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Title 3—

The President

Memorandum of September 11, 2000

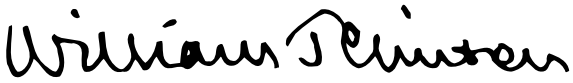
Delegation of Authority Under the Iran Nonproliferation Act of 2000 (Public Law 106–178)

Memorandum for the Secretary of State [and] the Administrator of the National Aeronautics and Space Administration

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions and authorities conferred on the President under the Iran Nonproliferation Act of 2000 (Public Law 106–178), with the exception of subsections (f) and (g) of section 6, from which I delegate to the Secretary of State only sections 6(f)(2)(A) and 6(g)(1)(B). The remaining functions and authorities under subsections (f) and (g) of section 6 not delegated to the Secretary of State I hereby delegate to the Administrator of the National Aeronautics and Space Administration.

The authorities and functions delegated in this memorandum may be redelegated.

Any reference in this memorandum to any act shall be deemed to be a reference to such act as amended from time to time. The Secretary of State is authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 11, 2000.

[FR Doc. 00–24054
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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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

RIN 3150–AF22

Domestic Licensing of Special Nuclear Material; Possession of a Critical Mass of Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations governing the domestic licensing of special nuclear material (SNM) for licensees authorized to possess a critical mass of SNM, that are engaged in one of the following activities: enriched uranium processing; fabrication of uranium fuel or fuel assemblies; uranium enrichment (other than certified existing gaseous diffusion plants); enriched uranium hexafluoride conversion; plutonium processing; fabrication of mixed-oxide fuel or fuel assemblies; scrap recovery of SNM; or any other activity involving a critical mass of SNM that the Commission determines could significantly affect public health and safety or the environment. The amendments establish performance requirements, require affected licensees to perform an integrated safety analysis (ISA) to identify potential accidents at the facility and the items relied on for safety necessary to prevent these potential accidents and/or mitigate their consequences; require the implementation of measures to ensure that the items relied on for safety are available and reliable to perform their function when needed; require the safety bases to be maintained, and changes reported to NRC; allow for licensees to make certain changes to their safety program and facilities without prior NRC approval; require reporting of certain events; and require the NRC to perform a backfit analysis under specified circumstances.

EFFECTIVE DATE: The final rule, with the exception of § 70.76, is effective October 18, 2000. Section 70.76 will become effective after the issuance of staff guidance for the implementation of that provision. Once such guidance has been developed, the NRC will publish a **Federal Register** notice specifying the effective date of § 70.76.

FOR FURTHER INFORMATION CONTACT: Theodore S. Sherr, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–7218; e-mail *tss@nrc.gov*, Heather Astwood, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–5819; e-mail *hma@nrc.gov*, or Andrew Persinko, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6522; e-mail *axp1@nrc.gov*.

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I. Background

On July 30, 1999 (64 FR 41338), the Commission published a proposed rule for public comment that would amend its regulations governing the domestic licensing of SNM for certain licensees authorized to possess a critical mass of SNM. The Commission's action was in response to a Petition for Rulemaking, (PRM)–70–7, submitted by the Nuclear Energy Institute (NEI), which was published on November 26, 1996 (61 FR 60057). The proposed rule was intended to grant the NEI PRM in part and would modify the petitioner's proposal. The majority of the proposed modifications to Part 70 were included in a proposed new Subpart H, ''Additional Requirements for Certain Licensees Authorized to Possess a Critical Mass of Special Nuclear Material.'' These modifications were proposed in order to increase confidence in the margin of safety at the facilities affected by the rule.

In developing the proposed rule, the Commission sought to achieve its objectives through a risk-informed and performance-based regulatory approach that included: (1) The identification of performance requirements for prevention of accidents or mitigation of their consequences; (2) the performance of an ISA to identify potential accidents at the facility and the items relied on for safety; (3) the implementation of measures to ensure that the items relied on for safety are available and reliable to perform their function when needed; (4) the maintenance of the safety bases, including the reporting of changes to the NRC; and (5) the allowance for licensees to make certain changes to their safety program and facilities without prior NRC approval.

The 75-day public comment period on the proposed rule ended on October 13, 1999. During and after the public comment period, the NRC staff posted on the NRC web site revised versions of the draft Standard Review Plan (SRP) that would implement the proposed requirements (*i.e.,* on August 4, 1999, a complete draft SRP was posted, and revised chapters, taking into account comments received, were posted during the period March 16–April 3, 2000). In addition, three stakeholder meetings were held to discuss the SRP (September 14–15, 1999, February 9, 2000, and April 18–19, 2000).

II. Public Comments on Proposed Rule

In preparing the final rule, the NRC staff carefully reviewed and considered more than 90 comments on the rule, included in 9 individual letters filed during the public comment period. In addition, 13 submittals containing more than 200 specific comments were received on the SRP. To simplify the analysis, the NRC staff grouped all written comments on the rule into the following major topic areas: Performance Requirements and Design Criteria; Content of Applications and ISA Summary; Safety Program; Change Process, License Renewal and Backfit; Definitions; and Miscellaneous. A more detailed analysis is also documented as

an attachment to SECY–00–0111. A review of the comments and NRC staff's responses follow:

A. Performance Requirements and Design Criteria

Comment A.1: One commenter stated that the proposed rule should specify dose limits for anticipated occurrences similar to those in §§ 72.104 and 72.106. This part of the rule would then cover the range of likelihood (anticipated, likely, unlikely, and highly unlikely) of potential accidents that could occur at nuclear fuel cycle facilities. This could result in an increase in the number of structures, systems, and components (SSCs) relied on for safety and would impact the design, operation, and licensing of the mixed-oxide (MOX) facility.

Response: No change in the rule language has been made. The dose limits for normal operation are contained in 10 CFR Part 20 [viz., 0.05 Sv (5 rem) Total Effective Dose Equivalent (TEDE)/yr for a trained worker]. The NRC staff views ''anticipated occurrences'' to be conditions of normal operations, and believes that the measures currently used by Part 70 licensees to comply with Part 20 have been and will continue to be successful in protecting workers and the public during normal operations. Thus, there is insufficient justification to require identification of ''items'' to demonstrate compliance with Part 20 during normal operations.

Comment A.2: One commenter proposed that the NRC maintain consistency with past precedent (*i.e.*, the Commission's rationale in Part 60) and eliminate the specific worker dose limits in Part 70.

Response: No change in rule language has been made. The regulatory experience and industry events that initiated the effort to add a systematic accident analysis to Part 70 primarily involved health impacts to workers as opposed to the public. The NRC staff believes that the rule's focus on both the potential impacts on workers and the public is appropriate. Based on the discussions and correspondence with the industry and public during development of the proposed rule, and all other comments on the proposed rule, there appears to be general consensus on this approach.

Comment A.3: One commenter stated, in response to the **Federal Register** notice request for comments on the clarity and effectiveness of the language used (per June 1, 1998, Presidential Memorandum), that the language in § 70.61(b) and (c) could be substantially clearer; the commenter provided an alternative plain language version of this section.

Response: The language in the proposed rule was written in response to public comments to focus on risk (*i.e.,* likelihood times consequence) of accidents. The language has been changed, in response to the comment, to provide additional clarity. The proposed revisions provided by the commenter, however, are not merely editorial but represent substantive changes. They appear to have eliminated the concept of limiting risk, and instead, focused on the likelihood of accidents. The revised language in the rule attempts to retain the emphasis on controlling accident risks within appropriate performance requirements.

Comment A.4: Three commenters expressed concerns about how the worker dose limits in § 70.61(f) would be applied to ''co-located workers.'' One commenter suggested that the performance requirements in § 70.61 consider the individuals working in the nearby facilities as public when performing an accident analysis to determine the consequences of the accidents that may occur at the facility. The commenter concluded that this would result in a more stringent application of safety requirements for the protection of workers (*e.g.,* additional items relied on for safety) at the MOX Fuel Fabrication Facility, Pit Disassembly, Conversion Facility, Immobilization Facility, and any other nearby DOE facilities, and would also have a substantial impact on the cost of the MOX facility. A second commenter agreed with this assessment, noting that a worker (as defined in § 70.4) who leaves the controlled area to perform a work-related function would have to be treated as a member of the public when performing an ISA and would be subject to the more stringent public radiation exposure limits. Outside of the controlled area the TEDE limit of 1 mSv (0.1 rem) for members of the public would apply [cf. 10 CFR 20.1301(a)(1)] rather than the annual TEDE occupational dose limit of 50 mSv (5 rems) (10 CFR 20.1201). According to this commenter, this problem has already arisen at the Hanford Tank Waste Remediation System where co-located workers are governed by the appreciably lower public dose limits. A third commenter agreed with the above positions and also stated that the NRC intends to consider individuals outside of the controlled boundary as workers if they are subject to Part 20 requirements. The commenter noted, as did the first commenter, that DOE requirements in 10 CFR Part 835 provide an equivalent level of protection, such that co-located workers—who are subject to the requirements of either Part 20 or 10 CFR Part 835—should be considered ''workers,'' provided the licensee can demonstrate the ability to provide management measures (*e.g.,* notification, evacuation, etc.) in the event of an emergency.

Response: NRC regulations do not specifically address personnel designated as ''co-located'' workers. In response to the comments, the first sentence in § 70.61(f) was changed to read as follows: ''Each licensee must establish a controlled area, as defined in § 20.1003. In addition, the licensee must retain the authority to exclude or remove personnel and property from the area.'' The licensee can set the controlled area at any location around its facility as long as it maintains control of that area as specified in Part 20 and retains the authority to exclude or remove personnel and property from the area. If the controlled area included the nearby Department of Energy (DOE) facilities, then NRC would consider the personnel working at those facilities to be ''workers'' for the purposes of the performance requirements of § 70.61, provided the conditions of § 70.61(f)(2) are met. The DOE and its contractors could satisfy these conditions by documenting their compliance with the requirements of 10 CFR 19.12(a)(1)–(5). To emphasize that the § 70.61(f)(2) requirements, regarding 10 CFR Part 19 training, can be satisfied in combination with existing training, rather than separate training solely devoted to 10 CFR Part 19, 10 CFR 70(f)(2) has been changed to read: ''Provides training that satisfies 10 CFR 19.12(a)(1)–(5)''. To emphasize that the training provided to satisfy § 70.61(f)(2) requirements includes making individuals aware of the risks associated with accidents involving the licensed activities as determined by the ISA, the word ''to'' was changed to ''and,'' so that it now reads ''to these individuals and ensures that they are aware of the risks associated with accidents''.

Regarding the concern about the worker who leaves the controlled area, the risk levels of § 70.61 for the public pertain to *any* individual, including workers, outside the controlled area. On the other hand, with respect to the applicability of the Part 20 occupational dose limit of 0.05 Sv (5 rem)/yr TEDE, a worker can receive an occupational dose and be subject to the Part 20 occupational limit, regardless of his location—including activities outside the controlled area. The ''assigned duties performed in the course of employment'' is the distinguishing factor for radiation workers consistent

with the definition of ''occupational exposure'' in 10 CFR 20. The changes to Part 70, including the ''worker'' definition, do not affect this. In this comment, the relationship between Part 20 annual limits for radiation exposure and the § 70.61 standards for a forward-looking severe accident assessment have been misinterpreted. Part 70 revisions do not limit doses outside a controlled area to 1 mSv (0.1) rem/yr.

Comment A.5: One commenter recommended that baseline criterion (8) be rewritten as follows: ''the design of items relied on for safety must provide for adequate inspection, testing, and maintenance, *or adequate training, testing and qualification for personnel whose activities are relied on for safety,* to ensure their availability and reliability to perform their function when needed.''

Response: No change in rule language has been made. The baseline design criteria are applied from the outset of new design work and are primarily focused on physical design and facility features. The intent is to achieve a conservatively designed facility tolerant of both upsets and human errors. Adequate training, testing, and qualification, as noted in the comment, will be required as management measures under § 70.62, but the NRC does not see a need for the facility physical design to incorporate such training, testing, and qualification of personnel.

Comment A.6: One commenter stated that the baseline criterion on environmental and dynamic effects [§ 70.64a(4)] is unclear. For example, the commenter questioned the need for a formal Equipment Environmental Qualification Program, similar to that required under 10 CFR 50.49 and Regulatory Guide 1.89. According to the commenter, the NRC should clarify this requirement and should not impose requirements that may not be appropriate or necessary because of the nature of the processes at non-reactor nuclear facilities.

Response: No change in rule language has been made. The baseline design criterion on environmental and dynamic effects does not require a formal Equipment Environmental Qualification Program, similar to that required under 10 CFR 50.49 and Regulatory Guide 1.89. This criterion applies only to new facilities and new processes and is intended to ensure that potential ambient conditions are considered during the design of the facility.

Comment A.7: Two commenters had concerns regarding the defense-in-depth definition in § 70.64. One commenter stated that the definition does not reflect the defense-in-depth design philosophy as defined in WASH–1250, ''The Safety of Power Reactor and Related facilities,'' which outlined three levels of safety concepts in the design of a nuclear facility. According to the commenter, the definition presented in §§ 70.64(b)(1) and (2) oversimplifies and does not adequately represent the implementation of the defense-in-depth philosophy in the design. In particular, the commenter noted that the preference for engineered controls over administrative controls and features that reduce challenges to items relied on for safety are only partially implemented in the concept [of defense-in-depth]. Another commenter agreed, stating that § 70.64(b)(1) appeared unnecessarily prescriptive by discouraging a licensee from using anything but an engineered safety control. According to this commenter, as long as the licensee can satisfactorily demonstrate that an administrative safety control or a system of administrative and engineered controls will enable the performance criteria to be satisfied, the choice of items relied on for safety and the nature of ''defense-in-depth'' practices that is applied should be flexible. The commenter's view is that this flexibility, in the grading of defense-in-depth safety concepts, would be consistent with the ability granted a licensee to grade all aspects of its safety program [cf. § 70.62(a)].

Response: With respect to the footnote to § 70.64(b) that describes defense-in-depth, which applies to new facilities and new processes at existing facilities, the NRC staff believes that it does reflect the defense-in-depth design philosophy as defined in WASH–1250. Further, it reflects the Commission's current guidance on the relationship between defense-in-depth and risk-informed regulation that is discussed in the Commission policy white paper, ''Risk-Informed and Performance-Based Regulation.'' With respect to §§ 70.64(b)(1) and (2), the NRC staff did not mean to imply that these provisions encompassed the defense-in-depth philosophy.

Comment A.8: One commenter recommended that the emergency capability baseline design criterion in § 70.64(a)(6)(ii) address on-site personnel (rather than all personnel). The commenter suggested that the rule language be rewritten as ''Evacuation of on-site personnel; and * * *.''

Response: The NRC agrees with the comment. The proposed change has been made and is consistent with the intent of the original rule language.

Comment A.9: One commenter stated that the criticality performance objective in § 70.61(d) is not related to §§ 70.61(b) or 70.61(c); yet, the three conditions are all linked together. The commenter suggested that subpart (d) should be segregated from (b) and (c) if (d) is preserved as an independent entry (as would seem preferable). Otherwise (d) should be subsumed under (b) and/or (c), and the regulatory basis for criticality prevention should be predicated on the risks and/or consequences of the accidents, rather than the presence of initiator precursor, *per se.*

Response: No change in the rule language has been made. The NRC believes that a separate performance requirement for nuclear criticality prevention is appropriate. The NRC staff recognizes that many (but not all) nuclear criticality accidents would reasonably be expected to result in worker doses that exceed the high- and intermediate-consequence standards in § 70.61(b) or (c). However, regardless of the dose directly resulting from the accident, an inadvertent nuclear criticality should be avoided. This is consistent with the Commission's goal to prevent inadvertent criticalities, as reflected in the NRC Strategic Plan (NUREG–1614).

B. Content of Applications and ISA Summary

Comment B.1: One commenter stated that the rule should not prescribe an acceptable level of detail required in the application, but should defer this issue to the SRP. The commenter noted that, although progress has been made in certain areas (*e.g.,* use of language such as ''* * * types of accident sequences * * *.''), in § 70.65(b)(6), which requires the applicant to list all items relied on for safety for high- and intermediate-consequence accidents, the required level of descriptive detail for items relied on for safety (''sufficient detail'') remains vague. The commenter recommends that information at the ''systems level'' should be required, rather than at the ''component'' or ''sub-component'' level.

Response: The NRC disagrees with the comment. The current language permits the description of information at a systems level provided that there is enough detail to understand the function of the system in relation to the performance requirements. The degree of detail provided in the ISA Summary, with the other information available to NRC staff, must be sufficient for the NRC staff to make the determination specified in § 70.66 (*i.e.,* that the performance requirements of the regulation are satisfied).

Comment B.2: One commenter stated that the list of items relied on for safety should not include procedures that the personnel must follow. According to the commenter, since procedures are constantly being adjusted, revised, and improved, their inclusion in the list of items relied on for safety would necessitate frequent revisions, to the ISA Summary, that may have little if any safety significance.

Response: § 70.65(b)(6) requires a list, in the ISA Summary, briefly describing each item relied on for safety. It does not require procedures to be listed in the ISA Summary. Therefore, the rule language permits the approach described in the comment. Typically, the actual personnel action would be regarded as an item relied on for safety and this would be expected to be addressed in the ISA Summary.

Comment B.3: Two commenters had concerns about the relationship among the ISA, the ISA Summary, and the safety program. One commenter recommended that the NRC clarify the relationship of the ISA Summary to the license and the safety basis to ensure consistency throughout the rule with the intent expressed in § 70.65(b). The commenter was concerned that the wording of § 70.65(a) is inconsistent with the idea, presented in § 70.65(b), that the ISA Summary will not be incorporated in the license. The commenter suggested removing the language in § 70.65(a) that references the inclusion of the ISA Summary in the license application, since that requirement is adequately covered in § 70.65(b). The commenter also recommended that a discussion of management measures be included as part of the ISA Summary. The second commenter stated that the rule implies that the ISA Summary, as part of the safety program, is part of the license. Further, the same commenter stated that the ''Statement of Considerations'' erroneously states that the results of the ISA must be submitted for NRC approval.

Response: The NRC generally agrees with the comment. The rule language in § 70.65(a) has been changed to remove the reference to the ISA Summary and management measures. This removes the implication that the ISA Summary is part of the license. With respect to the relationship of the ISA Summary to the management measures, although under the proposed rule, the elements of the ISA Summary did not explicitly include management measures, one of the elements [70.65(b)(4)] of the ISA Summary required information that demonstrates compliance with the performance requirements. Such a demonstration requires information about management measures. As suggested in the comment, the language in § 70.65(b)(4) has been clarified to explicitly include a description of the management measures. With regard to the comment that the ''Statement of Considerations'' erroneously ''states that the results of the ISA must be submitted for approval'', the assertion that the ''Statement of Considerations'' is erroneous is incorrect—the ''Statement of Considerations'' is accurate. In response to this comment, and to clarify the role of the ISA Summary in licensing determinations, changes have been made to § 70.62(c)(3)(ii) and § 70.66. In particular, § 70.62(c)(3)(ii) has been modified to specifically state that the ISA Summary is submitted for approval consistent with the ''Statement of Considerations'' for the proposed rule. Section 70.66 states that this submission will be approved if the Commission determines that ''the applicant has complied with the requirements of § 70.21, § 70.22, § 70.23, and § 70.60 through § 70.65.'' The degree of detail provided in the ISA Summary [contents of the ISA Summary are described in § 70.65(b)] and the other information available, must be sufficient for the NRC staff to make the determination specified in § 70.66. To supplement staff understanding of information submitted, NRC may visit the facility during the licensing review to ensure a sufficient safety basis for operation.

Comment B.4: Two commenters were concerned with the broad nature of the requirement in § 70.65(b)(3) that seeks information on each process analyzed in the ISA, regardless of the risk associated with the process. According to one commenter, the ISA Summary should only address those processes for which accident sequences have been identified that would produce consequences that exceed the performance criteria of § 70.61.

Response: The NRC staff needs some information on each process analyzed in the ISA to assess completeness and quality of the licensee's ISA process and to understand and assess the completeness and functions of the items relied on for safety. The degree of detail provided in the ISA Summary, together with the other information available, must be sufficient for the NRC staff to make the determination specified in § 70.66. In addition the information is useful in confirming the adequacy of emergency planning.

Comment B.5: According to one commenter, § 70.65(b) implies that the ISA Summary is a single document. In practice, the commenter noted that it will be a sequence of documents that cover the facility, and if multiple documents are submitted, they should all be in the same format.

Response: The NRC agrees that multiple ISA Summaries are allowed for each facility resulting in the possibility that the ISA Summary will be a sequence of documents rather than consisting of a single document. The definition of ISA Summary in § 70.4 has been changed to reflect this process. NRC staff approval of individual documents (*e.g.,* on a process basis) will be conditioned to allow for subsequent identification of system interaction effects that may be identified through the review of other ISA summary documents submitted.

Comment B.6: One commenter stated that the requirement, in § 70.65(b)(7), to provide information on the locations of onsite chemicals, is unnecessary.

Response: No change in the rule language has been made. Section 70.65(b)(7) does not require information on the locations of onsite chemicals to be submitted to the NRC. The regulation requires a description of the proposed quantitative standards used to assess the consequences to an individual from acute chemical exposure to licensed material or chemicals produced from licensed material. This information is necessary to ensure safety and is consistent with NRC's Memorandum of Understanding (MOU) with the Occupational Safety and Health Administration (OSHA).

