerk, Office of Chief Counsel, Mail Stop 10, 1120 Vermont Ave. NW, Washington DC, 20590. E-mail address for the FRA Docket Clerk is renee.bridgers@fra.dot.gov.

FOR FURTHER INFORMATION CONTACT: S. Joseph Gallant, Operating Practices Specialist, FRA Office of Safety, Mail Stop 25, 1120 Vermont Ave. NW, Washington DC, 20590 (telephone: 202–493–6324), or Alan H. Nagler, Trial Attorney, FRA Office of Chief Counsel, Mail Stop 10, 1120 Vermont Ave. NW, Washington DC, 20590 (telephone: 202–493–6055).

SUPPLEMENTARY INFORMATION:

Background

Locomotives operated by use of remote control devices have been in use for a number of years. The term ''remotely controlled locomotives'' or ''remote control locomotives'' refers to a locomotive which, through use of a radio transmitter and receiver system, can be operated by a person while not physically within the confines of the locomotive cab. (As used in this notice, the term ''remote control locomotive'' (RCL) does not refer to use of distributive power, in which a locomotive or group of locomotives entrained or at the rear of a train is controlled by an engineer located in another locomotive within the same consist.) Although RCL operations are common place in steel mills, plant railroads and Canadian railroad systems, RCL operations have not been widely used by American railroads that are part of the general system of transportation.

Arguably, the RCL technology is still relatively new. In 1994, FRA proposed a nation-wide test of rail operations involving remotely controlled locomotives. 59 FR 59826 (Nov. 18, 1994). FRA published proposed interim guidelines for what was intended to be a two-year test period. 59 FR 59826, 59828–29 (Nov. 18, 1994). FRA stated that guidelines were necessary

> to assure that continued use of this new technology does not create a safety risk to railroad employees or the public. FRA also does not want to hinder the development of new technologies which may be of benefit to the rail industry. * * * All railroads using such remote-control systems will be permitted to continue using such systems only if they participate in the long-term test, so that FRA can evaluate remote control operations in light of the regulatory and statutory obligations imposed upon all railroads.

59 FR at 59827 (Nov. 18, 1994). On February 23, 1995, FRA held a public hearing to gather testimony on remote control operating procedures. Several manufacturers, labor organizations, railroads and their associations participated in the hearing. The testimony provided by these organizations revealed a broad spectrum of opinion concerning the merits of the program, the substance of the program requirements, the risks associated with railroad employees and the safety of the technology. While information and opinions gathered at this meeting were helpful, FRA never took final agency action to implement guidelines and the test program never occurred. Instead, FRA has continued to review RCL operations on a case-by-case basis.

Recently, FRA has become aware of renewed interest in RCL operations. This interest has led to an increased number of questions concerning FRA's position with respect to those operations and particular types of RCL devices. Additionally, RCL technology and operating procedures continue to evolve. FRA believes that it would be prudent to re-examine the safety issues surrounding RCL operations at this time and consider whether to issue guidelines.

Technical Conference

The purpose of this technical conference is to determine the extent of RCL operations, the various purposes for which RCL technology is used, and the safety of these operations. FRA will examine all the pertinent safety aspects of RCL operations, including: (1) design

standards, e.g., weight, size and ergonomic considerations; (2) employee training, e.g., hands-on training considerations; (3) operating practices and procedures, including but not limited to standard operating procedures, safety rule modifications, and railroad operating plans; (4) test and inspection procedures, including but not limited to electric and magnetic field emissions; (5) security and reporting issues, including but not limited to recordkeeping and notification to FRA concerning all RCL accidents and incidents. FRA requests that interested parties share their views regarding the use of consistent and safe RCL operations. FRA encourages comments on all aspects of RCL use. A transcript of the technical conference will be taken and placed in the public docket of this proceeding.

Public Participation Procedures

Any person wishing to participate in the technical conference should notify the FRA Docket Clerk by mail or by e-mail by close of business on July 12, 2000. The notification of intent to participate should identify the organization, the person represents (if any), the names of all participants from that organization planning to participate, and a phone number at which the registrant can be reached. FRA reserves the right to limit active conference participation to those persons who have registered in advance.