Comment B.7: One commenter objected to the requirement to provide process descriptions, noting that American Institute of Chemical Engineers (AIChE) guidelines may result in the process being broken into ''nodes'' or ''segments.'' The commenter suggested that the rule should specify the descriptions of segments or nodes that could only be combined into a process if the boundaries established for the hazard analysis match.

Response: The NRC agrees with the comment, but does not believe a change in the rule language is needed. The intent of the § 70.65(b)(3) requirement is to provide process information so that the NRC staff can understand: What activities are performed at the site that involve hazardous materials associated with or produced from licensed radiological material, including any use, storage, manufacturing, or handling of those materials; what was analyzed in the ISA; and the hazards identified in the ISA. The AIChE guidelines use the term ''process nodes'' with respect to Hazard and Operability Analysis (HAZOP) and define it as ''sections of equipment with definite boundaries

* * * within which process parameters are investigated for deviations * * *.'' In HAZOP analyses, the term ''node'' designates a pipeline or vessel that has a common design intent. In meeting the § 70.65(b)(3) requirement, several nodes may be combined.

C. Safety Program

Comment C.1: Three commenters questioned the narrow definition of the safety program that is presented in § 70.62(a) and recommended deleting it from the rule language. According to the commenters, the safety program is broader than the three elements identified in § 70.62(a)(1) as process safety information, ISA, and management measures. The commenters noted that fuel cycle facility safety programs encompass the three elements identified plus all the other topics addressed in the license application. This includes, for example, radiation safety, criticality safety, chemical safety, and fire protection, in addition to the three elements directly associated with the ISA.

Response: The NRC staff agrees in principle with the comment. The term ''safety program,'' as used in § 70.62 (a), is related to the elements needed to demonstrate compliance with the performance requirements in § 70.61. This safety program consists of process safety information, ISA, and management measures. There is no intent to indicate that these elements represent the total safety program at the facility. Therefore, the rule language was clarified by changing ''The three elements of *the* safety program; namely process safety information, integrated safety analysis, and management measures, are described in paragraph (b) through (d) of this section * * *'' to ''Three elements of *this* safety program; namely process safety information, integrated safety analysis, and management measures, are described in paragraph (b) through (d) of this section.''

Comment C.2: One commenter stated that the current proposed rule offers sufficient flexibility in selecting ISA methodology so that a broad spectrum of facilities can be addressed and such that licensees have flexibility to interface with their site processes, procedures and resources.

Response: The Commission agrees with the comment; therefore, no change was made to the rule language with respect to ISA methodologies. The final rule offers sufficient flexibility in selecting an ISA methodology that can be used to analyze a facility's site, processes and procedures.

Comment C.3: Two commenters were concerned about the implementation of the final rule, and, in particular, the time frame for compliance with those aspects of the rule not related to the completion of the ISA and the submittal of the ISA Summary. One commenter, citing the experience when Part 20 was revised, recommended an effective date sufficiently far into the future so programmatic changes could be implemented at the operating facilities and any necessary conforming license amendments could be completed. Regarding the latter issue, both commenters cited 10 CFR 20.1008 as an example of how potential contradictions between license applications and regulations could be addressed. One commenter recommended including an additional provision of this type, especially in light of license conditions that have been added to licenses recently renewed by the NRC.

Response: The NRC agrees with the comment. In § 70.76(a), it states that ''this provision shall apply for subpart H requirements as soon as the NRC approves that licensee's ISA Summary pursuant to § 70.66. For requirements other than Subpart H, this provision applies regardless of the status of the approval of a licensee's ISA Summary.'' In addition, Appendix A was revised to include the following: ''Licensees must comply with reporting requirements in this appendix, except for (a)(1), (a)(2), and (b)(4), after they have submitted an ISA Summary in accordance with § 70.62(c)(3)(ii). Licensees must comply with (a)(1), (a)(2), and (b)(4) after October 18, 2000.'' In addition, § 70.62(c)(3)(ii) was revised to further clarify implementation schedules for existing licensees.

Comment C.4: Two commenters stated that a graded approach should be used in determining the management measures that need to be applied to items relied on for safety. One commenter recommended that the language in § 70.62(d) should be changed as follows: ''The measures applied to a particular engineered or administrative control or control system may be graded commensurate with the reduction of the risk attributable to that control or control system.'' The other commenter recommended that other factors besides risk including consequences, life cycle, and magnitude of hazard involved, should be used to determine appropriate management measures.

Response: The NRC agrees with the comment and has made the suggested change to the rule language in § 70.62(d). Regarding the question of considering other factors besides ''risk,'' the NRC notes that the grading of measures to consequences, life cycle, and magnitude of hazard, is part of grading the measures to risk. The phrase used in the rule—''commensurate with the reduction of risk attributable to that item''—does not imply requiring a quantitative determination of the risk significance of any particular item relied on for safety. The rule is non-prescriptive regarding the grading approach and criteria to be used, allowing applicants to propose such details.

Comment C.5: One commenter stated that the 4-year period for conducting the ISA and for modifying the facility to address any identified unacceptable performance deficiencies may be too short and recommended a 5-year period instead. According to the commenter, a 5-year time-frame would be consistent with the time allowed for existing licensees that have committed, by license condition, to perform ISAs. The commenter also recommended that the period should start on the date when the NRC approves the plan required in § 70.62(3)(i), noting that if the clock starts on the effective date of the rule and the NRC takes one year to approve the ISA plan, the licensee will be unduly hampered. In addition, the commenter stated that there should be some incentive for the NRC to complete its approval process in a timely manner and recommended imposition of a 90-day limit for NRC to issue a decision on the acceptability of a licensee's ISA approach. The commenter also recommended that appropriate and sufficient time be allowed for the licensee to present a plan to the NRC and to implement the plan to correct any identified unacceptable performance deficiencies.

Response: Regarding the proposal for a 5-year period for conducting the ISA and correcting all unacceptable deficiencies, the NRC believes that the 4-year period proposed in the proposed rule is reasonable. However, NRC recognizes that there may be some instances where modifications resulting from the ISA cannot be completed within the 4 years specified and has modified § 70.62(c)(3)(ii) to accommodate these instances by clarifying that NRC may approve extensions for reasons that are beyond the control of the licensee. Regarding the licensee being unduly hampered because of the time required for the NRC staff to approve the plan required by § 70.62(c)(3)(i), the NRC staff expects to complete the licensing review within 90 days, assuming that the information submitted is complete. However, the time it takes the NRC to approve the

plan will depend on the quality of the plan submitted by the licensee. In addition, current industry development of an ISA Summary guidance document should facilitate the licensing review process.

Comment C.6: One commenter stated that the plan required in § 70.62(c) which should be submitted within 6 months of the effective date of the rule, should pertain only if a licensee has not already completed the actions outlined in § 70.62(c)(3)(ii).

Response: The implementation plan and the ISA must satisfy the requirements in the final rule. If the actions outlined in § 70.62(c)(3)(ii) have been completed, then all that would be required to satisfy § 70.62(c)(3)(i) is submission of a description of any additional work that must be performed to meet the requirements in Subpart H of the rule, or a confirmation that the work submitted meets the requirements in Subpart H of the rule.

Comment C.7: Four commenters disagreed with the requirement in § 70.62(a)(3) to establish and maintain a log of failures of items relied on for safety. One commenter stated that the requirement should be rewritten to be performance-based rather than prescriptive. The commenter noted that most licensees have an incident reporting and corrective action system, which is used for all activities at the facility. As long as these systems meet the performance objective, it seems unnecessary for the rule language to be prescriptive in how it is met. Another commenter agreed, stating that it is inappropriate to impose this extra record-keeping burden on the licensee, because the licensee already has to generate records of this nature to manage its business and another different log is unnecessary work. Another commenter noted that because of the reporting requirements of § 70.62(a)(2) and § 70.74(a)(1), the NRC will already possess all of the information sought in the ''log'' of § 70.62(a)(3).

Response: The NRC generally agrees with the comment that maintenance of the failure log would be unnecessarily prescriptive. Regarding the concern about prescriptiveness, the rule has been revised to eliminate the requirement for licensees to establish and maintain a specific log of information developed and maintained elsewhere. However, the final rule requires that data be readily retrievable and available. This information is necessary to evaluate the reliability and availability of items relied on for safety, the likelihood of failure of the items, and the effectiveness of management measures implemented by the licensee. The NRC also anticipates this information will be reviewed during periodic inspections by NRC as part of the revised oversight process that is being developed. Regarding the redundancy of reporting, the rule currently requires the licensee to report only any loss or degradation of items relied on for safety that results in failure to meet the performance requirements of § 70.61. The requirements of § 70.62(a)(3) include a much broader set of items, including all items relied on for safety or management measures that have failed to perform their function.

D. Change Process, License Renewal, and Backfit

Comment D.1: Five commenters were concerned about the requirement in § 70.72(d)(1) to submit changes to the ISA Summary every 90 days. Two commenters stated that an annual update [similar to the annual Final Safety Analysis Report updates for reactors per 10 CFR 50.71(e)] should suffice, considering that the potential consequences of reactor accidents are significantly greater than those at fuel cycle facilities. One commenter stated that an annual update to the ISA Summary would be consistent with the reporting requirements (for changes to records) of § 70.72(d)(3). Another commenter stated that the 90-day reporting of changes is entirely too frequent, which would mean that the facility and the NRC would always have change reporting in progress. According to the commenter, there is no need for NRC to have this ''real-time'' knowledge; rather, it is only important that the licensee have ''real-time'' knowledge. The commenter noted that the NRC only needs reasonably current knowledge, because the current ISA is available and accessible at the site. The commenter believes that a 12-month to 24-month update for reporting, as used in other places, is satisfactory and more efficient, noting that this seems clearly justified based on the fact that all the information is available at the site and accessible to the NRC at any time.

Response: The NRC agrees with the comment that submitting updates to the ISA Summary to the NRC can be less frequent than required in the proposed rule. The final rule requires only annual reporting within 30 days after the end of the calender year during which the changes occurred.

Comment D.2: One commenter noted that, under § 70.72, the NRC should define ''periodically'' in the context of reporting of changes made to SSCs *etc.*

Response: The NRC determined that no change to the reporting requirements is necessary in response to the comment. The comment referenced language in the ''Statement of Considerations'' not the rule. The specific reporting requirements were defined in the proposed rule and are included, as revised, in the final rule.

Comment D.3: Two commenters were concerned about the footnote in § 70.72(c) that attempts to explain new types of accident sequences. Both commenters stated that the language in the footnote would require nearly all process changes to be approved by NRC through a license amendment, which would be in conflict with the overall objectives for the proposed rule. Both commenters recommended that the footnote be deleted.

Response: The NRC agrees that the footnote did not successfully clarify the definition of ''new types of accident sequences.'' Thus, the footnote has been deleted from the final rule. The NRC staff will develop a guidance document, with input from stakeholders, to describe an acceptable change process that meets the requirements of the final rule in more detail. The degree of detail provided in the ISA Summary, together with the other information available, must be sufficient for the NRC staff to make the determination specified in § 70.66. In addition, the NRC staff had added a discussion to Chapter 3 of the SRP to describe an acceptable level of detail in the identification of the types of accident sequences.

Comment D.4: Three commenters were concerned about the requirements, in § 70.72, regarding configuration management and the overly broad process for making changes at licensed facilities. One commenter stated that the requirements, as written, apply to all site, structures, processes, systems, equipment, components, computer programs, and activities of personnel, regardless of safety significance. The commenter noted that compliance with these requirements would appear to require configuration management and change control applied to everything on the site of the licensed facility; that could include the wastewater treatment facility, a laser facility, the administration building, maintenance of the shrubbery, *etc.* Every change would require an evaluation and a summary submitted to the NRC, even though inclusion in the change control process would make no contribution to the safety of licensed operations and would impose an undue burden on the licensee. To remedy this, the commenter recommended that the configuration and change process be limited to any ''changes to the site, processes or items relied on for safety as described in the

ISA Summary.'' Another commenter agreed, stating that the requirement is too broad and all-encompassing and would require configuration management evaluation of changes having no or absolutely minimal effect on health and safety (*e.g.*, office remodeling, planting of shrubbery, changing paint colors). The commenter suggested that rather than control every change by means of configuration management, the licensee should first rely on internal procedures to screen any proposed changes initially for their potential safety significance.

Response: No change in the rule language has been made. The emphasis of this requirement is clearly on licensed operations and the associated safety controls. If a licensee has established a configuration management system in accordance with § 70.72(a), it is important the licensee use the system to evaluate every change made at a facility that could affect safety (*i.e.*, generally not shrubbery, paint color) to ensure that any impacts from those changes on the safety of operations is identified, considered, documented, before implementing the change. In some cases, the analysis would be trivial because no known hazards would be involved in the change (*e.g.*, certain changes in the administration building, or changes to shrubbery). Often it is clear that there are no safety implications associated with the proposed change. However, there may be special cases in which apparently minor changes could adversely affect safety, such as installation of a drinking water fountain in a radiological control area. In addition, every change which is assessed in the configuration management system does not need to be submitted to the NRC. Section 70.72(d)(2) states that only those changes to records required by § 70.62(a)(2) need to be submitted. These would include changes to the process safety information, ISA, and management measures. In addition, with respect to the use of an ''initial screening'' mechanism, the NRC staff considers an initial screening to assess the safety impact of a change to be part of an evaluation, as called for in § 70.72(a). In some cases, this screening will be sufficient.

Comment D.5: One commenter stated that §§ 70.72(c)(1)(i), (c)(2), and (c)(3) are wrong to use the ISA Summary as the decision-making document. The commenter noted that the ISA, the detailed licensee-generated information and evaluations that the licensee uses to manage its program, comprises the information base for decisions. Summaries only provide a general level of information about the more important elements of the safety system for operations as determined under the licensed program.

Response: No change in the rule language has been made. The ISA Summary is prepared based on the ISA, and contains key information that is directly related to facility safety, such as a list of items relied on for safety, a description of hazards identified in the ISA, and a general description of the types of accident sequences. The contents of the ISA Summary are described in § 70.65(b). The NRC staff could review the adequacy of changes using the ISA instead of the ISA Summary, but this approach would require submission of a greater amount of information to NRC and would pose an unnecessary burden on the licensee. (Also, see response to Comment B.3.)

Comment D.6: Two commenters are concerned about the annual requirement in § 70.72(d)(3) to submit a brief summary of all changes to the records required by § 70.62(a)(2). According to one commenter, the submittal would cover process safety information [§ 70.62(b)] including procedures, drawings, and detailed equipment lists. The commenter does not believe the NRC requires a summary of changes to this type information. A second commenter agreed, stating that the wording of this section will inadvertently and significantly expand the information that would have to be reported. In particular, the view was expressed that § 70.72(d) would require the licensees to submit voluminous information that could include the update to process safety information, including drawings, flow process diagrams, and piping and instrumentation diagrams. The commenter suggested that this section should be reworded to read: ''a brief summary of all changes to the *integrated safety analysis and ISA summary,* that are made without prior Commission approval, must be submitted to the NRC every 12 months * * *.''

Response: No change in the rule language has been made. The regulation currently requires submission of ''* * * a brief summary of all the changes to the records required by § 70.62(a)(2) * * *'' This does not require the submittal of actual charts and drawings but a written summary of the changes made. For the reasons cited in the response to comment D.1, it is important that the NRC be knowledgeable of changes made to this information.

Comment D.7: One commenter noted that, unlike § 50.59, the requirements of § 70.72 do not call for the submittal of a brief description and summary safety evaluation for each change. The commenter believes that the NRC would benefit from a description of changes made to the ISA Summary. Accordingly, § 70.72 should require brief descriptions and summary safety evaluations of each change made pursuant to § 70.72 and require that an updated ISA Summary be provided on a biennial basis.

Response: No change in the rule language has been made. The brief summaries of changes submitted under the requirements of § 70.72(d)(2) would be expected to include an explanation of each change, the reasons why the change was made, and why it did not require pre-approval. This information will be included in a guidance document to be developed. The NRC staff views this as sufficient and does not anticipate the need for licensees to submit a summary safety evaluation for each change, as long as each change has been made in accordance with the final rule and the approved process.

Comment D.8: Two commenters questioned the current timeframe (10 years) or the need for renewal of licenses, suggesting that the new rule, in effect, resulted in a ''living license.'' One commenter stated that if a ''living license'' is truly the outcome as described in the **SUPPLEMENTARY INFORMATION**, renewal periods as long as 20 years would be appropriate. The other commenter noted that with updates required every 12 months there is no real need for the NRC to renew the license—it only becomes a maintenance chore to confirm periodically that the licensing basis remains intact. The commenter believes that the living license concept provides advantages for the NRC and the licensee.

Response: Although the NRC generally agrees with those comments, no change in the rule language has been made. A specific time period for renewals is not specified in Part 70 and to establish one in the rule would require consideration of many factors, such as compliance with the National Environmental Policy Act and the impact of the loss of commitments linked to license renewal, that were not addressed in the current rulemaking (*e.g.,* financial assurance for decommissioning). Establishment of a new term for licenses (*e.g.,* 20 years) in 10 CFR 70 would require an analysis of these factors and an opportunity for public comment. The NRC staff will evaluate whether a longer term for fuel cycle licenses is appropriate in light of the new requirements in Subpart H. In any case, even if NRC ultimately declines to extend the term of the fuel cycle licenses (nominally 10 years), the burden of license renewal should be

significantly reduced because the licensee will be required to maintain current the ISA Summary, items relied on for safety, and management measures.

Comment D.9: Five commenters recommended that a backfit provision similar to that in 10 CFR 50.109 or 10 CFR 76.76 should be included in the final rule. One commenter stated that the backfit provision should apply to current proposed changes at existing facilities. Another commenter stated that the backfit provision should be immediately effective for those processes or parts of an existing facility for which an ISA has been completed. A third commenter favored an immediately effective backfit provision. However, as an alternative, the commenter would make the provision effective for facilities or systems for which the ISA has been completed and the ISA Summary submitted to the NRC. A fourth commenter stated that deferring consideration of a backfit provision would be evading an extremely important issue, expressing the view that it is vital that a formal, systematic, and disciplined review of new, changed, or differing positions that could backfit existing facilities be applied to increase regulatory certainty. According to the commenter, no change to the backfit language in 10 CFR 50.109, which has been used successfully to control backfits at power reactors in the past, is needed to allow for qualitative analysis. 10 CFR 50.109, which the commenter endorses, is viewed as neither a quantitative nor a qualitative backfit provision. In contrast to the statement made in the Statement of Considerations of the proposed rule, the commenter does not believe that a comprehensive risk baseline is necessary before reasoned judgments can be made on the benefits and risks of a proposed backfit.

Response: The Commission agrees that regulatory stability and certainty can be improved by establishing a backfit provision for fuel cycle facilities covered by Subpart H of the final rule. Consequently, NRC has included a backfit provision in the rule in § 70.76. The wording of § 70.76 is similar to the current language in § 76.76. For requirements other than Subpart H, this provision will apply immediately after NRC publication of backfit guidance. For Subpart H requirements, this provision shall apply for a licensee as soon as the NRC approves that licensee's ISA Summary pursuant to § 70.66. The NRC will publish guidance that will address the qualitative versus quantitative analysis issue and consideration of chemical risks. The NRC staff anticipates completing this guidance within six months of the publication of the final rule. Under the § 70.76 backfit provision, a backfit analysis is not required for modifications necessary to bring the facility into compliance with the rule, including the performance requirements in Subpart H. The subject of backfit is discussed in more detail in an attachment to SECY–00–0111.

E. Definitions

Comment E.1: One commenter recommended a change (from 4 percent to 5 percent enrichment) in the definition of a critical mass of SNM to reflect the higher enrichments that are currently in use.

Response: The definition of critical mass of SNM in Part 70 is used solely to determine when Subpart H applies. To emphasize this point, the definition was changed to include the phrase, ''for purposes of subpart H.'' The definition, including the 4 percent figure, is identical to that used in § 70.24, which requires criticality accident alarms and other related measures.

Comment E.2: Regarding the issue of ''reasonable assurance,'' two commenters stated that, in the definition of available and reliable to perform their function when needed, the use of the term ''ensure'' implies a level of certainty that is unrealistically high. Both commenters recommended replacing the term ''ensure'' with the term ''provide reasonable assurance.'' One commenter also recommended removing the word ''continuous'' from the definition, which would now read ''* * * means that * * * items relied on for safety will perform their intended safety function when needed and management measures will be implemented to *provide reasonable assurance of* compliance with the performance requirements of § 70.61.''

Response: The definition was revised to remove the word ''continuous,'' but no change was made regarding ''ensure.'' With respect to ''ensure,'' the proposed rule language does not indicate a level of certainty that is unrealistic. The term ''ensure'' is used extensively throughout NRC's regulations in the context of a licensee's obligations to connote ''make sure'' or ''make certain.'' Specifically, elsewhere in Part 70 alone, the term is used in this context eight times: §§ 70.24(a)(3), 70.32(j), 70.38(g)(4)(iii), 70.51(a)(10), 70.52(c), 70.57(b)(3), 70.57(b)(4), and 70.57(b)(6). Whereas, the term ''reasonable assurance'' is used just once in Part 70, in § 70.23(b), to describe the level of assurance that the Commission must find in order to approve construction. The use of ''ensure'' in the definition of ''available and reliable to perform their function when needed''' in § 70.4 is appropriate. In short, licensees ''ensure'' and the Commission determines ''with reasonable assurance.'' Regarding the issue of ''continuous compliance,'' the definition of ''available and reliable'' in § 70.4 has been modified to delete the word ''continuous.'' This change recognizes the concept that a failure of an item relied on for safety does not automatically infer a failure to meet the performance requirements of § 70.61. In addition, the NRC recognizes that items relied on for safety may temporarily not be available (*i.e.,* not continuous) when taken out of service for maintenance or functional testing; however, the performance requirements must still be met. A discussion has been added to Chapter 3 in the SRP to address the relationship of failures of items relied on for safety to meeting the performance requirements.

Comment E.3: One commenter stated that there is a ''disconnect'' regarding the definition of the term items relied on for safety and recommends that the term be replaced by the term Measures relied on for safety.

Response: The reason for the comment is not clear, but perhaps the commenter objects to the use of the term ''item'' to refer to a personnel action. Part 70 does, in fact, allow human actions to be items relied on for safety and permits flexibility in determining how the items and measures are defined. Consequently, the Commission has retained the original text in the final rule. (See related Comments B.2. and E.4.)

Comment E.4: One commenter was concerned that the term items relied on for safety includes ''activities of personnel,'' and proposed changing the definition in 70.4 to limit items relied on for safety to ''structures, systems, equipment, and components.'' According to the commenter, it is reasonably straightforward to classify physical items as being relied upon for safety, and to apply graded quality assurance controls, including management measures, to design, construction, operation, and maintenance, *etc.,* of those physical items, based on their respective safety functions. The commenter stated that it can be confusing to try and classify and grade items when they include ''personnel activities,'' since an activity has little importance absent the context of its influence on a physical item's safety function. Removing ''personnel activities'' from the definition of items relied on for safety would not limit their

importance but rather, would put activities in context with the structures, systems, equipment, or components to which they are related, without necessitating a change in the balance of the proposed rule. The commenter stated that removing personnel activities from the definition of items relied on for safety will also help address the concern raised (in comment B.2) regarding the treatment of procedures as items relied on for safety.

Response: No change was made to the rule language. Human actions that are relied on to prevent an accident (*i.e.,* administrative controls) are as important as the ''physical items'' needed to prevent an accident. Just as there are measures (*e.g.,* maintenance, configuration management) needed to ensure the availability and reliability of physical controls, there are analogous measures (*e.g.,* training, procedures) needed to ensure the availability and reliability of human actions. Graded approaches that can be applied to the maintenance of a physical control depending on the risk significance of the control could also be applied to the training of workers who perform safety functions, depending on the risk significance of the human's actions. Although the reliability of engineered controls may be higher than administrative controls, the final rule allows licensees the flexibility to employ both engineered as well as administrative controls.

Comment E.5: One commenter stated that the NRC should define the terms likely, unlikely, highly unlikely, and credible in the rule so that there will be one set of definitions applied to all nuclear fuel facilities. The commenter stated that this will minimize the interpretation and application of these terms in the ISA.

Response: No change in the rule language has been made. Part 70 applies to different types of fuel cycle facilities, some of which are more complex and have more accident sequences than others. Accordingly, since the application of the terms in the rule will be necessarily specific to the individual context in which they are applied, the development of a definition for these terms in the rule language is impracticable. The Commission, however, will provide general guidance on the application of the terms unlikely and highly unlikely in the SRP to aid licensees in implementing the provisions of the rule.

Comment E.6: One commenter recommended a change in the definition of worker. In particular, the language ''* * * exposure to radiation and /or radioactive material from licensed and unlicensed sources of radiation'' would be replaced with ''* * * exposure to radiation and /or radioactive material from licensed sources of radiation, and radiation from man-made non-regulated sources (*e.g.,* an individual).'' As originally defined, persons who are subject to occupational doses from natural sources of radiation, (*e.g.,* airline pilots and astronauts subject to high cosmic background might be included, whereas workers involved with the possession or use of unlicensed radioactive materials might not be). The commenter stated that the proposed change removes this source of confusion.

Response: The NRC staff agrees in principle with the comment. However, the commenter's proposed change does not eliminate the confusion (*e.g.,* some man-made unlicensed sources of radiation are part of background or otherwise not included in occupational doses as defined in NRC's radiation protection standards in 10 CFR 20). Instead, in response to the comment, the definition in § 70.4 was changed to: Worker, as used in Subpart H, means an individual who receives an occupational dose as defined in 10 CFR 20.1003.

F. Miscellaneous

Comment F.1: One commenter recommended that the criticality requirements of § 70.24 be revised to permit alternate criticality control provisions to be accepted for DOE facilities without requiring an exemption.

Response: Comments on § 70.24 are outside the scope of the rulemaking.

Comment F.2: Two commenters recommended changes in the decommissioning requirements of §§ 70.22(a)(9) and 70.38. In particular, one commenter recommended that the timeliness and schedule provisions in the decommissioning requirements of § 70.38 be revised to include separate requirements for DOE facilities.

Response: Comments on §§ 70.22(a)(9) and 70.38 are outside the scope of the rulemaking.

Comment F.3: One commenter expressed concern with the language in § 70.23(b), which states that the Commission will approve construction of a plutonium processing and fuel fabrication facility only after determining that the design bases of SSCs, and the attendant quality assurance program are adequate to protect against natural phenomena and the consequences of potential accidents. In particular, the commenter stated that this provision, as written, seems contrary to other changes being proposed under the draft rule, because it addresses *consequences* of potential accidents, as opposed to the *risk* associated with *credible* accidents.

Response: Section 70.23(b) has not been modified in this rulemaking. The reference to ''consequences'' in the rule language does not preclude a risk-informed approach in satisfying this requirement. The NRC will need to consider the risk, and thus the likelihood of consequences of potential accidents occurring, in order to determine whether there is reasonable assurance of protection against such consequences. This consideration of risk will be important in determining the need for (and the ability of) the applicant to reduce the likelihood of accidents and to mitigate their consequences.

Comment F.4: One commenter recommended that § 70.11 be revised to reflect the applicability of NRC authority over a MOX fuel fabrication facility owned by the DOE, pursuant to changes in law last year.

Response: The NRC agrees with the comment, but believes a separate rulemaking is required. Since October 17, 1998, when the amendment to Section 202 of the Energy Reorganization Act of 1974 was enacted, § 70.11, as well as several other subsections of the regulations, need to be updated to reflect this legislative change. However, to address this subsection and all the other instances, and to avoid the necessity for potential future revisions of this type, the NRC intends to institute an administrative-type rule amendment to conform all of the references to Section 202 in the regulations, including § 70.11, to merely cite Section 202, rather than repeat the text of that section. Because this rule change affects various parts of the regulations, it will be conducted independently of the current Part 70 amendments.

Comment F.5: One commenter stated that as additional DOE facilities are licensed by the NRC under Part 70, the NRC should ensure that the requirements address the full range of fissionable and fissile materials at these facilities.

Response: This issue is beyond the scope of the rulemaking. It will be addressed, if necessary, in the future.

Comment F.6: One commenter agreed that the proposed rule is entirely consistent with the U.S. Environmental Protection Agency's Risk Management Program regulations and the general duty clause of the Clean Air Act, and contains appropriate complementary safety measures for facilities possessing a critical mass of SNM.

Response: No response necessary.

Comment F.7: One commenter strongly recommended that the NRC adopt, by reference, the 1998 edition of National Fire Protection Association (NFPA) 801, ''Facilities Handling Radioactive Materials.'' NFPA 801 would apply to § 70.62, ''Safety program and integrated safety analysis,'' that addresses protection from all relevant hazards, including radiological, criticality, fire, and chemical. The NFPA standard would also apply to § 70.64, ''Requirements for new facilities or new processes at existing facilities,'' that addresses fire protection. The reference to NFPA 801 is in keeping with the requirements of Public Law 104–113, ''National Technology Transfer and Advancement Act,'' that requires Federal agencies to use private sector-developed national consensus technical standards in carrying out public policy, wherever appropriate.

Response: The suggested change would be an unnecessarily prescriptive rule requirement. Instead, the NRC identifies the standards in NFPA 801 and 600 as an acceptable approach for demonstrating compliance with 10 CFR Part 70 in the SRP.

Comment F.8: One commenter noted that the proposed rule incorporates the current terms of the MOU between the NRC and OSHA. This should avoid misunderstanding and result in more effective implementation for all concerned parties.

Response: Although the rule is consistent with the NRC–OSHA MOU, the rule itself does not incorporate the terms of the MOU. Nevertheless, the NRC agrees with the spirit of the comment.

Comment F.9: Two commenters expressed concern over those portions of §§ 70.22 and 70.23 of the existing rule that address the regulation of plutonium processing and fuel fabrication facilities. One commenter asked if § 70.22 (f) should be coordinated with § 70.65. The commenter noted that it is not clear if the requirements are collateral, complementary, or redundant. The same commenter stated that § 70.23(b) should be examined to clarify the need for this requirement in light of similar information being submitted pursuant to § 70.65. The second commenter agreed, stating that § 70.22(f) requires plutonium-related applicants to provide information on the facility site and design basis of principal SSCs, *etc.,* as part of the license application. The commenter believed that this information is also required in other sections of the revised rule, and thus is redundant.

Response: No change in the rule language has been made. The requirements are not viewed as redundant, considering: the timeframe for submittal of information required by the two sections could be different; and § 70.23(b) contains a requirement for NRC construction approval before the start of construction.

Comment F.10: Two commenters were concerned about the construction authorization provisions in §§ 70.23(b) and 70.23(a)(7). According to one commenter, irrespective of § 70.65, the construction authorization provision in § 70.23(b) appears to be an unnecessary step and should be considered for deletion by the NRC. If the NRC chooses to retain § 70.23(b), the NRC should clarify how the authorization process would be conducted, given that the procedural step has never been exercised. Furthermore, the NRC should identify how the ''design basis'' authorization is defined, why it is necessary, and how it relates to the ISA. The second commenter noted that § 70.23(a)(7), which applies to other Part 70 licensees, allows construction to commence based on a conclusion by the Director, NRC Office of Nuclear Material Safety and Safeguards, that environmental impacts have been appropriately addressed. The commenter stated that this discretion afforded the NRC under § 70.23(a)(7)—*i.e.,* NRC's authority over construction associated with ''any * * * activity which the Commission determines will significantly affect the quality of the environment'' is adequate to ensure the sufficiency of information provided to the NRC to authorize or disallow construction. The commenter proposes that § 70.23(a)(7) be clarified for applicability to plutonium facilities, and that §§ 70.22(f), 70.23(a)(7),and 70.23(b) be eliminated. Doing so would avoid the preconception that, irrespective of design features and material composition, plutonium is ''more special'' than other SNM.

Response: No change in the rule language has been made. The Atomic Energy Commission specifically established these requirements (see 36 FR 9786; May 28, 1971 and 36 FR 17573; September 2, 1971) for plutonium facilities in recognition of the potential exposures and ground-contamination levels that may result if only a small fraction of the dispersible plutonium in process were released (see SECY–R 188, March 17, 1971). The current revisions to Part 70 do not impact this section and therefore, the suggested change is outside the scope of the rulemaking. Regarding the authorization process, the NRC staff has clarified this process in a letter to Duke, Cogema, Stone & Webster, dated September 10, 1999. The design basis was also identified in this letter. NRC provided additional guidance on this process in the draft Standard Review Plan for a Mixed Oxide Fuel Fabrication Facility. In addition, the NRC staff is currently assessing the opportunities for hearings associated with the review of a license application for a plutonium processing facility and may offer additional guidance on this topic later in 2000.

Comment F.11: One commenter noted that, under § 70.23(a)(8), the NRC will approve a plutonium facility's license application only after construction of principal SSCs has been completed in accordance with the application. Certainly this is not a requirement unique to plutonium facilities. The NRC already has the authority to grant licenses conditional on successful completion of certain actions (such as successful start-up testing, training, *etc.*). Completion of construction in accordance with the license application seems such an obvious condition that this specific provision seems redundant and therefore unnecessary.

Response: The NRC established § 70.23(a)(8) specifically for plutonium processing facilities. Because the current revisions to Part 70 do not impact this section, comments regarding this section are outside the scope of the rulemaking. See response to Comment F.10.

Comment F.12: One commenter noted that the terminology in Appendix A (b)(1) clearly ties the failure to the performance requirements. The phrase, ''and which results in failure to meet the performance requirements of § 70.61'' is very clear. This phrase should be consistently included in Appendix A (b)(2)–(5) using the exact same wording.

Response: No change in the rule language has been made. The linkage to the failure to meet the performance requirements is already included in Appendix A (b)(2) and (b)(3). For the events described in Appendix A (b)(4) and (5), the NRC staff desires to be informed when such events occur, regardless of the licensee's determination with respect to the performance requirements. In these cases, the NRC staff will independently confirm the licensee's assessment of whether the performance requirements were met, on the basis of the information reported.

Comment F.13: One commenter stated that the reporting requirements of § 70.50 continue to misrepresent the principles of the 1988 NRC-OSHA MOU. Section 70.50(c)(1)(iii)(A)

requires the reporting of chemical hazards and § 70.50(c)(1)(iii)(B) requires the reporting of personnel exposures to chemicals. According to the commenter, although the MOU principles have been correctly incorporated into other proposed revisions to Part 70 (*e.g.*, §§ 70.4, 70.61(b), 70.62(c), 70.64(a), 70.74, and Appendix A), they were incorrectly referenced in § 70.50. MOU principle (2) limits NRC jurisdiction to regulation of chemical hazards of licensed material and hazardous chemicals *produced from licensed material.* The two aforementioned sections of § 70.50 should be corrected to properly incorporate the MOU principles.

Response: The rule was revised in response to the comment to reflect more precisely the language in the NRC-OSHA MOU.

Comment F.14: One commenter noted that applicants for licenses to operate new facilities or new processes at existing facilities would be expected (''Statements of Consideration,'' 64 FR 41346) to update their ISAs, based on as-built conditions, and submit the results to the NRC before operation. The process for uranium enrichment facilities that must comply with § 70.23a would differ from this description. Uranium enrichment facilities would submit a complete license application, including an ISA Summary, for construction and operation. This application would be the basis for NRC review, and culminate in issuance of a license for construction and operation. After issuance of the license, the licensee would institute change control under § 70.72. The licensee would then be required to submit summaries of changes and ISA Summary updates as required by § 70.72. An inspection would verify that the facility has been constructed in accordance with the license, before operation, as required by § 70.32(k). No pre-operational submittal and review of an updated ISA Summary are anticipated for uranium enrichment facilities because their configuration would be controlled after issuance of the construction and operation license.

Response: As recognized by the commenter, no changes to the rule are necessary. The differences in the licensing process for enrichment facilities other than the gaseous diffusion plants (regulated under 10 CFR Part 76) reflect the process mandated in Section 193 of the Atomic Energy Act of 1954, *et. seq.*

III. Changes from the Proposed Rule

Subpart A—General Provisions

Authority

This section has been changed to reflect the redesignations of §§ 70.61 and 70.62 as §§ 70.81 and 70.82, respectively.

Section 70.4 Definitions

The definition of ''available and reliable to perform their function when needed'' has been modified to eliminate the need to maintain ''continuous'' compliance with the performance requirements of § 70.61. The definition of ''configuration management'' has been modified to clarify its role as a ''management measure.'' The definition of ''critical mass of special nuclear material'' has been modified to emphasize that the definition is only for the purposes of Subpart H. The definition of ''double contingency'' has been changed to provide minor clarification. The definition for ''worker'' has been clarified and has been revised to emphasize that the definition is only for purposes of Subpart H. The definitions of ''ISA'' and ''ISA Summary'' have been changed to indicate that the ISA can be performed on a process by process basis and the ISA Summary can be submitted in multiple documents that cover all the portions of the facility.

Subpart G—Special Nuclear Material Control Records, Reports, and Inspections

Section 70.50 Reporting Requirements

The reporting requirements for hazardous chemicals have been revised to be consistent with the language of the 1988 NRC-OSHA MOU (53 FR 43950; November 22, 1988).

Subpart H—Additional Requirements for Certain Licensees Authorized To Possess a Critical Mass of Special Nuclear Material

Section 70.60 Applicability

The applicability of the Subpart H requirements has been revised to clarify when the requirements will take effect.

Section 70.61 Performance Requirements

The performance requirements in §§ 70.61(b) and (c) have been revised to provide clarification. The requirement to establish a controlled area in § 70.61(f) has been revised to clarify the conditions for establishing the controlled area, and to clarify the applicability of the performance requirements to individuals within the controlled area. The requirement in § 70.61(f)(2) to provide training ''in accordance with'' 10 CFR 19.12(a)(1)–(5) has been revised to clarify that equivalent training is acceptable. The new language specifies that this training must ''satisfy'' 10 CFR 19.12(a)(1)–(5).

Section 70.62 Safety program and integrated safety analysis

The requirement to establish and maintain a safety program in § 70.62(a)(1) has been revised to clarify that the safety program referred to in this section is focused on the safety program for satisfying the new Subpart H requirements, and that the application of management measures may be graded according to risk. Section 70.62(a)(3) has been modified to make it performance-based by eliminating the prescriptive requirement to maintain a log of failures for items relied on for safety. Section 70.62(c)(3) has been revised to clarify the schedule for planning and performing an ISA, correcting all performance deficiencies, and submitting the ISA Summary to the NRC for approval. The ISA Summary can be submitted as a single document, or as a sequence of documents (*e.g.*, on a process basis). The approval process for the ISA Summary will require the issuance of a license amendment; however, a license condition will be established that allows the licensee to make changes in accordance with § 70.72, including certain changes that do not require prior NRC approval. In addition, a provision has been added to the schedule for complying with the requirements in subpart H for factors beyond control of the licensee. This would allow additional time for correcting a performance deficiency if the NRC approves. Also § 70.62(d) has been modified to reflect that management measures may be graded commensurate with the reduction in risk.

Section 70.64 Requirements for New Facilities or New Processes at Existing Facilities

Section 70.64(a) has been revised to provide the correct reference, § 70.62(c), to the performance of an ISA. Section 70.64(a)(6)(ii) has been modified to specify that the required emergency capability is concerned with the evacuation of only on-site personnel.

Section 70.65 Additional Content of Applications

Section 70.65(a) has been revised to clarify that the ISA Summary is not part of the safety program description required for inclusion in the license application. Rather, the ISA Summary, that contains a description of

management measures, is submitted *with* the license application.

Section 70.66 Additional Requirements for Approval of License Application

Section 70.66(b) has been added to clarify, for existing licensees, the basis for Commission approval of the ISA plan, submitted under § 70.62(c)(3)(i), and the ISA Summary, submitted under § 70.62(c)(3)(ii).

Section 70.72 Facility Changes and Change Process

Section 70.72(c)(1) has been revised to eliminate the footnote, which did not adequately clarify the meaning of ''new types of accident sequences.'' The revised section 70.72(d)(3) replaces proposed rule section 70.72(d)(1) to reflect a modified schedule for submission of revised ISA Summary pages.

Section 70.76 Backfitting

Section 70.76 was added to include requirements for performing a backfit analysis. The wording in § 70.76 is similar to the current language in § 76.76 for gaseous diffusion plants with one exception, 70.76(a)(4)(i). The exception in § 70.76(a)(4)(i) relates to the backfit requirements being inapplicable to changes associated with bringing the facility in compliance with the requirements of the new subpart H. The backfit section includes a provision stating that it shall apply for subpart H requirements as soon as NRC approves that licensee's ISA Summary (contents of ISA Summary described in § 70.65(b)) pursuant to § 70.66 and, for requirements other than Subpart H, it shall apply immediately after NRC publication of backfit guidance.

Section 70.92 Criminal Penalties

This section has been changed to reflect the redesignations of §§ 70.13a, 70.14, 70.61, 70.62, 70.71, and 70.72 as §§ 70.14, 70.17, 70.81, 70.82, 70.91, and 70.92, respectively, and the addition of §§ 70.66, 70.73, and 70.76.

IV. Section-by-Section Analysis of Part 70 Amendments

Authority

This section has been changed to reflect the redesignations of §§ 70.61 and 70.62 as §§ 70.81 and 70.82, respectively.

Subpart A—General Provisions

Section 70.4 Definitions

Definitions of the following 12 terms have been added to this section to clarify the meaning of certain terms and phrases used in the new Subpart H: ''Acute,'' ''Available and reliable to perform their function when needed,'' ''Configuration management,'' ''Critical mass of SNM,'' ''Double contingency principle,'' ''Hazardous chemicals produced from licensed materials,'' ''Integrated safety analysis,'' ''Integrated safety analysis summary,'' ''Items relied on for safety,'' ''Management measures,'' ''Unacceptable performance deficiencies,'' and ''Worker.''

Section 70.14 Foreign Military Aircraft

This section reflects an administrative change to redesignate this section, formerly § 70.13a.

Section 70.17 Specific Exemptions

This section reflects an administrative change to redesignate this section, formerly § 70.14.

Subpart G—Special Nuclear Material Control Records, Reports, and Inspections

Section 70.50 Reporting Requirements

Paragraph (c) has been reworded to include information to be transmitted when making verbal or written reports to the NRC. The new information derives from the specifics of the new Subpart H, such as sequence of events and whether the event was evaluated in the ISA. To the extent the new information is also applicable to licensees not subject to Subpart H, the information was added with no differentiation noted. The new information that would only apply to Subpart H licensees is noted.

Subpart H—Additional Requirements for Certain Licensees Authorized To Possess a Critical Mass of Special Nuclear Material

Section 70.60 Applicability

This section lists the types of NRC licensees or applicants that are subject to the new Part 70, Subpart H, and describes when the new requirements will be effective.