(Authority: 49 U.S.C. 103, 20103–04, 20106–08, 20135 and 20701–03)

Issued in Washington, DC on May 9, 2000.

George Gavalla,

Associate Administrator for Safety.

[FR Doc. 00–12110 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSAC–96–1, Notice No. 20]

Railroad Safety Advisory Committee (''RSAC''); Working Group Activity Update

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) Working Group Activities.

SUMMARY: FRA is updating its announcement of RSAC's working group activities to reflect the current status of working group activities.

FOR FURTHER INFORMATION CONTACT: Trish Paolella, RSAC Coordinator, FRA, 1120 Vermont Ave, N.W., Mailstop 25, Washington, D.C. 20590, (202) 493–6212 or Grady Cothen, Deputy Associate Administrator for Safety Standards Program Development, FRA, 1120 Vermont Ave, N.W., Mailstop 25, Washington, D.C. 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: This notice serves to update FRA's last announcement of working group activities and status reports on December 17, 1999 (64 FR 70756). The thirteenth full Committee meeting was held January 28, 2000. The next meeting of the full Committee is scheduled for May 19, 2000 at the Madison Hotel in Washington, D.C.

Since its first meeting in April of 1996, the RSAC has accepted sixteen tasks. Status for each of the tasks is provided below:

Task 96–1—Revising the Freight Power Brake Regulations. This Task was formally withdrawn from the RSAC on June 24, 1997. FRA published an NPRM on September 9, 1998, reflective of what FRA had learned through the collaborative process. Two public hearings were conducted and a technical conference was held. The date for submission of written comments was extended to March 1, 1999. FRA is preparing a final rule. Contact: Thomas Hermann (202) 493–6036.

Task 96–2—Reviewing and recommending revisions to the Track Safety Standards (49 CFR Part 213). This task was accepted April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on July 3, 1997, (62 FR 36138). The final rule was published in the **Federal Register** on June 22, 1998 (63 FR 33991). The effective date of the rule was September 21, 1998. A task force was established to address Gage Restraint Measurement System (GRMS) technology applicability to the Track Safety Standards. A GRMS amendment to the Track Safety Standards is being prepared for presentation to the RSAC. Contact: Al MacDowell (202) 493–6236.

Task 96–3—Reviewing and recommending revisions to the Radio Standards and Procedures (49 CFR Part 220). This Task was accepted on April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on June 26, 1997 (62 FR 34544). The final rule was published on September 4, 1998 (63 FR 47182), and was effective on January 2, 1999. Contact: Gene Cox (202) 493–6319.

Task 96–4—Reviewing the appropriateness of the agency's current policy regarding the applicability of existing and proposed regulations to tourist, excursion, scenic, and historic railroads. This Task was accepted on April 2, 1996, and a Working Group was established. The Working Group monitored the steam locomotive regulations task. Contact: Grady Cothen (202) 493–6302.

Task 96–5—Reviewing and recommending revisions to Steam Locomotive Inspection Standards (49 CFR Part 230). This Task was assigned to the Tourist and Historic Working Group on July 24, 1996. Consensus was reached and an NPRM was published on September 25, 1998 (63 FR 51404). A public hearing was held on February 4, 1999, and recommendations were developed in response to comments received. The final rule was published on November 17, 1999 (64 FR 62828). Contact: George Scerbo (202) 493–6349.

Task 96–6—Reviewing and recommending revisions to miscellaneous aspects of the regulations addressing Locomotive Engineer Certification (49 CFR Part 240). This Task was accepted on October 31, 1996, and a Working Group was established. Consensus was reached and an NPRM was published on September 22, 1998. The Working Group met to resolve issues presented in public comments. The RSAC recommended issuance of a final rule with the Working Group modifications. The final rule was published November 8, 1999 (64 FR 60966). Contact: John Conklin (202) 493–6318.