Section 70.61 Performance Requirements

This section identifies the performance requirements that licensees subject to Part 70, Subpart H must satisfy. These performance requirements explicitly address the risks to workers or members of the public and the environmental releases caused by accidents. Because accidents are unanticipated events that usually occur over a relatively short period of time, the Part 70 changes seek to ensure adequate protection of workers, members of the public, and the environment by limiting the risk (product of likelihood and consequence) of such accidents. If, without the implementation of controls, a high consequence event under § 70.61(b) is highly unlikely, then it is not necessary for the licensee to apply the engineered or administrative controls mentioned in the rule. Similarly, if, without the implementation of controls an intermediate consequence event under § 70.61(c) is unlikely, then it is not necessary for the licensee to apply the engineered or administrative controls mentioned in the rule.

Section 70.62 Safety Program and Integrated Safety Analysis

This section describes requirements for establishing and maintaining a safety program that demonstrates compliance with the performance requirements of § 70.61. The elements of this safety program include the compilation of process safety information, the performance of an ISA, and the application of management measures to ensure the availability and reliability of items relied on for safety.

Section 70.64 Requirements for New Facilities or New Processes at Existing Facilities

This section describes baseline design criteria for new facilities or new processes at existing facilities. The application of these criteria, which are similar to the general design criteria in Part 50, Appendix A; Part 72, Subpart F; and 10 CFR 60.131, are consistent with good engineering practice, which dictates that certain minimum requirements be applied as design and safety considerations for any new nuclear process or facility. The baseline design criteria do not provide relief from compliance with the performance requirements of § 70.61.

Section 70.65 Additional Content of Applications

In addition to the information that currently must be submitted to the NRC under § 70.22, for a license application, this section requires additional information to be submitted to demonstrate compliance with the new subpart H requirements. In particular, this additional information includes a description of the applicant's safety program established under § 70.62. This information will be incorporated in the license, as appropriate. The ISA Summary must be submitted with the license application or in accordance with 70.62(c)(3)(ii), but will not be incorporated in the license.

Section 70.66 Additional Requirements for Approval of License Application

This section contains the provision that the applicant must comply with the requirements of §§ 70.60 through 70.65 (in addition to §§ 70.21 through 70.23, in the existing regulation) before a license will be granted. It also contains the requirements for approving the ISA plan and the ISA Summary for existing licensees. If the ISA Summary is submitted as a sequence of documents (*e.g.*, on a process basis), NRC staff approval of an individual document will be conditioned for system interaction effects that may be identified through the review of other ISA Summary documents submitted.

Section 70.72 Facility Changes and Change Process

This section contains requirements that govern changes to site, structures, systems, equipment, components, and activities of personnel after a license application has been approved. It requires the licensee to establish and use a configuration management system to evaluate changes and the potential impacts of those changes before implementing them. The regulation permits the licensee to make certain changes without NRC pre-approval, but requires the licensee to submit a brief summary of the changes plus updated ISA Summary pages annually within 30 days after the end of the calender year during which the changes occurred.

Section 70.73 Renewal of Licenses

This section contains the requirements for renewing licenses. It references the existing renewal requirements and the additional contents of application in § 70.65.

Section 70.74 Additional Reporting Requirements

This section contains new requirements, in addition to those in existing Parts 20 and 70, for reporting events to the NRC. The new approach, based on consideration of the performance requirements established in 10 CFR 70.61(b), is intended to eventually replace and modify the approach licensees have currently been using for reporting criticality events under NRC Bulletin 91–01. The new approach would cover all types of events, not just criticality events, and establish a timeframe for reporting that is scaled according to risk.

Section 70.76 Backfitting

This section contains requirements for performing a backfit analysis that are based on those in 10 CFR 76.76. It will become effective after NRC publication of backfit guidance. NRC staff will work with stakeholders to develop backfit guidance which will include making clear that an adequate demonstration can be based on quantitative or qualitative evaluations of the nature of the increase in the overall health and safety protection of the public. The NRC will publish a separate **Federal Register** notice upon publication of the guidance to indicate the effectiveness of § 70.76. After that notice is published, this provision will not be applied to Subpart H requirements until the NRC approves the licensee's ISA Summary pursuant to § 70.66. If the approved ISA Summary is one of a sequence of approvals (*e.g.*, on a process basis), the backfit provision will apply to the portion of the facility covered by that ISA Summary document. However, the backfit provision does not apply to changes to those portions of the facility that are required by the NRC staff to address system interaction effects identified through the review of other ISA Summary submissions for that facility.

Subpart J—Enforcement

Section 70.92 Criminal Penalties

This section has been changed to reflect the redesignations of §§ 70.13a, 70.14, 70.61, 70.62, 70.71, and 70.72 as §§ 70.14, 70.17, 70.81, 70.82, 70.91, and 70.92, respectively, and the addition of §§ 70.66, 70.73, and 70.76.

Appendix A—Reportable Safety Events

This appendix contains a list of events that licensees must report to the NRC. These events are categorized according to their consequences (or potential consequences) and fall into two classes: a 1-hour or 24-hour reporting timeframe. The emphasis on consequences, rather than risk, is appropriate in this case because the event has already occurred. Appendix A also requires concurrent reporting of events when a news release is made or if other Government agencies are notified, as is done under 10 CFR 50.72, to enhance coordination and support NRC's ability to respond to questions concerning the safety of NRC-licensed facilities.

V. Finding of No Significant Environmental Impact: Availability

The Commission has determined, under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore, an environmental impact statement is not required.

The amendments to 10 CFR Part 70 are intended to provide increased confidence in the margin of safety at certain facilities that possess a critical mass of SNM. To accomplish this objective, the amendments: (1) Identify appropriate performance requirements and the level of protection needed to prevent or mitigate accidents that exceed such requirements; (2) require affected licensees to perform an ISA to identify potential accidents at the facility and the items relied on for safety; (3) require the implementation of measures to ensure that the items relied on for safety are available and reliable to perform their functions when needed; (4) require the safety bases to be maintained, and changes reported to the NRC; (5) allow for licensees to make certain changes to their safety program and facilities without prior NRC approval; (6) require reporting of certain events; and (7) require a backfit analysis under specified conditions.

The rule language that defines the performance requirements is relevant to the question of environmental impact. Licensees are required to protect against the occurrence of or to mitigate the consequences of accidents that could adversely affect workers, the public, or the environment. For example, licensees are required to provide an adequate level of protection against a ''release of radioactive material to the environment outside the restricted area in concentrations that, if averaged over 24 hours, exceed 5000 times the values specified in Table 2 of Appendix B to 10 CFR Part 20.'' Implementation of the new amendments, including the requirement to protect against events that could damage the environment, is expected to result in a significant improvement in licensees', NRC's, other governmental agencies', and the public's understanding of the risks at these facilities and licensees' ability to ensure that those risks are appropriately controlled. For existing licensees, any deficiencies identified in the ISA (which must be completed within 4 years) will need to be promptly addressed. For new licensees, operations will not begin unless licensees demonstrate an adequate level of protection against potential accidents identified in the ISA. As a result, the safety and environmental impact of the new amendments is positive. There will be less potential adverse impact on the environment from licensed operations carried out under the final rule than if those operations were carried out under the existing Part 70 regulation. Thus, the Commission has determined, based on

the Environmental Assessment that supports the rule, that there will be no significant impact on the human environment from this action.

The NRC requested public comments on any environmental justice considerations that may be related to this rule. No comments were received in response to this request.

The NRC also requested the States' views on the environmental assessment for this rule. No comments were received in response to this request.

The Environmental Assessment is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the Environmental Assessment are available from Barry Mendelsohn, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001, telephone (301) 415–7262; e-mail: *btm1@nrc.gov.*

VI. Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget, approval number 3150–0009.

The public reporting burden for this information collection is estimated to average 92 hours per response and the recordkeeping burden is estimated to average 548 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments on any aspect of this information collection, including suggestions for reducing the burden, to the Records Management Branch (T–6 E6), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0009), Office of Management and Budget, Washington, DC 20503.

VII. Public Protection Notification

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

VIII. Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment are available from Barry Mendelsohn, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001, telephone (301) 415–7262; e-mail: *btm1@nrc.gov.*

IX. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act, as amended, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. The regulation affects facilities that are authorized to possess a critical mass of SNM and that are engaged in one of the following activities: enriched uranium processing; fabrication of uranium fuel or fuel assemblies; uranium enrichment; enriched uranium hexafluoride conversion; plutonium processing; fabrication of mixed-oxide fuel or fuel assemblies; scrap recovery of SNM or any other activity involving a critical mass of SNM that the Commission determines could significantly affect public health and safety or the environment. These licensees do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act, nor the size standards published by the NRC (10 CFR 2.810).

X. Voluntary Consensus Standards

The National Technology Transfer Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this regulation, the NRC will use the following voluntary consensus standard—ANSI/ANS Standard 8.1–1983, ''Nuclear Criticality Safety in Operations with Fissionable Material Outside Reactors'' developed by the American Nuclear Society. Portions of the standard were used in the definition of double contingency and in § 70.61(d). A consensus standard with the complete scope of the requirements established in this rulemaking does not exist. The Commission will reference ANS 8.1 and other consensus standards, as appropriate, as acceptable approaches to demonstrate compliance with specific portions of the final rule. This will be addressed in the Standard Review Plan that is being established with the rule.

XI. Backfit Statement

The NRC has determined that the backfit rule does not apply to this final rule; therefore, a backfit analysis is not required for this final rule because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR Chapter I. However, future changes to the requirements in subpart H or NRC requirements that apply to facilities covered by subpart H will be subject to the backfit requirements in § 70.76 established in this rule.

XII. Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement

Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 10 CFR Part 70

Hazardous materials transportation, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to Part 70.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. The authority citation for part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.81 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.82 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

2. The undesignated center heading ''GENERAL PROVISIONS'' is redesignated as ''Subpart A—General Provisions.''

3. In § 70.4, the definitions of *Acute, Available and reliable to perform their function when needed, Configuration management, Critical mass of special nuclear material, Double contingency principle, Hazardous chemicals produced from licensed materials, Integrated safety analysis, Integrated safety analysis summary, Items relied on for safety, Management measures, Unacceptable performance deficiencies,* and *Worker* are added, in alphabetical order, as follows:

§ 70.4 Definitions.

* * * * *

Acute, as used in this part, means a single radiation dose or chemical exposure event or multiple radiation dose or chemical exposure events occurring within a short time (24 hours or less).

* * * * *

Available and reliable to perform their function when needed, as used in subpart H of this part, means that, based on the analyzed, credible conditions in the integrated safety analysis, items relied on for safety will perform their intended safety function when needed, and management measures will be implemented that ensure compliance with the performance requirements of § 70.61 of this part, considering factors such as necessary maintenance, operating limits, common-cause failures, and the likelihood and consequences of failure or degradation of the items and measures.

* * * * *

Configuration management (CM) means a management measure that provides oversight and control of design information, safety information, and records of modifications (both temporary and permanent) that might impact the ability of items relied on for safety to perform their functions when needed.

* * * * *

Critical mass of special nuclear material (SNM), as used in Subpart H, means special nuclear material in a quantity exceeding 700 grams of contained uranium-235; 520 grams of uranium-233; 450 grams of plutonium; 1500 grams of contained uranium-235, if no uranium enriched to more than 4 percent by weight of uranium-235 is present; 450 grams of any combination thereof; or one-half such quantities if massive moderators or reflectors made of graphite, heavy water, or beryllium may be present.

* * * * *

Double contingency principle means that process designs should incorporate sufficient factors of safety to require at least two unlikely, independent, and concurrent changes in process conditions before a criticality accident is possible.

* * * * *

Hazardous chemicals produced from licensed materials means substances having licensed material as precursor compound(s) or substances that physically or chemically interact with licensed materials; and that are toxic, explosive, flammable, corrosive, or reactive to the extent that they can endanger life or health if not adequately controlled. These include substances commingled with licensed material, and include substances such as hydrogen fluoride that is produced by the reaction of uranium hexafluoride and water, but do not include substances prior to process addition to licensed material or after process separation from licensed material.

Integrated safety analysis (ISA) means a systematic analysis to identify facility and external hazards and their potential for initiating accident sequences, the potential accident sequences, their likelihood and consequences, and the items relied on for safety. As used here, integrated means joint consideration of, and protection from, all relevant hazards, including radiological, nuclear criticality, fire, and chemical. However, with respect to compliance with the regulations of this part, the NRC requirement is limited to consideration of the effects of all relevant hazards on radiological safety, prevention of nuclear criticality accidents, or chemical hazards directly associated with NRC licensed radioactive material. An ISA can be performed process by process, but all processes must be integrated, and process interactions considered.

Integrated safety analysis summary means a document or documents submitted with the license application, license amendment application, license renewal application, or pursuant to § 70.62(c)(3)(ii) that provides a synopsis of the results of the integrated safety analysis and contains the information specified in § 70.65(b). The ISA Summary can be submitted as one document for the entire facility, or as multiple documents that cover all portions and processes of the facility.

Items relied on for safety mean structures, systems, equipment, components, and activities of personnel that are relied on to prevent potential accidents at a facility that could exceed the performance requirements in § 70.61 or to mitigate their potential consequences. This does not limit the licensee from identifying additional structures, systems, equipment, components, or activities of personnel (*i.e.,* beyond those in the minimum set necessary for compliance with the performance requirements) as items relied on for safety.

* * * * *

Management measures mean the functions performed by the licensee, generally on a continuing basis, that are applied to items relied on for safety, to ensure the items are available and reliable to perform their functions when needed. Management measures include configuration management, maintenance, training and qualifications, procedures, audits and assessments, incident investigations, records management, and other quality assurance elements.

* * * * *

Unacceptable performance deficiencies mean deficiencies in the items relied on for safety or the management measures that need to be corrected to ensure an adequate level of protection as defined in 10 CFR 70.61(b), (c), or (d).

* * * * *

Worker, when used in Subpart H of this Part, means an individual who receives an occupational dose as defined in 10 CFR 20.1003.

4. In § 70.8 paragraph (b) is revised to read as follows:

§ 70.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 70.9, 70.17, 70.19, 70.20a, 70.20b, 70.21, 70.22, 70.24, 70.25, 70.32, 70.33, 70.34, 70.38, 70.39, 70.42, 70.50, 70.51, 70.52, 70.53, 70.57, 70.58, 70.59, 70.61, 70.62, 70.64, 70.65, 70.72, 70.73, 70.74, and Appendix A.

* * * * *

5. The undesignated center heading ''EXEMPTIONS'' is redesignated as ''Subpart B—Exemptions.''

§§ 70.13a and 70.14 [Redesignated]

6. Sections 70.13a and 70.14 are redesignated as §§ 70.14 and 70.17, respectively.

7. The undesignated center heading ''GENERAL LICENSES'' is redesignated as ''Subpart C—General Licenses.''

8. The undesignated center heading ''LICENSE APPLICATIONS'' is

redesignated as ''Subpart D—License Applications.''

9. The undesignated center heading ''LICENSES'' is redesignated as ''Subpart E—Licenses.''

10. The undesignated center heading ''ACQUISITION, USE AND TRANSFER OF SPECIAL NUCLEAR MATERIAL, CREDITORS' RIGHTS,'' is redesignated as ''Subpart F—Acquisition, Use, and Transfer of Special Nuclear Material, Creditors' Rights.''

11. The undesignated center heading ''SPECIAL NUCLEAR MATERIAL CONTROL RECORDS, REPORTS AND INSPECTIONS'' is redesignated as ''Subpart G—Special Nuclear Material Control Records, Reports, and Inspections.''

12. In § 70.50, paragraph (c) is revised and paragraph (d) is added to read as follows.

§ 70.50 Reporting requirements.

* * * * *

(c) *Preparation and submission of reports.* Reports made by licensees in response to the requirements of this section must be made as follows:

(1) Licensees shall make reports required by paragraphs (a) and (b) of this section, and by § 70.74 and Appendix A of this part, if applicable, by telephone to the NRC Operations Center.[1] To the extent that the information is available at the time of notification, the information provided in these reports must include:

(i) Caller's name, position title, and call-back telephone number;

(ii) Date, time, and exact location of the event;

(iii) Description of the event, including:

(A) Radiological or chemical hazards involved, including isotopes, quantities, and chemical and physical form of any material released;

(B) Actual or potential health and safety consequences to the workers, the public, and the environment, including relevant chemical and radiation data for actual personnel exposures to radiation or radioactive materials or hazardous chemicals produced from licensed materials (*e.g.,* level of radiation exposure, concentration of chemicals, and duration of exposure);

(C) The sequence of occurrences leading to the event, including degradation or failure of structures, systems, equipment, components, and activities of personnel relied on to prevent potential accidents or mitigate their consequences; and

(D) Whether the remaining structures, systems, equipment, components, and activities of personnel relied on to prevent potential accidents or mitigate their consequences are available and reliable to perform their function;

(iv) External conditions affecting the event;

(v) Additional actions taken by the licensee in response to the event;

(vi) Status of the event (e.g., whether the event is on-going or was terminated);

(vii) Current and planned site status, including any declared emergency class;

(viii) Notifications, related to the event, that were made or are planned to any local, State, or other Federal agencies;

(ix) Status of any press releases, related to the event, that were made or are planned.

(2) Written report. Each licensee that makes a report required by paragraph (a) or (b) of this section, or by § 70.74 and Appendix A of this part, if applicable, shall submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the report contains all the necessary information, and the appropriate distribution is made. These written reports must be sent to the U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, with a copy to the appropriate NRC regional office listed in Appendix D of 10 CFR Part 20. The reports must include the following:

(i) Complete applicable information required by § 70.50(c)(1);

(ii) The probable cause of the event, including all factors that contributed to the event and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(iii) Corrective actions taken or planned to prevent occurrence of similar or identical events in the future and the results of any evaluations or assessments; and

(iv) For licensees subject to Subpart H of this part, whether the event was identified and evaluated in the Integrated Safety Analysis.

(d) The provisions of § 70.50 do not apply to licensees subject to § 50.72. They do apply to those Part 50 licensees possessing material licensed under Part 70 that are not subject to the notification requirements in § 50.72.

13. The undesignated center heading ''MODIFICATION AND REVOCATION OF LICENSES'' is redesignated as ''Subpart I—Modification and Revocation of Licenses.''

§§ 70.61 and 70.62 [Redesignated and Amended]

14. Sections 70.61 and 70.62 are redesignated as §§ 70.81 and 70.82, respectively.

15. The undesignated center heading ''ENFORCEMENT'' is redesignated as ''Subpart J—Enforcement.''

§ 70.71 [Redesignated]

16. Section 70.71 is redesignated as § 70.91.

17. Section 70.72 is redesignated as § 70.92 and paragraph (b) is revised to read as follows:

§ 70.92 Criminal Penalties

* * * * *

(b) The regulations in part 70 that are not issued under sections 161b, 161i, or 161o, for the purposes of section 223 are as follows: §§ 70.1, 70.2, 70.4, 70.5, 70.6, 70.8, 70.11, 70.12, 70.13, 70.14, 70.17, 70.18, 70.23, 70.31, 70.33, 70.34, 70.35, 70.37, 70.66, 70.73, 70.76, 70.81, 70.82, 70.63, 70.91, and 70.92.

18. In part 70, a new subpart H (§§ 70.60–70.76) is added to read as follows:

Subpart H—Additional Requirements for Certain Licensees Authorized To Possess a Critical Mass of Special Nuclear Material

Sec.

70.60 Applicability.
70.61 Performance requirements.
70.62 Safety program and integrated safety analysis.
70.64 Requirements for new facilities or new processes at existing facilities.
70.65 Additional content of applications.
70.66 Additional requirements for approval of license application.
70.72 Facility changes and change process.
70.73 Renewal of licenses.
70.74 Additional reporting requirements.
70.76 Backfitting

§ 70.60 Applicability.

The regulations in § 70.61 through § 70.76 apply, in addition to other applicable Commission regulations, to each applicant or licensee that is or plans to be authorized to possess greater than a critical mass of special nuclear material, and engaged in enriched uranium processing, fabrication of uranium fuel or fuel assemblies, uranium enrichment, enriched uranium hexafluoride conversion, plutonium processing, fabrication of mixed-oxide fuel or fuel assemblies, scrap recovery of special nuclear material, or any other activity that the Commission determines could significantly affect public health and safety. The regulations in § 70.61 through § 70.76 do not apply to decommissioning activities performed

[1] The commercial telephone number for the NRC Operations Center is (301) 816–5100.

pursuant to other applicable Commission regulations including § 70.25 and § 70.38 of this part. Also, the regulations in § 70.61 through § 70.76 do not apply to activities that are certified by the Commission pursuant to part 76 of this chapter or licensed by the Commission pursuant to other parts of this chapter. Unless specifically addressed in § 70.61 through § 70.76, implementation by current licensees of the Subpart H requirements shall be completed no later than the time of the ISA Summary submittal required in § 70.62(c)(3)(ii).

§ 70.61 Performance requirements.

(a) Each applicant or licensee shall evaluate, in the integrated safety analysis performed in accordance with § 70.62, its compliance with the performance requirements in paragraphs (b), (c), and (d) of this section.