Task 96–7—Developing On-Track Equipment Safety Standards. This task was assigned to the existing Track Standards Working Group on October 31, 1996, and a Task Force was established. The Task Force is finalizing a proposed rule to present to the RSAC for consideration. Contact: Al MacDowell (202) 493–6236.

Task 96–8—This Planning Task evaluated the need for action responsive to recommendations contained in a report to Congress entitled, Locomotive Crashworthiness & Working Conditions. This Planning Task was accepted on October 31, 1996. A Planning Group was formed and reviewed the report, grouping issues into categories.

Task 97–1—Developing crashworthiness specifications to promote the integrity of the locomotive cab in accidents resulting from collisions. This Task was accepted on

June 24, 1997. A Task Force on engineering issues was established by the Working Group on Locomotive Crashworthiness to review collision history and design options and additional research was commissioned. The Working Group reviewed results of the research and is drafting standards for freight and passenger locomotives to present to the RSAC for consideration. Contact: Sean Mehrvazi (202) 493–6237.

Task 97–2—Evaluating the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect the crew's health and the safe operation of locomotives, proposing standards where appropriate. This Task was accepted June 24, 1997. A draft sanitation NPRM is under review by the Working Group on Cab Working Conditions. Task forces on noise and temperature were formed to identify and address issues. The Noise Task Force is preparing draft recommendations for noise exposure requirements. Contact: Brenda Hattery (202) 493–6326.

Task 97–3—Developing event recorder data survivability standards. This Task was accepted on June 24, 1997. An Event Recorder Working Group and Task Force have been established and are actively meeting. A draft proposed rule is being reviewed. Contact: Edward English (202) 493–6321.

Task 97–4 and Task 97–5—Defining Positive Train Control (PTC) functionalities, describing available technologies, evaluating costs and benefits of potential systems, and considering implementation opportunities and challenges, including demonstration and deployment.

Task 97–6—Revising various regulations to address the safety implications of processor-based signal and train control technologies, including communications-based operating systems. These three tasks were accepted on September 30, 1997, and assigned to a single Working Group. A Data and Implementation Task Force, formed to address issues such as assessment of costs and benefits and technical readiness, completed a report on the future of PTC systems. The report was accepted as RSAC's Report to the Administrator at the September 8, 1999, meeting. The Standards Task Force, formed to develop PTC standards, is developing draft recommendations for performance-based standards for processor-based signal and train control standards for presentation to the RSAC. Contact: Grady Cothen (202) 493–6302.

Task 97–7—Determining damages qualifying an event as a reportable train accident. This Task was accepted on September 30, 1997. A working group was formed to address this task and conducted their initial meeting February 8, 1999. Contact: Robert Finkelstein (202) 493–6280.

Task 00–1—Determining the need to amend regulations protecting persons who work on, under, or between rolling equipment and persons applying, removing or inspecting rear end marking devices. A working group is being formed. Contact: Tom Keane (202) 493–6234.

Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740) for more information about the RSAC.

Issued in Washington, D.C. on May 9, 2000.

George Gavalla,

Associate Administrator for Safety.

[FR Doc. 00–12111 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 00–7347]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of a currently approved collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 11, 2000 [FR 65 pages 7096 and 7097].

DATES: Comments must be submitted before June 14, 2000. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Barney, Office of Administration, Office of Management Planning (202) 366–6680.

SUPPLEMENTARY INFORMATION:

Title: 49 U.S.C. 5312(a) Research, Development, Demonstration and Training Projects.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2132–0546.

Abstract: 49 U.S.C. Section 5312(a) authorizes the Secretary of Transportation to make grants or contracts for research, development, and demonstration projects that will reduce urban transportation needs, improve mass transportation service, or help transportation service meet the total urban transportation needs at a minimum cost. In carrying out the provisions of this section, the Secretary is also authorized to request and receive appropriate information from any source.