(b) The risk of each credible high-consequence event must be limited. Engineered controls, administrative controls, or both, shall be applied to the extent needed to reduce the likelihood of occurrence of the event so that, upon implementation of such controls, the event is highly unlikely or its consequences are less severe than those in paragrahs (b)(1)–(4) of this section. High consequence events are those internally or externally initiated events that result in:

(1) An acute worker dose of 1 Sv (100 rem) or greater total effective dose equivalent;

(2) An acute dose of 0.25 Sv (25 rem) or greater total effective dose equivalent to any individual located outside the controlled area identified pursuant to paragraph (f) of this section;

(3) An intake of 30 mg or greater of uranium in soluble form by any individual located outside the controlled area identified pursuant to paragraph (f) of this section; or

(4) An acute chemical exposure to an individual from licensed material or hazardous chemicals produced from licensed material that:

(i) Could endanger the life of a worker, or

(ii) Could lead to irreversible or other serious, long-lasting health effects to any individual located outside the controlled area identified pursuant to paragraph (f) of this section. If an applicant possesses or plans to possess quantities of material capable of such chemical exposures, then the applicant shall propose appropriate quantitative standards for these health effects, as part of the information submitted pursuant to § 70.65 of this subpart.

(c) The risk of each credible intermediate-consequence event must be limited. Engineered controls, administrative controls, or both shall be applied to the extent needed so that, upon implementation of such controls, the event is unlikely or its consequences are less than those in paragraphs (c)(1)–(4) of this section. Intermediate consequence events are those internally or externally initiated events that are not high consequence events, that result in:

(1) An acute worker dose of 0.25 Sv (25 rem) or greater total effective dose equivalent;

(2) An acute dose of 0.05 Sv (5 rem) or greater total effective dose equivalent to any individual located outside the controlled area identified pursuant to paragraph (f) of this section;

(3) A 24-hour averaged release of radioactive material outside the restricted area in concentrations exceeding 5000 times the values in Table 2 of Appendix B to Part 20; or

(4) An acute chemical exposure to an individual from licensed material or hazardous chemicals produced from licensed material that:

(i) Could lead to irreversible or other serious, long-lasting health effects to a worker, or

(ii) Could cause mild transient health effects to any individual located outside the controlled area as specified in paragraph (f) of this section. If an applicant possesses or plans to possess quantities of material capable of such chemical exposures, then the applicant shall propose appropriate quantitative standards for these health effects, as part of the information submitted pursuant to § 70.65 of this subpart.

(d) In addition to complying with paragraphs (b) and (c) of this section, the risk of nuclear criticality accidents must be limited by assuring that under normal and credible abnormal conditions, all nuclear processes are subcritical, including use of an approved margin of subcriticality for safety. Preventive controls and measures must be the primary means of protection against nuclear criticality accidents.

(e) Each engineered or administrative control or control system necessary to comply with paragraphs (b), (c), or (d) of this section shall be designated as an item relied on for safety. The safety program, established and maintained pursuant to § 70.62 of this subpart, shall ensure that each item relied on for safety will be available and reliable to perform its intended function when needed and in the context of the performance requirements of this section.

(f) Each licensee must establish a controlled area, as defined in § 20.1003. In addition, the licensee must retain the authority to exclude or remove personnel and property from the area. For the purpose of complying with the performance requirements of this section, individuals who are not workers, as defined in § 70.4, may be permitted to perform ongoing activities (*e.g.,* at a facility not related to the licensed activities) in the controlled area, if the licensee:

(1) Demonstrates and documents, in the integrated safety analysis, that the risk for those individuals at the location of their activities does not exceed the performance requirements of paragraphs (b)(2), (b)(3), (b)(4)(ii), (c)(2), and (c)(4)(ii) of this section; or

(2) Provides training that satisfies 10 CFR 19.12(a)(1)–(5) to these individuals and ensures that they are aware of the risks associated with accidents involving the licensed activities as determined by the integrated safety analysis, and conspicuously posts and maintains notices stating where the information in 10 CFR 19.11(a) may be examined by these individuals. Under these conditions, the performance requirements for workers specified in paragraphs (b) and (c) of this section may be applied to these individuals.

§ 70.62 Safety program and integrated safety analysis.

(a) *Safety program.* (1) Each licensee or applicant shall establish and maintain a safety program that demonstrates compliance with the performance requirements of § 70.61. The safety program may be graded such that management measures applied are graded commensurate with the reduction of the risk attributable to that item. Three elements of this safety program; namely, process safety information, integrated safety analysis, and management measures, are described in paragraphs (b) through (d) of this section.

(2) Each licensee or applicant shall establish and maintain records that demonstrate compliance with the requirements of paragraphs (b) through (d) of this section.

(3) Each licensee or applicant shall maintain records of failures readily retrievable and available for NRC inspection, documenting each discovery that an item relied on for safety or management measure has failed to perform its function upon demand or has degraded such that the performance requirements of § 70.61 are not satisfied. These records must identify the item relied on for safety or management measure that has failed and the safety function affected, the date of discovery, date (or estimated date) of the failure, duration (or estimated duration) of the

time that the item was unable to perform its function, any other affected items relied on for safety or management measures and their safety function, affected processes, cause of the failure, whether the failure was in the context of the performance requirements or upon demand or both, and any corrective or compensatory action that was taken. A failure must be recorded at the time of discovery and the record of that failure updated promptly upon the conclusion of each failure investigation of an item relied on for safety or management measure.

(b) *Process safety information.* Each licensee or applicant shall maintain process safety information to enable the performance and maintenance of an integrated safety analysis. This process safety information must include information pertaining to the hazards of the materials used or produced in the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process.

(c) *Integrated safety analysis.* (1) Each licensee or applicant shall conduct and maintain an integrated safety analysis, that is of appropriate detail for the complexity of the process, that identifies:

(i) Radiological hazards related to possessing or processing licensed material at its facility;

(ii) Chemical hazards of licensed material and hazardous chemicals produced from licensed material;

(iii) Facility hazards that could affect the safety of licensed materials and thus present an increased radiological risk;

(iv) Potential accident sequences caused by process deviations or other events internal to the facility and credible external events, including natural phenomena;

(v) The consequence and the likelihood of occurrence of each potential accident sequence identified pursuant to paragraph (c)(1)(iv) of this section, and the methods used to determine the consequences and likelihoods; and

(vi) Each item relied on for safety identified pursuant to § 70.61(e) of this subpart, the characteristics of its preventive, mitigative, or other safety function, and the assumptions and conditions under which the item is relied upon to support compliance with the performance requirements of § 70.61.

(2) Integrated safety analysis team qualifications. To assure the adequacy of the integrated safety analysis, the analysis must be performed by a team with expertise in engineering and process operations. The team shall include at least one person who has experience and knowledge specific to each process being evaluated, and persons who have experience in nuclear criticality safety, radiation safety, fire safety, and chemical process safety. One member of the team must be knowledgeable in the specific integrated safety analysis methodology being used.

(3) Requirements for existing licensees. Individuals holding an NRC license on September 18, 2000 shall, with regard to existing licensed activities:

(i) By April 18, 2001, submit for NRC approval, a plan that describes the integrated safety analysis approach that will be used, the processes that will be analyzed, and the schedule for completing the analysis of each process.

(ii) By October 18, 2004, or in accordance with the approved plan submitted under § 70.62(c)(3)(i), complete an integrated safety analysis, correct all unacceptable performance deficiencies, and submit, for NRC approval, an integrated safety analysis summary, including a description of the management measures, in accordance with § 70.65. The Commission may approve a request for an alternative schedule for completing the correction of unacceptable performance deficiencies if the Commission determines that the alternative is warranted by consideration of the following:

(A) Adequate compensatory measures have been established;

(B) Whether it is technically feasible to complete the correction of the unacceptable performance deficiency within the allotted 4-year period;

(C) Other site-specific factors which the Commission may consider appropriate on a case-by-case basis and that are beyond the control of the licensee.

(iii) Pending the correction of unacceptable performance deficiencies identified during the conduct of the integrated safety analysis, the licensee shall implement appropriate compensatory measures to ensure adequate protection.

(d) *Management measures.* Each applicant or licensee shall establish management measures to ensure compliance with the performance requirements of § 70.61. The measures applied to a particular engineered or administrative control or control system may be graded commensurate with the reduction of the risk attributable to that control or control system. The management measures shall ensure that engineered and administrative controls and control systems that are identified as items relied on for safety pursuant to § 70.61(e) of this subpart are designed, implemented, and maintained, as necessary, to ensure they are available and reliable to perform their function when needed, to comply with the performance requirements of § 70.61 of this subpart.

§ 70.64 Requirements for new facilities or new processes at existing facilities.

(a) *Baseline design criteria.* Each prospective applicant or licensee shall address the following baseline design criteria in the design of new facilities. Each existing licensee shall address the following baseline design criteria in the design of new processes at existing facilities that require a license amendment under § 70.72. The baseline design criteria must be applied to the design of new facilities and new processes, but do not require retrofits to existing facilities or existing processes (*e.g.*, those housing or adjacent to the new process); however, all facilities and processes must comply with the performance requirements in § 70.61. Licensees shall maintain the application of these criteria unless the analysis performed pursuant to § 70.62(c) demonstrates that a given item is not relied on for safety or does not require adherence to the specified criteria.

(1) Quality standards and records. The design must be developed and implemented in accordance with management measures, to provide adequate assurance that items relied on for safety will be available and reliable to perform their function when needed. Appropriate records of these items must be maintained by or under the control of the licensee throughout the life of the facility.

(2) Natural phenomena hazards. The design must provide for adequate protection against natural phenomena with consideration of the most severe documented historical events for the site.

(3) Fire protection. The design must provide for adequate protection against fires and explosions.

(4) Environmental and dynamic effects. The design must provide for adequate protection from environmental conditions and dynamic effects associated with normal operations, maintenance, testing, and postulated accidents that could lead to loss of safety functions.

(5) Chemical protection. The design must provide for adequate protection against chemical risks produced from licensed material, facility conditions which affect the safety of licensed material, and hazardous chemicals produced from licensed material.

(6) Emergency capability. The design must provide for emergency capability to maintain control of:

(i) Licensed material and hazardous chemicals produced from licensed material;

(ii) Evacuation of on-site personnel; and

(iii) Onsite emergency facilities and services that facilitate the use of available offsite services.

(7) Utility services. The design must provide for continued operation of essential utility services.

(8) Inspection, testing, and maintenance. The design of items relied on for safety must provide for adequate inspection, testing, and maintenance, to ensure their availability and reliability to perform their function when needed.

(9) Criticality control. The design must provide for criticality control including adherence to the double contingency principle.

(10) Instrumentation and controls. The design must provide for inclusion of instrumentation and control systems to monitor and control the behavior of items relied on for safety.

(b) Facility and system design and facility layout must be based on defense-in-depth practices. [1] The design must incorporate, to the extent practicable:

(1) Preference for the selection of engineered controls over administrative controls to increase overall system reliability; and

(2) Features that enhance safety by reducing challenges to items relied on for safety.

§ 70.65 Additional content of applications.

(a) In addition to the contents required by § 70.22, each application must include a description of the applicant's safety program established under § 70.62.

(b) The integrated safety analysis summary must be submitted with the license or renewal application (and amendment application as necessary), but shall not be incorporated in the license. However, changes to the integrated safety analysis summary shall meet the conditions of § 70.72. The integrated safety analysis summary must contain:

(1) A general description of the site with emphasis on those factors that could affect safety (*i.e.,* meteorology, seismology);

(2) A general description of the facility with emphasis on those areas that could affect safety, including an identification of the controlled area boundaries;

(3) A description of each process (defined as a single reasonably simple integrated unit operation within an overall production line) analyzed in the integrated safety analysis in sufficient detail to understand the theory of operation; and, for each process, the hazards that were identified in the integrated safety analysis pursuant to § 70.62(c)(1)(i)–(iii) and a general description of the types of accident sequences;

(4) Information that demonstrates the licensee's compliance with the performance requirements of § 70.61, including a description of the management measures; the requirements for criticality monitoring and alarms in § 70.24; and, if applicable, the requirements of § 70.64;

(5) A description of the team, qualifications, and the methods used to perform the integrated safety analysis;

(6) A list briefly describing each item relied on for safety which is identified pursuant to § 70.61(e) in sufficient detail to understand their functions in relation to the performance requirements of § 70.61;

(7) A description of the proposed quantitative standards used to assess the consequences to an individual from acute chemical exposure to licensed material or chemicals produced from licensed materials which are on-site, or expected to be on-site as described in § 70.61(b)(4) and (c)(4);

(8) A descriptive list that identifies all items relied on for safety that are the sole item preventing or mitigating an accident sequence that exceeds the performance requirements of § 70.61; and

(9) A description of the definitions of unlikely, highly unlikely, and credible as used in the evaluations in the integrated safety analysis.

§ 70.66 Additional requirements for approval of license application.

(a) An application for a license from an applicant subject to subpart H will be approved if the Commission determines that the applicant has complied with the requirements of §§ 70.21, 70.22, 70.23, and 70.60 through 70.65.

(b) Submittals by existing licensees in accordance with § 70.62(c)(3)(i) will be approved if the Commission determines that:

(1) The integrated safety analysis approach is in accordance with the requirements of §§ 70.61, 70.62(c)(1), and 70.62(c)(2); and

(2) The schedule is in compliance with § 70.62(c)(3)(ii).

(c) Submittals by existing licensees in accordance with § 70.62(c)(3)(ii) will be approved if the Commission determines that:

(1) The requirements of § 70.65(b) are satisfied; and

(2) The performance requirements in § 70.61 (b), (c) and (d) are satisfied, based on the information in the ISA Summary, together with other information submitted to NRC or available to NRC at the licensee's site.

§ 70.72 Facility changes and change process.

(a) The licensee shall establish a configuration management system to evaluate, implement, and track each change to the site, structures, processes, systems, equipment, components, computer programs, and activities of personnel. This system must be documented in written procedures and must assure that the following are addressed prior to implementing any change:

(1) The technical basis for the change;

(2) Impact of the change on safety and health or control of licensed material;

(3) Modifications to existing operating procedures including any necessary training or retraining before operation;

(4) Authorization requirements for the change;

(5) For temporary changes, the approved duration (*e.g.,* expiration date) of the change; and

(6) The impacts or modifications to the integrated safety analysis, integrated safety analysis summary, or other safety program information, developed in accordance with § 70.62.

(b) Any change to site, structures, processes, systems, equipment, components, computer programs, and activities of personnel must be evaluated by the licensee as specified in paragraph (a) of this section, before the change is implemented. The evaluation of the change must determine, before the change is implemented, if an amendment to the license is required to be submitted in accordance with § 70.34.

(c) The licensee may make changes to the site, structures, processes, systems, equipment, components, computer programs, and activities of personnel, without prior Commission approval, if the change:

[1] As used in § 70.64, Requirements for new facilities or new processes at existing facilities, defense-in-depth practices means a design philosophy, applied from the outset and through completion of the design, that is based on providing successive levels of protection such that health and safety will not be wholly dependent upon any single element of the design, construction, maintenance, or operation of the facility. The net effect of incorporating defense-in-depth practices is a conservatively designed facility and system that will exhibit greater tolerance to failures and external challenges. The risk insights obtained through performance of the integrated safety analysis can be then used to supplement the final design by focusing attention on the prevention and mitigation of the higher-risk potential accidents.

(1) Does not:

(i) Create new types of accident sequences that, unless mitigated or prevented, would exceed the performance requirements of § 70.61 and that have not previously been described in the integrated safety analysis summary; or

(ii) Use new processes, technologies, or control systems for which the licensee has no prior experience;

(2) Does not remove, without at least an equivalent replacement of the safety function, an item relied on for safety that is listed in the integrated safety analysis summary;

(3) Does not alter any item relied on for safety, listed in the integrated safety analysis summary, that is the sole item preventing or mitigating an accident sequence that exceeds the performance requirements of § 70.61; and

(4) Is not otherwise prohibited by this section, license condition, or order.

(d)(1) For changes that require pre-approval under § 70.72, the licensee shall submit an amendment request to the NRC in accordance with § 70.34 and § 70.65 of this chapter.

(2) For changes that do not require pre-approval under § 70.72, the licensee shall submit to NRC annually, within 30 days after the end of the calendar year during which the changes occurred, a brief summary of all changes to the records required by § 70.62(a)(2) of this subpart.

(3) For all changes that affect the integrated safety analysis summary, the licensee shall submit to NRC annually, within 30 days after the end of the calendar year during which the changes occurred, revised integrated safety analysis summary pages.

(e) If a change covered by § 70.72 is made, the affected on-site documentation must be updated promptly.

(f) The licensee shall maintain records of changes to its facility carried out under this section. These records must include a written evaluation that provides the bases for the determination that the changes do not require prior Commission approval under paragraph (c) or (d) of this section. These records must be maintained until termination of the license.

§ 70.73 Renewal of licenses.

Applications for renewal of a license must be filed in accordance with §§ 2.109, 70.21, 70.22, 70.33, 70.38, and 70.65 of this chapter. Information contained in previous applications, statements, or reports filed with the Commission under the license may be incorporated by reference, provided that these references are clear and specific.

§ 70.74 Additional reporting requirements.

(a) Reports to NRC Operations Center. (1) Each licensee shall report to the NRC Operations Center the events described in Appendix A to Part 70.

(2) Reports must be made by a knowledgeable licensee representative and by any method that will ensure compliance with the required time period for reporting.

(3) The information provided must include a description of the event and other related information as described in § 70.50(c)(1).

(4) Follow-up information to the reports must be provided until all information required to be reported in § 70.50(c)(1) of this subpart is complete.

(5) Each licensee shall provide reasonable assurance that reliable communication with the NRC Operations Center is available during each event.

(b) Written reports. Each licensee that makes a report required by paragraph (a)(1) of this section shall submit a written follow-up report within 30 days of the initial report. The written report must contain the information as described in § 70.50(c)(2).

§ 70.76 Backfitting.

(a) For each licensee, this provision shall apply to Subpart H requirements as soon as the NRC approves that licensee's ISA Summary pursuant to § 70.66. For requirements other than Subpart H, this provision applies regardless of the status of the approval of a licensee's ISA Summary.

(1) Backfitting is defined as the modification of, or addition to, systems, structures, or components of a facility; or to the procedures or organization required to operate a facility; any of which may result from a new or amended provision in the Commission rules or the imposition of a regulatory staff position interpreting the Commission rules that is either new or different from a previous NRC staff position.

(2) Except as provided in paragraph (a)(4) of this section, the Commission shall require a systematic and documented analysis pursuant to paragraph (b) of this section for backfits which it seeks to impose.

(3) Except as provided in paragraph (a)(4) of this section, the Commission shall require the backfitting of a facility only when it determines, based on the analysis described in paragraph (b) of this section, that there is a substantial increase in the overall protection of the public health and safety or the common defense and security to be derived from the backfit and that the direct and indirect costs of implementation for that facility are justified in view of this increased protection.

(4) The provisions of paragraphs (a)(2) and (a)(3) of this section are inapplicable and, therefore, backfit analysis is not required and the standards in paragraph (a)(3) of this section do not apply where the Commission finds and declares, with appropriately documented evaluation for its finding, any of the following:

(i) That a modification is necessary to bring a facility into compliance with Subpart H of this part;

(ii) That a modification is necessary to bring a facility into compliance with a license or the rules or orders of the Commission, or into conformance with written commitments by the licensee;

(iii) That regulatory action is necessary to ensure that the facility provides adequate protection to the health and safety of the public and is in accord with the common defense and security; or

(iv) That the regulatory action involves defining or redefining what level of protection to the public health and safety or common defense and security should be regarded as adequate.

(5) The Commission shall always require the backfitting of a facility if it determines that the regulatory action is necessary to ensure that the facility provides adequate protection to the health and safety of the public and is in accord with the common defense and security.

(6) The documented evaluation required by paragraph (a)(4) of this section must include a statement of the objectives of and reasons for the modification and the basis for invoking the exception. If immediate effective regulatory action is required, then the documented evaluation may follow, rather than precede, the regulatory action.

(7) If there are two or more ways to achieve compliance with a license or the rules or orders of the Commission, or with written license commitments, or there are two or more ways to reach an adequate level of protection, then ordinarily the licensee is free to choose the way that best suits its purposes. However, should it be necessary or appropriate for the Commission to prescribe a specific way to comply with its requirements or to achieve adequate protection, then cost may be a factor in selecting the way, provided that the objective of compliance or adequate protection is met.

(b) In reaching the determination required by paragraph (a)(3) of this section, the Commission will consider how the backfit should be scheduled in light of other ongoing regulatory

activities at the facility and, in addition, will consider information available concerning any of the following factors as may be appropriate and any other information relevant and material to the proposed backfit:

(1) Statement of the specific objectives that the proposed backfit is designed to achieve;

(2) General description of the activity that would be required by the licensee in order to complete the backfit;

(3) Potential change in the risk to the public from the accidental release of radioactive material and hazardous chemicals produced from licensed material;

(4) Potential impact on radiological exposure or exposure to hazardous chemicals produced from licensed material of facility employees;

(5) Installation and continuing costs associated with the backfit, including the cost of facility downtime;

(6) The potential safety impact of changes in facility or operational complexity, including the relationship to proposed and existing regulatory requirements;

(7) The estimated resource burden on the NRC associated with the proposed backfit and the availability of such resources;

(8) The potential impact of differences in facility type, design, or age on the relevancy and practicality of the proposed backfit; and

(9) Whether the proposed backfit is interim or final and, if interim, the justification for imposing the proposed backfit on an interim basis.

(c) No license will be withheld during the pendency of backfit analyses required by the Commission's rules.

(d) The Executive Director for Operations shall be responsible for implementation of this section, and all analyses required by this section shall be approved by the Executive Director for Operations or his or her designee.