The information collected is submitted as part of the application for grants and cooperative agreements and is used to determine eligibility of applicants. Collection of this information also provides documentation that the applicants and recipients are meeting program objectives and are complying with FTA Circular 6100.1B and other Federal requirements.

Estimated Annual Burden Hours: 13,940 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW, Washington, DC 20503, Attention: FTA Desk Officer.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued: May 10, 2000.

Dorrie Y. Aldrich,

Associate Administrator for Administration.

[FR Doc. 00–12161 Filed 5–12–00; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33872]

Alabama & Gulf Coast Railway LLC—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company has agreed to grant overhead trackage rights to Alabama & Gulf Coast Railway LLC (AGR) of Monroeville, AL, between the end of

AGR's line at milepost 776.10 near Kimbrough, AL, and a point of connection with the Norfolk Southern Railway Company (NS) at milepost 774.10 near Kimbrough, AL, a distance of approximately 2 miles in Wilcox County, AL.

The transaction was scheduled to be consummated on or shortly after May 4, 2000.

The purpose of the trackage rights is to permit AGR to directly interchange traffic with NS for the handling of traffic to and from MacMillan, AL.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33872, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Fritz R. Kahn, 1920 N Street, NW., 8th Floor, Washington, DC 20036–1601.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

By the Board, David M. Konschnik, Director, Office of Proceedings.

Decided: May 5, 2000.

Vernon A. Williams,

Secretary.

[FR Doc. 00–11841 Filed 5–12–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Departmental Offices, Treasury.

ACTION: Renewal of Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service and solicitation of applications for committee membership.

SUMMARY: It is in the public interest to renew the Advisory Committee for another two-year term. This notice also establishes criteria and procedures for the selection of members.

Title: The Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service.

Purpose: The purpose of the Committee is to present advice and recommendations to the Secretary of the Treasury regarding commercial operations of the U.S. Customs Service and to submit a report to Congress containing a summary of its operations and its views and recommendations.

Statement of Public Interest: It is in the public interest to continue the existence of the Committee upon expiration, under the provisions of the Federal Advisory Committee Act, of its current two-year term. The Committee provides a critical forum for distinguished representatives of diverse industry sectors to present their views on major issues involving commercial operations of the Customs Service. These views are offered directly to senior Treasury and Customs officials on a regular basis in a candid atmosphere. There exists no other single body that serves a comparable function.

SUPPLEMENTARY INFORMATION:

Background

In the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203), Congress repealed the statutory mandate for a Customs User Fee Advisory Committee and directed the Secretary of the Treasury to create a new Advisory Committee on Commercial Operations of the U.S. Customs Service. The original Committee consisted of 20 members drawn from industry sectors affected by Customs commercial operations. The Committee's charter was filed on October 17, 1988 and expired two years later. Charters were subsequently filed for second, third, fourth, fifth, and sixth two-year terms. The current charter will expire on October 15, 2000. The Treasury Department plans to file a new charter by that date renewing the Committee for a seventh two-year term.

Objective, Scope and Description of the Committee

The Committee's objectives are to advise the Secretary of the Treasury on issues relating to the commercial operations of the Customs Service. It is expected that, during its seventh two-year term, the Committee will consider such issues as the Customs Entry Revision Project (ERP), the Merchandise Processing Fee, the budget for commercial operations, carrier issues, the administration of staff and resources for commercial operations, informed compliance and compliance assessment, automated systems, commercial enforcement, international efforts to harmonize customs practices and procedures, strategic planning, and northern border and southern border issues and the relationships with Canadian Customs and Mexican Customs.

The Committee will be chaired by the Assistant Secretary of the Treasury for Enforcement. The Committee will function for a two-year period before renewal or termination and will meet approximately eight times (quarterly) during the period. Additional special meetings of the full Committee or a subcommittee thereof may be convened if necessary.

The meetings will generally be held in the Treasury Department, Washington, D.C. However, typically one or two meetings per year may be held outside of Washington at a Customs port. In recent years, meetings have been held in Memphis, Portland, Boston, New Orleans, Nogales, Los Angeles and Seattle, among other locations.