19. Appendix A to part 70 is added to read as follows:

Appendix A to Part 70—Reportable Safety Events

Licensees must comply with reporting requirements in this appendix, except for (a)(1), (a)(2), and (b)(4), after they have submitted an ISA Summary in accordance with § 70.62(c)(3)(ii). Licensees must comply with (a)(1), (a)(2), and (b)(4) after October 18, 2000. As required by 10 CFR 70.74, licensees subject to the requirements in subpart H of part 70, shall report:

(a) One hour reports. Events to be reported to the NRC Operations Center within 1 hour of discovery, supplemented with the information in 10 CFR 70.50(c)(1) as it becomes available, followed by a written report within 30 days:

(1) An inadvertent nuclear criticality.

(2) An acute intake by an individual of 30 mg or greater of uranium in a soluble form.

(3) An acute chemical exposure to an individual from licensed material or hazardous chemicals produced from licensed material that exceeds the quantitative standards established to satisfy the requirements in § 70.61(b)(4).

(4) An event or condition such that no items relied on for safety, as documented in the Integrated Safety Analysis summary, remain available and reliable, in an accident sequence evaluated in the Integrated Safety Analysis, to perform their function:

(i) In the context of the performance requirements in § 70.61(b) and § 70.61(c), or

(ii) Prevent a nuclear criticality accident (*i.e.*, loss of all controls in a particular sequence).

(5) Loss of controls such that only one item relied on for safety, as documented in the Integrated Safety Analysis summary, remains available and reliable to prevent a nuclear criticality accident, and has been in this state for greater than eight hours.

(b) Twenty-four hour reports. Events to be reported to the NRC Operations Center within 24 hours of discovery, supplemented with the information in 10 CFR 70.50(c)(1) as it becomes available, followed by a written report within 30 days:

(1) Any event or condition that results in the facility being in a state that was not analyzed, was improperly analyzed, or is different from that analyzed in the Integrated Safety Analysis, and which results in failure to meet the performance requirements of § 70.61.

(2) Loss or degradation of items relied on for safety that results in failure to meet the performance requirement of § 70.61.

(3) An acute chemical exposure to an individual from licensed material or hazardous chemicals produced from licensed materials that exceeds the quantitative standards that satisfy the requirements of § 70.61(c)(4).

(4) Any natural phenomenon or other external event, including fires internal and external to the facility, that has affected or may have affected the intended safety function or availability or reliability of one or more items relied on for safety.

(5) An occurrence of an event or process deviation that was considered in the Integrated Safety Analysis and:

(i) Was dismissed due to its likelihood; or

(ii) Was categorized as unlikely and whose associated unmitigated consequences would have exceeded those in § 70.61(b) had the item(s) relied on for safety not performed their safety function(s).

(c) Concurrent Reports. Any event or situation, related to the health and safety of the public or onsite personnel, or protection of the environment, for which a news release is planned or notification to other government agencies has been or will be made, shall be reported to the NRC Operations Center concurrent to the news release or other notification.

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

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 00–23354 Filed 9–15–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–301–AD; Amendment 39–11904; AD 2000–19–03]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–135 and EMB–145 series airplanes. This action requires a one-time inspection of the coupling hinge and locking fastener of the Gamah couplings of the fuel system tubing located in the wing dry bay to detect discrepancies, and follow-on corrective actions. This action is necessary to prevent failure of the rivets of the Gamah couplings and consequent separation of a Gamah coupling, which could result in fuel leakage and consequent fire in or around the wing. This action is intended to address the identified unsafe condition.

DATES: Effective October 3, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 3, 2000.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–301–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent

via the Internet must contain ''Docket No. 2000–NM–301–AD'' in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Linda M. Haynes, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6091; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–135 and EMB–145 series airplanes. The DAC advises that it received reports of Gamah coupling failures on certain EMB–145 airplanes, which resulted in significant fuel leakage. One of the incidents occurred during landing and resulted in over 1,000 pounds of fuel being spilled on to the airport runway. The other incident occurred while the airplane was being refueled and the amount of fuel leaked is unknown. This condition, if not corrected, could result in fuel leakage and consequent fire in or around the wing.

The Gamah couplings installed on Model EMB–145 series airplanes are the same as those installed on Model EMB–135 series airplanes. Therefore, the latter model also is affected by the identified unsafe condition and is included in the applicability of this AD.

Explanation of Relevant Service Information

The manufacturer has issued Embraer Alert Service Bulletin S.B. 145–28–A014, dated August 25, 2000, which describes procedures for a one-time visual inspection of the hinge and locking fastener of the Gamah couplings of the fuel system tubing located in the wing dry bay to detect discrepancies, and follow-on corrective actions. (The follow-on actions consist of replacing of the affected Gamah couplings and securing those couplings with locking wire if discrepancies are detected, or securing the Gamah couplings with locking wire if no discrepancies are detected.) Accomplishment of the action specified in the service bulletin is intended to adequately address the identified unsafe condition. The DAC classified this service bulletin as mandatory and issued Brazilian emergency airworthiness directive 2000–09–01, dated September 1, 2000, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

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

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent failure of the rivets of the Gamah coupling and consequent separation of a Gamah coupling, which could result in fuel leakage and consequent fire in or around the wing. This AD requires a one-time inspection of the hinge and locking fastener of the Gamah coupling of the fuel system tubing located in the wing dry bay to detect discrepancies, and follow-on corrective actions. The actions are required to be accomplished in accordance with the service bulletin described previously.

Differences Between Rule and Related Service Information

Operators should note that the alert service bulletin specifies installation of an additional retention device to secure the Gamah couplings with tie-down straps or locking wire; however, this AD allows use of the locking wire only.

Determination of Rule's Effective Date

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

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–301–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States,

or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

2000–19–03 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–11904. Docket 2000–NM–301–AD.

Applicability: Model EMB–135 and EMB–145 series airplanes, as listed in Embraer Alert Service Bulletin S.B. 145–28–A014, dated August 25, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the rivets attaching the Gamah coupling hinge to the fuel system tubing and consequent separation of the coupling, which could result in fuel leakage and consequent fire in or around the wing, accomplish the following:

General Visual Inspection

(a) Perform a one-time general visual inspection of the hinge and locking fastener of the Gamah couplings of the fuel system tubing located in the wing dry bay to detect discrepancies (including coupling separation, and loose rivets on the coupling hinge or locking fastener attaching points), in accordance with Embraer Alert Service Bulletin S.B. 145–28–A014, dated August 25, 2000; at the times specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable. If no discrepancies are detected, secure the Gamah couplings with locking wire in accordance with the alert service bulletin.

(1) For airplanes having serial numbers 145004 through 145103 inclusive; 145105 through 145121 inclusive; 145123 through 145139 inclusive; 145141 through 145153 inclusive; 145155 through 145176 inclusive: Within 400 flight hours after the effective date of this AD.

(2) For airplanes having serial numbers 145177 through 145189 inclusive; 145191 through 145230 inclusive; 145232 through 145251 inclusive; 145253 through 145255 inclusive; 145258 through 145262 inclusive; 145264 through 145293 inclusive; 145295, 145296, and 145298 through 145300 inclusive: Within 50 flight hours after the effective date of this AD.

Follow-On Corrective Actions

(b) If any discrepancies (including coupling separation, and loose rivets on the coupling hinge or locking fastener attaching points) are detected after accomplishment of the inspection required by paragraph (a) of this AD: Before further flight, replace any affected Gamah couplings and secure the Gamah couplings with locking wire in accordance with Embraer Alert Service Bulletin S.B. 145–28–A014, dated August 25, 2000. Accomplishment of this paragraph terminates the requirements of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Embraer Alert Service Bulletin S.B. 145–28–A014, dated August 25, 2000. 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 2000–09–01, dated September 1, 2000.

(f) This amendment becomes effective on October 3, 2000.

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

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–23581 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–300–AD; Amendment 39–11903; AD 2000–19–02]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all EMBRAER Model EMB–135 and EMB–145 series airplanes. This action requires repetitive inspections of the electrical connectors of the electric fuel pumps to detect discrepancies, and follow-on corrective actions. This action is necessary to prevent failure of the electrical connectors of the fuel pumps, which

could result in fuel leakage from the connectors or electrical arcing across the connector pins of the pump, and consequent fuel fire or explosion.

DATES: Effective October 3, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 3, 2000.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–300–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via the Internet must contain ''Docket No. 2000–NM–300–AD'' in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Linda M. Haynes, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6091; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on all EMBRAER Model EMB–135 and EMB–145 series airplanes. The DAC advises that it received a report of damage to the pins and elastomeric inserts in the hermetically sealed wire connectors of the electrical fuel pumps located in the main wing fuel tanks. Such damage can lead to the failure of certain electrical connectors due to heat generation caused by erosion of the connectors and subsequent arcing across the connector pins of the fuel pump. This condition, if not corrected, could result in fuel fire or explosion.

Explanation of Relevant Service Information

The manufacturer has issued Embraer Alert Service Bulletin S.B. 145–28–A013, dated August 16, 2000, which describes procedures for repetitive visual inspections of the electrical connectors of the fuel pumps to detect discrepancies (including blackened connector pins, damage to elastomeric insert, cracks, erosion or charring), and follow-on corrective actions. The follow-on actions consist of replacement of the fuel pump if discrepancies are detected, inspection of mating airplane connectors for damage, and replacement of the airplane connectors with new connectors, if damaged. Additionally, if there are no discrepancies, the service bulletin specifies replacement of the socket contacts of the connectors with new contacts. The service bulletin references the Embraer Wiring Manual which describes procedures for replacement of the connectors and socket contacts; and the Embraer Airplane Maintenance Manual which describes procedures for replacement of the fuel pump.

The DAC classified this alert service bulletin as mandatory and issued Brazilian airworthiness directive 2000–08–01, dated August 25, 2000, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

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

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent failure of the electrical connectors of the fuel pumps, which could result in leakage of fuel from the electrical connector or electrical arcing across the connector pins of the pump, and consequent fuel fire or explosion. This AD requires repetitive inspections of the electrical connectors of the fuel pumps to detect discrepancies, and follow-on corrective actions. The actions are required to be accomplished in accordance with the alert service bulletin described previously, except as discussed below.

Interim Action

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

Differences Between Rule and Related Service Information

Operators should note that although the alert service bulletin specifies replacement of the electric fuel pump only where greater than 30% of the wire connector pin surface is blackened, discolored, or charred, this AD mandates replacement of the fuel pump if any discrepancies (including blackened connector pins, damage to elastomeric insert, cracks, erosion or charring), are detected. The FAA has determined that, because of the safety implications and consequences associated with any blackening, discoloration, or charring (which are indicative of electrical arcing and a possible ignition source in close proximity to the fuel tank), any discrepant fuel pump and its mating airplane connector must be replaced before further flight.

The alert service bulletin specifies accomplishment of the repetitive inspections every 400 flight hours or at the next 'A' check. The FAA finds that such a compliance time will not ensure that the repetitive inspections are accomplished in a timely manner. In developing an appropriate compliance time for the inspections, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, as well as the compliance time for the actions required. The FAA finds accomplishment of the repetitive inspections at intervals not to exceed 400 flight hours after accomplishment of

the initial inspection, as specified in the Brazilian airworthiness directive, to be warranted, in that those intervals represent an appropriate amount of time allowable for affected airplanes to continue to operate without compromising safety.

Determination of Rule's Effective Date

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

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–300–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket.

A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

2000–19–02 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–11903. Docket 2000–NM–300–AD.

Applicability: All Model EMB–135 and EMB–145 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the electrical connectors of the fuel pumps, which could result in fuel leakage from the connectors or electrical arcing across the connector pins of the pump, and consequent fuel fire or explosion; accomplish the following:

Repetitive Inspections

(a) Perform a general visual inspection of the electrical connectors of the fuel pumps in the right- and left-hand wings to detect discrepancies (including blackened connector pins, damage to elastomeric insert, cracks, erosion or charring), in accordance with Embraer Alert Service Bulletin S.B. 145–28-A013, dated August 16, 2000, at the times specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, as applicable. Repeat the inspection thereafter at intervals not to exceed 400 flight hours.

(1) For airplanes having 1,200 total flight hours or less as of the effective date of this AD: Prior to the accumulation of 1,600 total flight hours.

(2) For airplanes having more than 1,200 total flight hours, but less than 4,000 total flight hours as of the effective date of this AD: Within 400 flight hours after the effective date of this AD.

(3) For airplanes having 4,000 total flight hours or more as of the effective date of this AD: Prior to the accumulation of 4,400 total flight hours or within 50 flight hours after the effective date of this AD, whichever occurs later.

Master Minimum Equipment List (MMEL)

(b) The inspection required by paragraph (a) of this AD applies to the six electric fuel pumps in the right- and left-hand wings (three pumps in each wing). For pump replacement planning purposes, the airplane may be operated in accordance with the provisions and limitations specified in an operator's FAA-approved MMEL, provided that no more than one fuel pump on each wing on the airplane is inoperative.

Note 2: When operating under the MMEL, the unusable fuel quantity as referenced in the Limitations Section of the appropriate FAA-approved Airplane Flight Manual (AFM) must be complied with.

Follow-On Corrective Actions

(c) If any discrepancy (including blackened connector pins, damage to elastomeric insert, cracks, erosion or charring) is detected after

accomplishment of any inspection required by paragraph (a) of this AD: Before further flight, replace the fuel pump and its mating airplane connector in accordance with Embraer Alert Service Bulletin S.B. 145–28–A013, dated August 16, 2000.

(d) After accomplishment of the replacement required by paragraph (c) of this AD, before further flight: Perform a general visual inspection of the electrical connectors adjacent to the fuel pump to detect damage (visible cracks, erosion or charring), in accordance with Embraer Alert Service Bulletin S.B. 145–28–A013, dated August 16, 2000, and accomplish the requirements in paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) If any damage is detected, before further flight, replace the connectors with new ones in accordance with the alert service bulletin.

(2) If no damage is detected, before further flight, replace only the socket contacts with new contacts in accordance with the alert service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

(f) 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

(g) The actions shall be done in accordance with Embraer Alert Service Bulletin S.B. 145–28–A013, dated August 16, 2000. 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Brazilian airworthiness directive 2000–08–01, dated August 25, 2000.

(h) This amendment becomes effective on October 3, 2000.

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

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–23580 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–02–AD; Amendment 39–11905; AD 2000–19–04]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Models 1900C, 1900C (C–12J), and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Beech Models 1900C, 1900C (C–12J), and 1900D airplanes. This AD requires you to install a spiral wrap around the wing fuel quantity wiring harness and apply an adhesive sealant to the Wiggins couplings on the internal fuel tank wiring carry-through conduit. This AD is the result of reports of chafed or shorted wing fuel quantity harness wires on the affected airplanes. These occurrences were found during regular maintenance inspections. The actions specified by this AD are intended to prevent chafing between the wing fuel quantity wiring harness and the internal wing harness supports at each wing rib location, which could cause the fuel quantity indication to become unreliable. This could leave the flight crew without an indication of the amount of fuel the airplane has during flight. The actions are also intended to prevent fuel from leaking through the wiring carry-through conduit and into the wing tip or wheel well area, which could lead to a fire or explosion.

DATES: Effective October 31, 2000.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of October 31, 2000.

ADDRESSES: You may get the service information referenced in this AD from the Raytheon Aircraft Company, P. O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 625–7043 or (316) 676–4556. You may examine this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–02–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. Jeff Pretz, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4153; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

What caused this AD? Several operators of Raytheon Beech Models 1900C and 1900D airplanes have reported chafing of the wing fuel quantity wiring harness against the wing fuel quantity wiring harness supports (located at the wing wiring harness lighting hole mounts). The Model 1900C (C–12J) airplanes are also susceptible to this condition.

The lightning hole mounts at each wing rib support the wing fuel quantity wiring harness. The following could occur and cause the above-referenced condition:

- Vibration and fuel movement cause the insulation on the wiring harness to chafe on the tie straps used to secure the harness to the lightning hole mounts; and
- Exposed conductors of the wiring harness could then contact each other and result in an incorrect fuel quantity indication or the indicator reading zero.

In addition to the above condition on the Raytheon Beech Models 1900C, 1900C (C–12J), and 1900D airplanes, the O-rings in Wiggins couplings that join the electrical conduit internal to the wing fuel tanks could leak and allow fuel to enter the conduit. This could result in a fire or explosion.

What is the potential impact if FAA took no action? If not corrected in a timely manner, the above-referenced conditions could result in the following:

- Chafing between the wing fuel quantity wiring harness and the internal wing harness supports at each wing rib location could cause the fuel quantity indication to become unreliable. This could leave the flight crew without an indication of the amount of fuel in the airplane during flight; and
- Fuel leaking through the wiring carry-through conduit and into the wing tip or wheel well area could lead to a fire or explosion.

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 certain Raytheon Beech Models 1900C, 1900C (C–12J), and 1900D airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 22, 2000 (65 FR 15278). The NPRM proposed to require you to install a spiral wrap around the wing fuel quantity wiring harness and apply an adhesive sealant to the Wiggins couplings on the internal fuel tank wiring carry-through conduit. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Raytheon Mandatory Service Bulletin No. SB 28–3299, Issued: December, 1999.

Was the public invited to comment? The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Provide Information on Allowable Fuel Quantity Wire Harness Chafing

What is the commenter's concern? One commenter states that the NPRM does not clarify how much chafing damage is allowed before the fuel quantity harness must be replaced. The commenter requests that FAA include allowable limits, sketches, or definitions that dictate how much chafing is allowed on the fuel quantity harness.

What is FAA's response to the concern? The intent of this AD action is to provide protection for the fuel quantity harness so that chafed or shorted wing fuel quantity harness wires do not occur on the affected airplanes. We believe that incorporating the actions of the proposed AD will provide the protection necessary on the fuel quantity harness. This NPRM does not propose replacement or repair of the fuel quantity harness. As with any aircraft part, the fuel quantity harness should be replaced if it has deteriorated to a point where it is not effective.

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

Comment Issue No. 2: FAA's Labor Cost Estimate Does Not Reflect the Work

What is the commenters' concern? Two commenters do not believe that FAA's estimate of the number of workhours necessary to accomplish the actions proposed in the NPRM is correct. One commenter states that, based on discussions with other operators, the workhours should be increased from 10 to 12. Another commenter believes 20 workhours is appropriate and lists all the steps necessary to accomplish the proposed actions.

What is FAA's response to the concern? The procedures necessary to accomplish the actions proposed in the NPRM are included in Raytheon Mandatory Service Bulletin No. SB 28–3299, Issued: December, 1999. We obtained the 10-workhour figure directly from this service bulletin. Raytheon has informed us that several owners/operators of the affected airplanes have already had the proposed actions accomplished and that on average the 10-hour estimate is correct. Some airplanes may require more time and some may require less. The exact time is dependent upon the experience of the mechanic, the availability of proper equipment, and the condition of the wire harness as stated in the ''Manpower'' section of the service bulletin.

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

Comment Issue No. 3: Cost Impact Does not Include Harness Replacement and Aircraft Down Time

What is the commenter's concern? One commenter states that FAA failed to include the cost of replacing damaged fuel quantity harnesses and the revenues lost by taking the airplanes out of operation to accomplish the AD action.

What is FAA's response to the concern? As we stated earlier, the intent of this AD action is to provide protection for the fuel quantity harness so that chafed or shorted wing fuel quantity harness wires do not occur on the affected airplanes. The cost impact of this AD addresses the cost of the actions to meet this intent. The FAA has no way of determining the number of fuel quantity harnesses that may need to be replaced. We also cannot estimate the revenue certain operators may lose while accomplishing the AD action. We did however structure the compliance time of the proposed AD to coincide with regularly scheduled maintenance activities.

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

Comment Issue No. 4: Compliance Time is too Short

What is the commenter's concern? One commenter states that the compliance time of 3 months or 600 hours time-in-service (TIS), whichever occurs first, will require some operators to accomplish the AD action within 9 to 10 weeks. We infer that the commenter wants the compliance time extended.

What is FAA's response to the concern? The FAA established the compliance time so that the accomplishment of the AD could coincide with regularly scheduled maintenance activities. Raytheon has informed us that many aircraft are already in compliance with the AD. For these reasons, we believe that the compliance time gives all airplane owners/operators ample time to complete the AD action. As with any AD action, we will consider compliance time extensions provided they provide an acceptable level of safety and are submitted through the alternative method of compliance procedures specified in the AD.

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

Comment Issue No. 5: AD Is Not Justified

What is the commenter's concern? One commenter states that its maintenance database does not contain information to support the actions proposed in the NPRM. This commenter also believes that placing sealer over the Wiggins fitting does not guarantee that the fitting will not leak. We infer that the commenter wants FAA to withdraw the NPRM.

What is FAA's response to the concern? Raytheon provided FAA with several reports of chafed and shorted fuel quantity harness wires that were found during maintenance and refurbishment. Although the addition of sealer to the fitting cannot provide a guarantee that it will never leak (nothing will provide this guarantee), we have determined that the likelihood of leakage is greatly reduced.

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

The FAA's Determination

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

- Will not change the meaning of the AD; and
- Will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

What is the compliance time of this AD? The compliance time of this AD is whichever of the following that occurs first:

- Within the next 3 months after the effective date of this AD; or
- Within the next 600 hours TIS after the effective date of this AD.