The meetings are open to public observers, including the press, unless special procedures have been followed to close a meeting. During the first six terms of the Committee, only a portion of one meeting was closed.

The members shall be selected by the Secretary of the Treasury from representatives of the trade or transportation community serviced by Customs, the general public, or others who are directly affected by Customs commercial operations. In addition, members shall represent major regions of the country, and not more than ten members may be affiliated with the same political party. No person who is required to register under the Foreign Agents Registration Act as an agent or representative of a foreign principal may serve on an advisory committee. Members shall not be paid compensation nor shall they be considered Federal Government employees for any purpose. No per diem, transportation, or other expenses are reimbursed for the cost of attending Committee meetings at any location.

Members who are serving on the Committee during its expiring two-year term are eligible to reapply for membership. A new application letter and updated resume are required. It is expected that approximately half of the current membership of the Committee will be replaced with new appointees.

Membership on the Committee is personal to the appointee. Under the Charter, a member may not send an alternate to represent him or her at a Committee meeting. However, since Committee meetings are open to the

public, another person from a member's organization may attend and observe the proceedings in a nonparticipating capacity. Regular attendance is essential; the Charter provides that a member who is absent for two consecutive meetings or two meetings in a calendar year shall lose his or her seat on the Committee.

Application for Advisory Committee Appointment

Any interested person wishing to serve on the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service must provide the following:

- Statement of interest and reasons for application;
- Complete professional biography or resume;
- Political affiliation, in order to ensure balanced representation. (Mandatory. If no party registration or allegiance, indicate ''independent'' or ''unaffiliated'').

In addition, applicants must state in their applications that they agree to submit to preappointment security and tax checks (Mandatory). However, a security clearance is not required for the position.

There is no prescribed format for the application. Applicants may send a cover letter describing their interest and qualifications and enclosing a resume.

The application period for interested candidates will extend to July 3, 2000. Applications should be submitted in sufficient time to be received by the close of business on the closing date by John P. Simpson, Office of Regulatory, Tariff and Trade Enforcement, Office of the Under Secretary (Enforcement), Room 4004, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220, ATT: COAC 2000.

Dated: May 10, 2000.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 00–12157 Filed 5–12–00; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8615

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8615, Tax for Children Under Age 14 Who Have Investment Income of More Than $1,400.

DATES: Written comments should be received on or before July 14, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Tax for Children Under Age 14 Who Have Investment Income of More Than $1,400.

OMB Number: 1545–0998.

Form Number: 8615.

Abstract: Under Internal Revenue Code section 1(g), children under age 14 who have unearned income may be taxed on part of that income at their parent's tax rate. Form 8615 is used to see if any of the child's unearned income is taxed at the parent's rate and, if so, to compute the child's tax on his or her unearned income and earned income, if any.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 331,128.

Estimated Time Per Respondent: 1 hr., 28 min.

Estimated Total Annual Burden Hours: 486,758.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 9, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–12175 Filed 5–12–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2555–EZ

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2555–EZ, Foreign Earned Income Exclusion.

DATES: Written comments should be received on or before July 14, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Foreign Earned Income Exclusion.

OMB Number: 1545–1326.

Form Number: 2555–EZ.

Abstract: U.S. citizens and resident aliens who qualify may use Form 2555–EZ instead of Form 2555, Foreign Earned Income, to exclude a limited amount of their foreign earned income. Form 2555–EZ is a simpler form that can be used by taxpayers whose foreign earned income is $76,000 or less and who satisfy certain other conditions. The information on the form is used by the IRS to determine if a taxpayer qualifies for, and has properly computed, the foreign earned income exclusion.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 43,478.

Estimated Time Per Respondent: 2 hours, 5 minutes.

Estimated Total Annual Burden Hours: 90,434.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 9, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–12176 Filed 5–12–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Bureau of the Public Debt, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Special Form of Request For Payment of United States Savings and Retirement Securities Where Use of a Detached Request is Authorized.

DATES: Written comments should be received on or before July 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Special Form of Request for Payment of United States Savings and Retirement Securities Where Use of A Detached Request is Authorized.

OMB Number: 1535–0004.

Form Number: PD F 1522.

Abstract: The information is requested to establish ownership and request for payment of United States Savings Bonds/Retirement Securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 56,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 14,000.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 9, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–12094 Filed 5–12–00; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection; 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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Exchange Application For U.S. Savings Bonds of Series HH.

DATES: Written comments should be received on or before July 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Exchange Application For U.S. Savings Bonds of Series HH.

OMB Number: 1535–0005.

Form Number: PD F 3253.

Abstract: The information is used to support a request to exchange Series EE/E bonds or notes for Series HH Savings Bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 60,000.

Estimated Time Per Respondent: 40 minutes.

Estimated Total Annual Burden Hours: 39,960.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 9, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–12095 Filed 5–12–00; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection; 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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Certificate of Entitlement United States Savings and Retirement Securities and Checks After Administration of Decedent's Estate.

DATES: Written comments should be received on or before July 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Certificate of Entitlement United States Savings and Retirement Securities and Checks After Administration of Decedent's Estate.

OMB Number: 1535–0006.

Form Number: PD F 2458.

Abstract: The information is requested to establish entitlement of United States Savings and Retirement Securities and Checks After Administration of a Decedent's Estate.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 7,000.

Estimated Time Per Respondent: 8 minutes.

Estimated Total Annual Burden Hours: 938.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 9, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–12096 Filed 5–12–00; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Bureau of the Public Debt, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Request for Reissue of United States Savings Bonds/Notes During the Lives of Both Coowners.

DATES: Written comments should be received on or before July 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Request For Reissue of United States Savings Bonds/Notes During The Lives of Both Coowners.

OMB Number: 1535–0008.

Form Number: PD F 1938.

Abstract: The information is requested to establish ownership and request reissue of United States Savings Bonds/Notes.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 37,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 6,179.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 9, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–12097 Filed 5–12–00; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Bureau of the Public Debt, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application For Relief on Account of Loss, Theft, or Destruction of United States Registered Securities.

DATES: Written comments should be received on or before July 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Application For Relief on Account of Loss, Theft, or Destruction of United States Registered Securities.

OMB Number: 1535–0014.

Form Number: PD F 1025.

Abstract: The information is requested to establish ownership and support a request for relief because of the loss, theft, or destruction of United States Registered Securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or businesses.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 55 minutes.

Estimated Total Annual Burden Hours: 460.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 9, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–12098 Filed 5–12–00; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Bureau of the Public Debt, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Report/Application For Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Organizations).

DATES: Written comments should be received on or before July 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Report/Application For Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Organizations).

OMB Number: 1535–0015.

Form Number: PD F 1022.

Abstract: The information is requested to establish ownership and support a request for relief because of the loss, theft, or destruction of United States Bearer Securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 55 minutes.

Estimated Total Annual Burden Hours: 92.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 9, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–12099 Filed 5–12–00; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Bureau of the Public Debt, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Report/Application For Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Individuals)

DATES: Written comments should be received on or before July 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Report/Application For Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Individuals).

OMB Number: 1535–0016.

Form Number: PD F 1022–1.

Abstract: The information is requested to establish ownership and support a request for relief because of the loss, theft, or destruction of United States Bearer Securities owned by individuals.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 55 minutes.

Estimated Total Annual Burden Hours: 92.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 9, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–12100 Filed 5–12–00; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: 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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Certificate by owner of United States Registered Securities Concerning Forged Requests for Payment or Assignments.

DATES: Written comments should be received on or before July 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Certificate by Owner of United States Registered Securities Concerning Forged Requests for Payment or Assignments.

OMB Number: 1535–0067.

Form Number: PD F 0974.

Abstract: The information is requested to establish whether the registered owner signed the request for payment or if the signature was a forgery.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 750.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a

matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 9, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing, and Records Branch.