Why is the compliance time in both calendar time and hours TIS? Chafing damage is a direct result of airplane usage; however, the fuel leakage problem could result regardless of whether the airplane is utilized. Therefore, to assure that both problems are addressed in a timely manner without inadvertently grounding any of the affected airplanes, we are utilizing a compliance based upon both hours TIS and calendar time.

Cost Impact

How many airplanes does this AD impact? The FAA estimates that 303 airplanes in the U.S. registry will be affected by this AD.

What is the cost impact for the affected airplanes on the U.S. Register? We estimate that it will take approximately 10 workhours per airplane to accomplish the actions required by this AD, and that the average labor rate is approximately $60 an hour. There is no cost for parts to accomplish this AD. Based on these figures, we estimate the total cost impact of this AD on U.S. operators at $181,800, or $600 per airplane.

Regulatory Impact

Does this AD impact various entities? 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.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, 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 AD to read as follows:

2000–19–04 Raytheon Aircraft Company (Type Certificate No. A24CE formerly held by the Beech Aircraft Corporation): Amendment 39–11905; Docket No. 2000–CE–02–AD.

(a) *What airplanes are affected by this AD?* The following airplane models and serial numbers, certificated in any category:

(1) Part I of this AD: Wing fuel quantity wiring harness attachment improvement.

Model	Serial nos.
1900C	UC–1 through UC–174.
1900C (C–12J)	UD–1 through UD–6.
1900D	UE–1 through UE–331.

(2) Part II of this AD: Wiggins coupling adhesive sealing.

Model	Serial nos.
1900C	UC–1 through UC–174.
1900C (C–12J)	UD–1 through UD–6.
1900D	UE–1 through UE–354.

(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 prevent the following:

(1) Part I of this AD: chafing between the wing fuel quantity wiring harness and the internal wing harness supports at each wing rib location, which could cause the fuel quantity indication to become unreliable. This could leave the flight crew without an indication of the amount of fuel the airplane has during flight; and

(2) Part II of this AD: fuel from leaking through the wiring carry-through conduit and into the wing tip or wheel well area, which could lead to a fire or explosion.

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

Action	Compliance time	Procedures
(1) Part I—Install a spiral wrap around the wing fuel quantity wiring harness; and.	Accomplish all actions within the next 3 calendar months after October 31, 2000 (the effective date of this AD) or within the next 600 hours time-in-service (TIS) after October 31, 2000 (the effective date of this AD), whichever occurs first.	Accomplish these actions in accordance with Raytheon Mandatory Service Bulletin No. SB 28–3299, Issued: December, 1999.
(2) Part II—Apply an adhesive sealant to the Wiggins couplings on the internal fuel tank wiring carry-through conduit.		

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

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

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: This AD applies to each airplane identified 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 airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if 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 Jeff Pretz, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4153; facsimile: (316) 946–4407.

(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?* You must accomplish the actions required by this AD in accordance with Raytheon Mandatory Service Bulletin No. SB 28–3299, Issued: December, 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 Raytheon Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. 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 October 31, 2000.

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

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–23730 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–18]

Amendment to Class E Airspace; Hugoton, KS

AGENCY: Federal Aviation Administration, DOT.

ACTION: Director final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Hugoton, KS.

DATES: The direct final rule published at 65 FR 42856 is effective on 0901 UTC, November 30, 2000.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 12, 2000 (65 FR 42856). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on November 30, 2000. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on August 30, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–23681 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–17]

Amendment to Class E Airspace; McPherson, KS

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at McPherson, KS.

DATES: The direct final rule published at 65 FR 42858 is effective on 0901 UTC, November 30, 2000.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 12, 2000 (65 FR 42858). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on November 30, 2000. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on August 30, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–23679 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2000–ASW–14]

Revision of Class E Airspace, Walnut Ridge, AR.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises the Class E Airspace at Walnut Ridge, AR.

EFFECTIVE DATE: The direct final rule published at 65 FR 42859 is effective 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 12, 2000, (65 FR 42859). The FAA uses the direct final rulemaking procedure for a noncontroversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on October 5, 2000. No adverse comments were received, and, thus, this action confirms that this direct final rule will be effective on that date.

Issued in Forth Worth, TX, on September 6, 2000.

Robert N. Stevens,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 00–23680 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–12]

Amendment to Class E Airspace; Oelwein, IA; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date and correction.

SUMMARY: This document confirms the effective date of a direct final rule which revises the Class E airspace at Oelwein, IA, and corrects an error in the name of the Nondirectional Radio Beacon (NDB) as published in the **Federal Register** July 3, 2000 (65 FR 40990), Airspace Docket No. 00–ACE–12.

DATES: The direct final rule published at 65 FR 40990 is effective on 0901 UTC, November 30, 2000.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION:

History

On July 3, 2000, the FAA published in the **Federal Register** a direct final rule; request for comments which revises the Class E airspace at Oelwein, IA (FR document 00–16662, 65 FR 40990, Airspace Docket No. 00–ACE–12). An error was subsequently discovered that the Hampton NDB should be the Oelwein NDB. This action corrects that error. After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA has determined that this correction will not change the meaning of the action nor add any additional burden on the public beyond that already published. This action corrects the error in the airspace designation and confirms the effective date to the direct final rule.

The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on November 30, 2000. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Correction to the Direct Final Rule

Accordingly, pursuant to the authority delegated to me, the airspace designation for Oelwein Municipal Airport, as published in the **Federal Register** on July 3, 2000 (65 FR 40990), **Federal Register** Document 00–16662; page 40991, column two) is corrected as follows:

§ 71.1 [Corrected]

ACE IA E5 Oelwein, IA [Corrected]

On page 40991, in the second column, in the text header, line four, remove Hampton NDB and substitute Oelwein NDB.

Issued in Kansas City, MO, on September 5, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–23813 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–26]

Amendment to Class E Airspace; Pella, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Pella Municipal Airport, Pella, IA. The FAA has developed Area Navigation (RNAV) Z Runway (RWY) 16, RNAV Z RWY 34, RNAV Y RWY 16 and RNAV Y RWY 34 Standard Instrument Approach Procedures (SIAPs) to serve Pella Municipal Airport, Pella, IA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the RNAV Z RWY 16, RNAV Z RWY 34, RNAV Y RWY 16 and RNAV Y RWY 34 SIAPs in controlled airspace.

In addition a minor revision to the Airport Reference Point (ARP) is included in this document.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing RNAV Z RWY 16, RNAV Z RWY 34, RNAV Y RWY 16 and RNAV Y RWY 34 SIAPs, revise the ARP and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, January 25, 2001.

Comments for inclusion in the Rules Docket must be received on or before November 20, 2000.

ADDRESSES: Send comments regarding the rule in triplicate: Manager, Operations and Airspace Branch, Air Traffic Division, ACE–530, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 00–ACE–26, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA has developed RNAV Z RWY 16, RNAV Z RWY 34, RNAV Y RWY 16 and RNAV Y RWY 34 SIAPs to serve the Pella Municipal Airport, Pella, IA. The amendment to Class E airspace at Pella, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules (IFR). The amendment at Pella Municipal Airport, IA, will provide additional controlled airspace for aircraft operating under IFR and revise the ARP. The area will be depicted on appropriate aeronautical charts. 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 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 00–ACE–26.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''sifnificant regulatory action'' under Executive Order 12866; (2) is not a ''sigfnificant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, 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 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G Airspace Designations and Reporting Points, dated September 10, 1999, and effective September 16, 1999, as amended as follows:

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

* * * * *

ACE IA E5 Pella, IA [Revised]

Pella Municipal Airport, IA
(Lat. 41°24′00″ N., long. 92°56′45″ W.)
Pella NDB
(Lat. 41°24′19″ N., long 92°56′36″ W.)

The airspace extending upward from 700 feet above the surface within a 7-mile radius of Pella Municipal Airport and within 2.6 miles each side of the 175° bearing from the Pella NDB extending from the 7.0-mile radius to 9 miles south of the airport.

Issued in Kansas City, MO, on September 5, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–23812 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 960

[Docket No. 951031259–9279–03]

RIN 0648–AC64

Licensing of Private Land Remote-Sensing Space Systems

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Interim final rule: extension of comment period.

SUMMARY: On July 31, 2000, The National Oceanic and Atmospheric Administration (NOAA) published its Interim Final Rule revising the agency's minimum requirements for the licensing, monitoring and compliance of operations of private Earth remote sensing space systems in the **Federal Register** (65 FR 46822–46837). At that time, comments to the interim final rule were requested no later than September 29, 2000. Due to several requests for an extension of the public comment period, the comment period has been extended until October 30, 2000.

DATES: Comments must be received by October 30, 2000.

ADDRESSES: Comments should be sent to, Charles Wooldridge, NOAA, National Environmental Satellite, Data, and Information Service, 1335 East-West

Highway, Room 7311, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles Wooldridge at (301) 713–2024, ext. 207 or Karen D. Dacres, NOAA, Office of the General Counsel, Office of the Senior Counselor for Atmospheric and Space Services and Research, at (301) 713–1329, ext. 200.

Dated: September 11, 2000.

Gregory W. Withee,

Assistant Administrator for Satellite and Information Services.

[FR Doc. 00–23842 Filed 9–15–00; 8:45 am]

BILLING CODE 3510–HR–P

POSTAL SERVICE

39 CFR Part 20

Global Direct—Mexico

AGENCY: Postal Service.

ACTION: Interim rule and request for comment.

SUMMARY: The Postal Service is revising Global Direct—Mexico service to better reflect the domestic postal products offered by the Mexico Postal Administration (SEPOMEX) and to offer U.S. customers a wider range of direct entry products into Mexico. Global Direct—Mexico will offer three main products: Direct Mail (A and B), Letter Mail, and Publications.

EFFECTIVE DATE: October 1, 2000. Comments must be received on or before October 18, 2000.

ADDRESSES: Written comments should be mailed or delivered to the Manager, Pricing, Costing, and Classification, International Business, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 370–IBU, Washington, DC 20260–6500. Copies of all written comments will be available for public inspection between 9 a.m. and 4 p.m., Monday through Friday, in International Business, 10th Floor, 901 D Street SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walter J. Grandjean, (202) 314–7256.

SUPPLEMENTARY INFORMATION: The Postal Service is revising Global Direct—Mexico to better reflect the domestic postal products offered by Mexico Postal Administration and to offer U.S. customers a wider range of direct entry products into Mexico. Global Direct—Mexico will offer three main products: Letter Mail, Direct Mail (A and B), and Publications. There are presort requirements for these services.

Global Direct—Mexico Letter Mail is for personalized communications; correspondence; and transactions such as statements of account, invoices, and financial statements. Items may be in envelopes or other sealed wrappers or may be prepared as self-mailers or double cards. The maximum weight is 1,000 grams (35.3 ounces). The minimum size is 90 millimeters in width and 105 millimeters in length. The maximum size is 140 millimeters in width and 148 millimeters in length. Rates are based on weight and whether the items are post coded.

The rates for Global Direct—Letter Mail are:

Weight of single piece up to: (grams)	Postal coded	Non-postal coded
20	$0.327	$0.406
30	0.406	0.495
40	0.420	0.510
50	0.485	0.585
60	0.513	0.613
70	0.578	0.688
80	0.592	0.702
90	0.688	0.818
100	0.702	0.832
110	0.802	0.942
120	0.816	0.956
130	0.830	0.970
140	0.844	0.985
150	0.858	0.999
160	0.873	1.013
170	0.887	1.027
180	0.901	1.042
190	0.915	1.056
200	0.930	1.070
250	1.094	1.245
300	1.165	1.316
350	1.357	1.528
400	1.429	1.599
450	1.611	1.802
500	1.682	1.873
600	2.218	2.378
700	2.360	2.521
800	2.502	2.663
900	2.645	2.805
1000	2.787	2.948

Global Direct—Direct Mail is for advertising mail, catalogs, directories, nonregistered publications, printed matter, and merchandise samples. Contents must not be of a personal or confidential nature, but personalized advertising letters are acceptable. Statements of account, invoices, and financial statements must be sent as Letter Mail. Catalogs, publications, brochures, and similar items may be mailed unenclosed. Items mailed in envelopes or wrappers may not be sealed but must be closed with tabs or by similar means. Self-mailers and double cards containing promotional messages must be closed with tabs or by similar means. There are two categories of Mexico Direct Mail, A and B, which are based on weight or size.

Direct Mail A items may weigh up to 1000 grams. The minimum size is 90 millimeters in width and 105 millimeters in length. The maximum size is 140 millimeters in width and 148 millimeters in length. Rates are based on weight. The rates for Global Direct—Mexico Direct Mail A are:

Weight of single piece up to: (grams)	Postal coded	Non-postal coded
20	$0.226	$0.350
30	0.283	0.437
40	0.295	0.450
50	0.308	0.513
60	0.364	0.539
70	0.377	0.612
80	0.389	0.625
90	0.402	0.687
100	0.414	0.700
110	0.471	0.917
120	0.484	0.930
130	0.496	0.942
140	0.509	0.955
150	0.521	0.967
160	0.534	0.980
170	0.546	0.992
180	0.559	1.005
190	0.571	1.017
200	0.584	1.030
250	0.717	1.195
300	0.780	1.258
350	0.904	1.411
400	0.967	1.473
450	1.091	1.555
500	1.154	1.618
600	1.367	1.882
700	1.492	2.007
800	1.617	2.132
900	1.742	2.257
1000	1.867	2.382

Direct Mail B items must have a minimum weight of 1,000 grams but may not exceed 5,000 grams. The minimum size is 81 millimeters in width and 114 millimeters in length. The maximum size is 324 millimeters in width and 458 millimeters in length. Rates are based on weight. The rates for Global Direct—Mexico Direct Mail B are:

Weight of single piece up to: (grams)	Postal coded
1100	$3.417
1200	3.548
1300	3.678
1400	3.808
1500	3.938
1600	4.069
1700	4.199
1800	4.329
1900	4.460
2000	4.590
2100	5.700
2200	5.830
2300	5.960
2400	6.090
2500	6.221
2600	6.351
2700	6.481
2800	6.611
2900	6.742

Weight of single piece up to: (grams)	Postal coded
3000	6.872
3100	7.982
3200	8.112
3300	8.242
3400	8.373
3500	8.503
3600	8.633
3700	8.763
3800	8.894
3900	9.024
4000	9.154
4100	10.264
4200	10.394
4300	10.524
4400	10.655
4500	10.785
4600	10.915
4700	11.046
4800	11.176
4900	11.306
5000	11.436

Global Direct—Mexico Publications service is for magazines and other periodical publications which are registered with the government of Mexico and are enclosed in sealed envelopes or wrappers. Publications cannot weigh more than 1,000 grams. The minimum size is 90 millimeters in width and 140 millimeters in length. The maximum length is 609.6 millimeters and the maximum length, width, and thickness combined is 914.4 millimeters. The rates for Global Direct—Mexico Publications are:

Weight of single piece up to: (grams)	Postal coded	Non-postal coded
250	$0.661	$1.195
300	0.723	1.258
350	0.874	1.411
400	0.937	1.473
450	1.019	1.555
500	1.081	1.618
550	1.191	1.838
600	1.235	1.882
650	1.447	1.963
700	1.490	2.007
750	1.572	2.088
800	1.615	2.132
850	1.697	2.213
900	1.740	2.257
950	1.822	2.338
1000	1.865	2.382
1050	2.107	
1100	2.172	
1150	2.237	
1200	2.301	
1250	2.366	
1300	2.430	
1350	2.495	
1400	2.560	
1450	2.624	
1500	2.689	

Although the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites public comment on the interim rule at the above address.

The Postal Service adopts the following amendments to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal service.

PART 20—[AMENDED]

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

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

2. Chapter 6 of the International Mail Manual (IMM) is amended as follows:

6 Special Programs

610 Global Direct Service

611 Global Direct—Mexico

611.1 Description

Global Direct—Mexico is an international mail service that is available on the basis of a service agreement between the Postal Service and a qualifying mailer. Under this service a mailer may enter letter mail, publications, and direct mail items that meet applicable eligibility, makeup, and preparation requirements. The Postal Service transports the items for entry into Mexico's domestic mail system.

611.2 Qualifying Mailers and Mailing Locations

611.21 Qualifying Mailers

Mailers Qualifying mailers must agree to mail a minimum of 750 pounds for delivery to Mexican addresses per mailing per mail category. All tendered mailpieces must conform to the applicable makeup and preparation requirements.

611.22 Mailing Locations

Mailings may be deposited only at the following offices as specified in the service agreement:

New York:
- John F. Kennedy Airport Mail Center, John F. Kennedy International Airport Bldg. 250, Jamaica, NY 11430–9998

Florida:
- Miami International Service Center,* U.S. Postal Service, 11690 NW. 25th St., Miami, FL 33172–1702
- Miami Processing and Distribution Center, U.S. Postal Service, 2200 NW. 72nd Ave., Miami, FL 33152–9997

Texas:
- Dallas International Service Center, U.S. Postal Service, 15050 Trinity Blvd., Fort Worth, TX 76155–3203

Illinois:
- Chicago O'Hare International Annex, U.S. Postal Service, 514 Express Center Dr., Chicago, IL 60688–9998

California:
- San Francisco ISC, U.S. Postal Service, 2650 Bayshore Blvd., Daly City, CA 94013–1631
- Worldway Airport Mail Center, U.S. Postal Service, 21750 Arnold Center Rd., Carson, CA 90810–9998

*Only plant-verified mail is transported to these facilities by the mailer.

611.3 Postage

611.31 Rates

The rate of postage is determined by mail category, item weight, and item size.

LETTER MAIL

Weight of single piece up to: (grams)	Postal coded	Non-postal coded
20	$0.327	$0.406
30	0.406	0.495
40	0.420	0.510
50	0.485	0.585
60	0.513	0.613
70	0.578	0.688
80	0.592	0.702
90	0.688	0.818
100	0.702	0.832
110	0.802	0.942
120	0.816	0.956
130	0.830	0.970
140	0.844	0.985
150	0.858	0.999
160	0.873	1.013
170	0.887	1.027
180	0.901	1.042
190	0.915	1.056
200	0.930	1.070
250	1.094	1.245
300	1.165	1.316
350	1.357	1.528
400	1.429	1.599
450	1.611	1.802
500	1.682	1.873
600	2.218	2.378
700	2.360	2.521
800	2.502	2.663
900	2.645	2.805
1000	2.787	2.948

DIRECT MAIL A

Weight of single piece up to: (grams)	Postal coded	Non-postal coded
20	$0.226	$0.350
30	0.283	0.437
40	0.295	0.450
50	0.308	0.513

DIRECT MAIL A—Continued

Weight of single piece up to: (grams)	Postal coded	Non-postal coded
60	0.364	0.539
70	0.377	0.612
80	0.389	0.625
90	0.402	0.687
100	0.414	0.700
110	0.471	0.917
120	0.484	0.930
130	0.496	0.942
140	0.509	0.955
150	0.521	0.967
160	0.534	0.980
170	0.546	0.992
180	0.559	1.005
190	0.571	1.017
200	0.584	1.030
250	0.717	1.195
300	0.780	1.258
350	0.904	1.411
400	0.967	1.473
450	1.091	1.555
500	1.154	1.618
600	1.367	1.882
700	1.492	2.007
800	1.617	2.132
900	1.742	2.257
1000	1.867	2.382

DIRECT MAIL B

Weight of single piece up to: (grams)	Postal coded
1100	$3.417
1200	3.548
1300	3.678
1400	3.808
1500	3.938
1600	4.069
1700	4.199
1800	4.329

DIRECT MAIL B—Continued

Weight of single piece up to: (grams)	Postal coded
1900	4.460
2000	4.590
2100	5.700
2200	5.830
2300	5.960
2400	6.090
2500	6.221
2600	6.351
2700	6.481
2800	6.611
2900	6.742
3000	6.872
3100	7.982
3200	8.112
3300	8.242
3400	8.373
3500	8.503
3600	8.633
3700	8.763
3800	8.894
3900	9.024
4000	9.154
4100	10.264
4200	10.394
4300	10.524
4400	10.655
4500	10.785
4600	10.915
4700	11.046
4800	11.176
4900	11.306
5000	11.436

PUBLICATIONS

Weight of single piece up to: (grams)	Postal coded	Non-postal coded
250	$0.661	$1.195
300	0.723	1.258

PUBLICATIONS—Continued

Weight of single piece up to: (grams)	Postal coded	Non-postal coded
350	0.874	1.411
400	0.937	1.473
450	1.019	1.555
500	1.081	1.618
550	1.191	1.838
600	1.235	1.882
650	1.447	1.963
700	1.490	2.007
750	1.572	2.088
800	1.615	2.132
850	1.697	2.213
900	1.740	2.257
950	1.822	2.338
1000	1.865	2.382
1050	2.107	
1100	2.172	
1150	2.237	
1200	2.301	
1250	2.366	
1300	2.430	
1350	2.495	
1400	2.560	
1450	2.624	
1500	2.689	

611.32 Volume Discount

Global Direct revenue may be added to the ISAL/IPA total for the purpose of determining the discount earned. However, the discount will not be applied to the Global Direct—Mexico published rates.

611.33 Size and Weight Definition

Every item must meet size and weight requirements for its mail category. The size and weight standards are as follows:

LETTER MAIL

Weight	Length		Width	
Maximum	Minimum	Maximum	Minimum	Maximum
1000 grams (35.3 oz.)	114 mm (4.44 in.)	458 mm (17.86 in.)	81 mm (3.16 in.)	324 mm (12.63 in.)