[FR Doc. 00–12101 Filed 5–12–00; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Bureau of the Public Debt, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Claim For Relief on Account of the Nonreceipt of United States Savings Bonds.

DATES: Written comments should be received on or before July 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Claim For Relief on Account of the Nonreceipt of United States Savings Bonds.

OMB Number: 1535–0098.

Form Number: PD F 3062–4.

Abstract: The information is used to support a request for substitute savings bonds in lieu of savings bonds not received.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 30,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 5,010.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 9, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 00–12102 Filed 5–12–00; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

AGENCY: Bureau of the Public Debt, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Description of Registered Securities.

DATES: Written comments should be received on or before July 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Description Of Registered Securities.

OMB Number: 1535–0101.

Form Number: PD F 0345.

Abstract: The information is requested to identify an owners Registered Securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 1,250.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 9, 2000.

Vicki S. Thorpe,

Manager, Graphics, Printing, and Records Branch.

[FR Doc. 00–12103 Filed 5–12–00; 8:45 am]

BILLING CODE 4810–39–P

Corrections

Federal Register
Vol. 65, No. 94
Monday, May 15, 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.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Notice of Availability of Draft Environmental Impact Statement and Notice of Public Meetings for the El Paso-Las Cruces Regional Sustainable Water Project, Sierra and Dona Ana Counties, NM and El Paso County, TX

Correction

In notice document 00–8207 beginning on page 17679 in the issue of Tuesday, April 4, 2000, make the following correction:

On page 17680, in the first column, the fourth full paragraph should not be preceded with a bullet ''•''. The text should be an indented paragraph.

[FR Doc. C0–8207 Filed 5–12–00; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Monday,
May 15, 2000

Part II

The President

Proclamation 7307—Peace Officers Memorial Day and Police Week, 2000

Federal Register
Vol. 65, No. 94
Monday, May 15, 2000

Presidential Documents

Title 3—

The President

Proclamation 7307 of May 11, 2000

Peace Officers Memorial Day and Police Week, 2000

By the President of the United States of America

A Proclamation

From our earliest days as a Nation, America has been blessed with citizens of courage and character who have dedicated their lives to keeping the peace in our communities. Five years after the creation of the U.S. Marshals Service in 1789, U.S. Marshal Robert Forsyth was shot and killed in the line of duty. He was the first of more than 14,000 law enforcement personnel since that time to give his life to uphold the law and protect the people he was sworn to serve.

Our Nation owes a lasting debt of gratitude to the men and women of our law enforcement community who, each day, put their lives at risk to protect us and ensure the safety of our families and homes. Because of their skill, valor, and commitment, we have begun to turn the tide on crime in America. The murder rate is at its lowest level in more than 30 years, and the overall crime rate is at its lowest point in 25 years. There are many reasons for this progress, but police chiefs, policymakers, and citizens alike agree that the dedication of our law enforcement officers and the spread of community policing have been critical factors. Today, in cities and communities across America, residents and police officers are working in partnership, forming neighborhood watch organizations, banding together against drug dealers and gangs, and building connections that are the core of community life and the foundation of a civil society.

Unfortunately, we need look no further than the tragic losses suffered by law enforcement officers to recognize the risks that these brave men and women face every day. Last year, 50 police officers were struck down in the line of duty, and another 84 lost their lives in accidents. For these heroes, the safety of their fellow citizens was their purpose and passion, and they made the ultimate sacrifice to fulfill their duty.

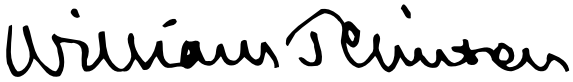
We can never repay these gallant men and women for their service or adequately comfort their families. We can only honor their memory—not only in words and ceremony, but in our determination to promote justice, uphold the law, and preserve the peace and safety they helped purchase with their lives.

By a joint resolution approved October 1, 1962 (76 Stat. 676), the Congress has authorized and requested the President to designate May 15 of each year as ''Peace Officers Memorial Day'' and the week in which it falls as ''Police Week,'' and, by Public Law 103–322 (36 U.S.C. 136), has directed that the flag be flown at half-staff on Peace Officers Memorial Day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 15, 2000, as Peace Officers Memorial Day and May 14 through May 20, 2000, as Police Week. I call upon the people of the United States to observe these occasions with appropriate ceremonies, programs, and activities. I also request the Governors of the United States and of the Commonwealth of Puerto Rico, as well as the appropriate officials of all units of government, to direct that the flag of the United States be flown at half-staff on Peace Officers Memorial Day on all buildings, grounds, and naval vessels throughout the United States

and all areas under its jurisdiction and control. I also invite all Americans to display the flag at half-staff from their homes on that day.

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



[FR Doc. 00–12355
Filed 5–12–00; 11:05 am]
Billing code 3195–01–P

Reader Aids

Federal Register

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S.J. Res. 40/P.L. 106–198
Providing for the appointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution. (May 5, 2000; 114 Stat. 249)

S.J. Res. 42/P.L. 106–199

Providing for the reappointment of Manuel L. Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution. (May 5, 2000; 114 Stat. 250)

Last List May 5, 2000

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–038–00001–6)	5.00	[5] Jan. 1, 1999
3 (1997 Compilation and Parts 100 and 101)	(869–042–00002–1)	22.00	[1] Jan. 1, 2000
4	(869–042–00003–0)	8.50	Jan. 1, 2000
5 Parts:			
1–699	(869–042–00004–8)	43.00	Jan. 1, 2000
700–1199	(869–042–00005–6)	31.00	Jan. 1, 2000
1200–End, 6 (6 Reserved)	(869–042–00006–4)	48.00	Jan. 1, 2000
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1–26	(869–042–00007–2)	28.00	Jan. 1, 2000
27–52	(869–042–00008–1)	35.00	Jan. 1, 2000
53–209	(869–042–00009–9)	22.00	Jan. 1, 2000
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1950–1999	(869–042–00020–0)	38.00	Jan. 1, 2000
2000–End	(869–042–00021–8)	31.00	Jan. 1, 2000
8	(869–042–00022–6)	41.00	Jan. 1, 2000
9 Parts:			
1–199	(869–042–00023–4)	46.00	Jan. 1, 2000
200–End	(869–042–00024–2)	44.00	Jan. 1, 2000
10 Parts:			
1–50	(869–042–00025–1)	46.00	Jan. 1, 2000
51–199	(869–042–00026–9)	38.00	Jan. 1, 2000
200–499	(869–042–00027–7)	38.00	Jan. 1, 2000
500–End	(869–042–00028–5)	48.00	Jan. 1, 2000
11	(869–042–00029–3)	23.00	Jan. 1, 2000
12 Parts:			
1–199	(869–042–00030–7)	18.00	Jan. 1, 2000
200–219	(869–042–00031–5)	22.00	Jan. 1, 2000
220–299	(869–042–00032–3)	45.00	Jan. 1, 2000
300–499	(869–042–00033–1)	29.00	Jan. 1, 2000
500–599	(869–042–00034–0)	26.00	Jan. 1, 2000
600–End	(869–042–00035–8)	53.00	Jan. 1, 2000
13	(869–042–00036–6)	35.00	Jan. 1, 2000
14 Parts:			
1–59	(869–042–00037–4)	58.00	Jan. 1, 2000
60–139	(869–042–00038–2)	46.00	Jan. 1, 2000
140–199	(869–038–00039–3)	17.00	Jan. 1, 1999
200–1199	(869–042–00040–4)	29.00	Jan. 1, 2000
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	(869–042–00043–9)	45.00	Jan. 1, 2000
800–End	(869–042–00044–7)	26.00	Jan. 1, 2000
16 Parts:			
0–999	(869–042–00045–5)	33.00	Jan. 1, 2000
1000–End	(869–042–00046–3)	43.00	Jan. 1, 2000
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)	18.00	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	(869–042–00092–7)	23.00	Apr. 1, 2000
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.