DIRECT MAIL A

Weight	Length		Width	
Maximum	Minimum	Maximum	Minimum	Maximum
1000 grams (35.3 oz.)	114 mm (4.44 in.)	458 mm (17.86 in.)	81 mm (3.16 in.)	324 mm (12.63 in.)

DIRECT MAIL B

Weight		Length		Width	
Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Over 1000 grams (35.3 oz.).	5000 grams (176.3 oz.).	114 mm (4.44 in.)	458 mm (17.86 in.)	81 mm (3.16 in.)	324 mm (12.63 in.)

PUBLICATIONS

Weight	Length		Width	
Maximum	Minimum	Maximum	Minimum	Maximum
1000 grams (35.3 oz.)	114 mm (4.44 in.)	458 mm (17.86 in.)	81 mm (3.16 in.)	324 mm (12.63 in.)

611.34 Postage Payment Method

Postage must be paid through an advance deposit account. Items must bear an authorized Global Direct—Mexico postal indicia. USPS domestic indicia must not be used.

611.35 Postage Statement

Mailers must complete PS Form 3659, Postage Statement—Global Direct—Mexico. A separate postage statement must be prepared for each individual mailing.

611.36 Preparation Requirements

Sorting requirements for all three categories of mail (letters, publications, direct mail) are identical. Items must be sequenced in ascending postal code order and prepared according to the separations listed in the Global Direct—Mexico sortation plan as in the service guide. Letter-size items must be presented in USPS letter trays. Flat-size items must be presented in bundles. Both letter trays and bundles must be placed on pallets. For specific sorting and labeling requirements for Global Direct—Mexico, instructions will be provided as part of the service agreement.

611.4 Ancillary Services

611.41 Global Direct Mailbox Service

This service provides for the return of Mexican business reply mail to a specific address in Mexico, then the Postal Service forwards items to the mailer in the United States. Detailed specifications for this service will be provided as part of the application process. The rate for this service is $0.40 per item returned.

611.42 Return of Undeliverable Mail

This service provides for the return of letter mail and publications that are undeliverable. Mailers using a Mexican indicia and Mexican return address may have undeliverable items returned to the United States in bulk. The sender must endorse items ''Return Requested'' and use the return address specified by the Postal Service. The rate for this service is $1.75 per pound or fraction of a pound for the total number of items returned at a single time.

611.5 Service Agreement

Before the first mailing, mailers must submit a completed PS Form 3681, Global Direct Service Agreement, 14 business days prior to their planned mailing date. Concurrent with the establishment of the agreement, instructions are issued to the designated post office of entry regarding the acceptance and verification of the prospective customer's mailpieces.

611.6 Advance Notification

Mailers interested in using Global Direct—Mexico service must complete PS Form 3682, Notification of Mailing, five business days prior to the planned mailing date. PS Form 3682 can be found in Publication 526, Global Direct Service Guide, or on the USPS Web site.

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Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00–23549 Filed 9–15–00; 8:45 am]

BILLING CODE 7710–12–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL–6869–8]

RIN 2060–AJ37

Stay of the Eight-Hour Portion of the Findings of Significant Contribution and Rulemaking for Purposes of Reducing Interstate Ozone Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In today's action, EPA is amending a final rule it issued under section 110 of the Clean Air Act (CAA) related to interstate transport of pollutants. The EPA is staying its findings in the nitrogen oxides State Implementation Plan call (NO_X SIP call) related to the 8-hour ozone national ambient air quality standards (NAAQS).

In the final NO_X SIP call, EPA found that emissions of NO_X from 22 States and the District of Columbia (23 States) significantly contribute to downwind areas' nonattainment of the 1-hour ozone NAAQS. The EPA also separately found that NO_X emissions from the same 23 States significantly contribute to downwind nonattainment of the 8-hour ozone NAAQS.

Subsequently, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded the 8-hour ozone NAAQS. *American Trucking Associations, Inc.* v. *EPA,* 175 F.3d 1027 *on rehearing* 195 F.3d 4 (D.C. Cir. 1999). The EPA proposed to stay the 8-hour basis of the NO_X SIP call rule based on the uncertainty created by the D.C. Circuit's decision. Four parties commented on the proposed rule which was published on March 1, 2000 (65 FR 11024). No requests were made to hold a public hearing. After considering these comments, EPA has determined to finalize its proposed stay of the 8-hour basis of the NO_X SIP call rule.

DATES: The final rule is effective October 18, 2000.

ADDRESSES: Documents relevant to this action are available for inspection at the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–96–56, U.S. Environmental Protection Agency, 401 M Street, SW, Room M–1500, Washington, DC 20460, telephone (202) 260–7548 between 8:00 a.m. and 5:30 p.m., Monday though Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Questions concerning today's action should be addressed to Jan King, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC, 27711, telephone (919) 541–5665, e-mail at king.jan@epa.gov.

SUPPLEMENTARY INFORMATION:

Availability of Related Information

The official record for the NO_X SIP call rulemaking, as well as the public version of the record, has been established under docket number A–96–56 (including comments and data submitted electronically as described below). The EPA has added new sections to that docket for purposes of today's rulemaking. The public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business

information, is available for inspection from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. In addition, the **Federal Register** rulemakings and associated documents are located at http://www.epa.gov/ttn/rto/.

Outline

I. Background
A. Findings under Section 110 to Reduce Interstate Ozone Transport
B. Court Decisions
1. 8-Hour NAAQS
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G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
H. National Technology Transfer and Advancement Act
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J. Judicial Review
K. Congressional Review Act

I. Background

A. Findings Under Section 110 To Reduce Interstate Ozone Transport

On September 24, 1998 (63 FR 57356, October 27, 1998), EPA took final action requiring 22 States and the District of Columbia (23 States) to regulate emissions of nitrogen oxides (NO_X), one of the main precursors of ground-level ozone, on the basis that these emissions contribute to the transport of ozone across State boundaries in the eastern half of the United States. The EPA found that sources and emitting activities in the 23 States emit NO_X in amounts that significantly contribute to nonattainment of the 1-hour ozone NAAQS. Separately, EPA also determined that sources and emitting activities in the 23 States emit NO_X in amounts that significantly contribute to nonattainment of the 8-hour ozone NAAQS. The EPA also concluded that the level of NO_X reductions necessary to address the significant contribution for the 8-hour NAAQS was the same as for the 1-hour NAAQS. The EPA set forth requirements for each of the affected upwind States to submit SIP revisions prohibiting those amounts of NO_X emissions which significantly contribute to downwind nonattainment. To accomplish this goal, each State is required to submit a SIP, providing for NO_X reductions in amounts such that any remaining emissions would not exceed the level specified in EPA's SIP call regulations for that State in 2007.[1,2]

B. Court Decisions

1. 8-Hour NAAQS

The EPA promulgated the revised 8-hour ozone NAAQS in July 1997, and the NAAQS were challenged by a number of parties. On May 14, 1999, the D.C. Circuit issued an opinion questioning the constitutionality of the CAA authority to review and revise the NAAQS, as applied in EPA's revision to the ozone and particulate matter NAAQS. See *American Trucking Ass'ns* v. *EPA,* 175 F.3d 1027 (D.C. Cir. 1999).[3] The court also addressed other issues, including EPA's authority to implement a revised ozone standard. Based on the statutory provisions regarding classifications and attainment dates under sections 172(a) and 181(a), the court determined that, although the statute allowed EPA to promulgate a more stringent ozone NAAQS, the statute provided no authority for EPA to require States to comply with a more stringent ozone NAAQS.

The EPA and the Department of Justice sought rehearing on whether the CAA, as applied by EPA, violated the constitution and on whether the issue of EPA's implementation authority was appropriately before the court and, if so, whether the CAA prohibited EPA from implementing a more stringent ozone NAAQS.[4] On October 29, 1999, the three-judge panel that issued the initial decision granted in part and denied in part EPA's rehearing request with respect to whether EPA had authority to implement a more stringent ozone NAAQS. *American Trucking Association* v. *EPA,* 195 F.3d 4 (D.C. Cir. 1999). The three-judge panel, in a two-to-one decision, denied EPA's rehearing request on the constitutional issue; and the full court also denied EPA's request for rehearing on that issue.[5]

With respect to EPA's implementation authority, the panel modified its decision to find that EPA may implement a more stringent ozone NAAQS only in conformity with the planning provisions specific to ozone, located in subpart 2 of part D of title I of the CAA. Judge Tatel did not join in the majority opinion, but filed a separate concurring decision on the basis that he read the majority decision to allow EPA to implement the more stringent 8-hour NAAQS once an area had attained the 1-hour ozone NAAQS. 195 F.3d at 11.

The EPA filed a petition requesting the Supreme Court to review the D.C. Circuit's decision regarding the constitutional and implementation issues. The Supreme Court granted EPA's request on May 22, 2000.[6]

The litigation continues to create uncertainty with respect to when EPA may be able to move forward to fully implement the revised 8-hour NAAQS; thus, EPA continues to believe that it is imprudent to rely on the 8-hour NAAQS as an independent, alternative basis for the NO_X SIP call at this time. Instead, EPA believes the most prudent course—and one respectful of the Court's conclusions in *American Trucking*—is to stay the findings in the SIP call that emissions in certain States contribute significantly to nonattainment of the 8-hour ozone NAAQS in certain downwind States.[7] The effect of such a stay is described in section II, below.

2. Challenges to the NO_X SIP Call

Nine States and a variety of industry and industry and labor organizations challenged the NO_X SIP call rule. The State petitioners requested the court to stay the obligation under the SIP call

[1] [2] On March 2, 2000 (65 FR 11222), EPA issued technical corrections of the portion of the rule specifying the NO_X emissions levels that each State must project it will not exceed in 2007 (NO_X budget).

[3] The EPA promulgated revised particulate matter NAAQS in July 1997, and the challenges to the particulate matter NAAQS were heard and decided at the same time as the challenges to the ozone NAAQS.

[4] The EPA sought rehearing on one other issue, not relevant here.

[5] To grant rehearing, a majority of the judges sitting on the court need to vote in favor of rehearing. Of the eleven sitting judges, five voted in favor of rehearing, four voted against rehearing and two did not participate in the decision.

[6] The State and industry parties that had challenged the NAAQS separately requested the Supreme Court to review the issue of whether EPA is precluded from considering costs when promulgating NAAQS. The Supreme Court granted their request on May 30, 2000, and provided that it would consider this issue at the same time it considers the issues raised by EPA.

[7] The EPA's approach here is consistent with its administrative stay of a rule related to the NOx SIP call, commonly referred to as the ''Section 126 Rule'' (64 FR 28249, May 25, 1999). On June 24, 1999, EPA issued a 5-month interim final stay of that rule in part due to the uncertainty about the 8-hour ozone standards engendered by the *ATA* decision (64 FR 33956, June 24, 1999). The EPA simultaneously published a proposal to stay the 8-hour determinations indefinitely (64 FR 33962, June 24, 1999). The EPA issued a final rule staying the 8-hour determinations indefinitely on January 18, 2000, (65 FR 2674).

that States submit SIPs that regulated the necessary level of NO_X emissions by September 30, 1999. On May 25, 1999, the court granted the States' request, staying the SIP submission deadline pending further order of the court.[8] *Michigan* v. *EPA,* No. 98–1497 (D.C. Cir., May 25, 1999) (order granting stay in part).

In November 1999, EPA requested the court to stay its consideration of the petitioners' issues regarding the 8-hour basis for the NO_X SIP call based on the D.C. Circuit's decision regarding the 8-hour NAAQS, including the decision on rehearing, and the prospect of continued litigation regarding that NAAQS. The EPA provided that it planned to stay its finding in the NO_X SIP call related to the 8-hour ozone NAAQS. The court granted EPA's motion. *State of Michigan* v. *EPA,* 213 F.3d 663, 670–671 (D.C. Cir. 2000).

On March 3, 2000, the court issued a decision, largely upholding the NO_X SIP call rule with respect to the 1-hour ozone NAAQS. However, the court remanded a few issues to the Agency and vacated the rule as it applied to three States. The court did not address its pending stay of the SIP submission requirement.

More specifically, the court determined that EPA had not provided a sufficient opportunity for comment on two issues: (1) the definition of electric generating units as it relates to cogeneration units; and (2) the control level the Agency assumed for stationary internal combustion engines. *State of Michigan* v. *EPA* 213 F.3d at 691–93. On April 11 and 13, 2000, EPA informed the 19 States and the District of Columbia by letter of the Agency's calculation of the effect of this aspect of the decision on the emissions ''budget'' for each State.

With respect to Wisconsin, the court determined that EPA inappropriately included Wisconsin based on its contribution to 1-hour ozone nonattainment levels that were occurring over Lake Michigan. The Court held that the readings over the Lake could not be considered to ''contribute significantly to nonattainment in * * * any other State.'' *State of Michigan* v. *EPA,* 213 F.3d at 681. The court also vacated the rule as it applies to Georgia and Missouri under the 1-hour standard on the basis that EPA had not explained why it was appropriate to base the SIP call on emissions throughout each entire State when there was evidence indicating that emissions in certain parts of those States did not contribute significantly to downwind nonattainment for the 1-hour NAAQS. *State of Michigan* v. *EPA,* 213 F.3d 681–85.

The EPA is currently taking steps to issue proposed rules addressing the issues remanded or remanded and vacated by the court.

Subsequently, EPA requested the court to lift its stay of the requirement for States to submit SIPs. Many of the petitioners in the case filed motions for rehearing by the three-judge panel that issued the decision, as well as the full court. On June 22, 2000, the court granted, in part, EPA's motion to lift the stay of the SIP submission obligation. In its order, the court noted that at the time the stay was issued, States had 128 days remaining to submit their plans (the time between May 25, 1999 and September 30, 1999). The court provided that EPA should allow 128 days from the date of the court's order for States to submit their plans. Thus, under the court's order, SIPs are due October 30, 2000. In addition, both the panel and the full court denied the requests for rehearing.

II. Final Rule

The EPA is amending the final NO_X SIP call rule to stay its findings related to the 8-hour NAAQS. The EPA believes it should not continue implementation efforts under section 110 with respect to the 8-hour standard that could be construed as inconsistent with the court's ruling while these issues are being considered by the Supreme Court. Given this position, EPA believes that the Agency should not continue to move forward with findings under section 110 based on the 8-hour standard. Thus, EPA is staying indefinitely the findings of significant contribution based on the 8-hour standard, pending further developments in the NAAQS litigation. The requirements of the SIP call, including the findings of significant contribution by 19 States and the District of Columbia, and the necessary emissions reductions and related statewide budgets, as tempered by the court's remand of the internal combustion engine and EGU issues, are fully and independently supported by EPA's findings under the 1-hour NAAQS. Since the rule was based independently on the 1-hour NAAQS, a stay of the findings based on the 8-hour standards would have no effect on the required remedy for the 19 States and the District of Columbia. For these States, the effect of the stay would be that States would have no obligation during the pendency of the stay to regulate NO_X emissions under the SIP call rule for purposes of addressing downwind nonattainment of the 8-hour NAAQS. These 20 States would remain obligated to move forward to regulate emissions of NO_X for the purpose of addressing their contribution to downwind nonattainment of the 1-hour standard.

However, the court vacated the SIP call rule, based on EPA's findings for the 1-hour standard, for three States—Wisconsin, Georgia, and Missouri. The effect of EPA's stay of the findings under section 110 based on the 8-hour standard is to stay the requirement for these three States to submit any SIP in response to the SIP call.[9] Thus, these three States would have no obligation under the SIP call until such time as EPA either lifts the stay of the findings under section 110 based on the 8-hour standard or completes rulemaking in response to the court's vacatur and remand of the 1-hour basis of the SIP call rule and makes new findings under section 110 based on the 1-hour standard.

III. Response to Comments

Four commenters submitted comments on the March 2, 2000 proposal. The comments are summarized below along with EPA's responses.

Comment: Three commenters suggest that EPA deny and eliminate all findings and provisions based on the 8-hour standard in light of the court's decision in *ATA,* remanding that standard to EPA. One commenter also claims that EPA must adjust any emission reduction requirements to reflect only those needed to achieve the 1-hour standard. One of these commenters believes that EPA's proposal to stay the 8-hour basis of the SIP call rule is a ''second best'' approach.

Response: The court in *ATA* remanded, but did not vacate, the 8-hour standard. Because the 8-hour standard remains in effect, EPA does not believe that it is necessary for the Agency to vacate the 8-hour basis of the NO_X SIP call rule. Moreover, the Supreme Court has granted EPA's petition for certiorari and thus will be reviewing the D.C. Circuit's decision. Due to the uncertainty created by the pending litigation, regarding whether the 8-hour standard may be fully

[8] Although the State Petitioners requested the court to stay the submission obligation until April 27, 2000, the court stayed the submission requirement ''until further order.''

[9] Because the stay of the findings for the 8-hour standard stays any present obligation of these three States to submit a SIP in response to the SIP call, it also effectively stays with respect to these three States the applicability of the revised NO_X budgets established in the March 2, 2000 rule.

implemented, EPA believes it is appropriate to stay the 8-hour basis for the SIP call rule, such that States and sources are not required to move forward with implementing control measures designed solely to attain the 8-hour NAAQS at this time. However, it is premature to presume that implementation of the 8-hour standard will not move forward in the future. Thus, EPA believes the best approach at this time is to stay, but not withdraw, the 8-hour basis of the SIP call rule.

With respect to the claim that EPA needs to adjust the emission budgets to reflect only those emissions reductions needed to achieve the 1-hour NAAQS, EPA notes that no adjustments due to staying the findings for the 8-hour NAAQS are necessary. The EPA assessed each State's contribution for the 1-hour NAAQS independent of its assessment of the State's contribution for the 8-hour NAAQS. *See* 62 FR 60,326 (Nov. 7, 1997); 63 FR 57,377, and 57,395 (Oct. 27, 1998). However, EPA ultimately determined that the ''significant contribution'' of emissions that each State needed to address was the same regardless of whether the reductions were needed for the 1-hour standard or the 8-hour standard. Therefore, EPA promulgated only one emissions budget relevant for each State.

In addition, EPA notes that the budgets were not for the purpose of ensuring attainment of either NAAQS in downwind States. Rather, the budgets were for the purpose of addressing each upwind State's significant contribution to nonattainment in downwind areas. As EPA noted in the final SIP call rule, all of the downwind, 1-hour nonattainment areas (and many of the downwind areas violating the 8-hour standard) generally were expected to need additional local emissions reductions beyond those required by the SIP call to reach attainment of the respective NAAQS. Because EPA's analysis focused on addressing the emissions that significantly contribute to a downwind area's nonattainment problem (as provided under section 110(a)(2)(D)), rather than addressing the level of emissions reductions that would bring a downwind area into attainment for a particular standard, it is not unexpected that the budget levels would be the same for the 1-hour and 8-hour standards.

Comment: One commenter recommends that EPA stay the NO_X SIP call rule in all respects until such time as there is a final, non-appealable resolution of the litigation on the SIP call rule, and that EPA go through notice-and-comment rulemaking to lift the stay after the litigation is complete. Another commenter suggests that EPA stay the NO_X SIP call rule until both the SIP call litigation and the *ATA* litigation are finally resolved. The commenter expresses concern over EPA's efforts to implement the NO_X SIP call rule and EPA's rule under section 126 of the CAA (directly regulating sources of NO_X) while litigation is still pending on those cases and on the technical amendments regarding budget corrections. The commenter suggests that the pending litigation makes it virtually impossible for sources to plan for compliance.

Response: This rulemaking concerns a limited issue—whether EPA should stay the 8-hour basis of the NO_X SIP call rule in light of the court's decision in *ATA* remanding that standard. That decision, in no way, calls into question the 1-hour NAAQS and the need for States to develop SIPs to address that standard. Thus, the pending *ATA* litigation does not justify a stay of the findings under section 110 based on the 1-hour standard. Moreover, on June 22, 2000, the D. C. Circuit lifted its stay of the requirement for States to submit SIPs in accordance with the SIP call rule and has denied the requests for rehearing of its decision in the SIP call litigation. While parties may seek further review of that decision in the Supreme Court and the challenges to the technical corrections are pending, EPA notes that the mere fact that litigation is pending regarding an Agency action does not warrant a stay of the challenged regulation. As a general matter, regulations remain in effect pending litigation.

Comment: One commenter expressed support for EPA's proposal to stay the 8-hour basis for the NO_X SIP call rule. The commenter also stated that reliance on the 8-hour NAAQS prior to designation of areas for that standard was premature.

Response: The EPA is taking final action as proposed and as supported by the commenter. In the final SIP call rule, EPA disagreed with the commenter's position that EPA may not require States to address interstate transport for a NAAQS prior to the time EPA designates areas for that standard. That issue was raised in the SIP call litigation and the court has stayed its consideration of the issue based on EPA's decision to stay the 8-hour basis of the SIP call rule. That issue has not influenced EPA's decision to stay the 8-hour basis for the SIP call rule and could be considered by the court if and when EPA lifts its stay.

Comment: One commenter claims that EPA ''obfuscates the interdependence of the 1-hour and 8-hour bases for the NO_X SIP call and Section 126 rules'' by claiming that the findings for each standard were ''separate.'' The commenter believes that EPA's basis for both the SIP call rule and the section 126 rule is the 8-hour NAAQS. The commenter notes that the EPA-calculated emissions reductions from baselines in the NO_X SIP call rule assume achievement of the 8-hour NAAQS. Two commenters are concerned that the stay has no effect since sources will need to implement all remaining portions of the rule.

Response: In the final SIP call rule, EPA clearly stated that it independently assessed significant contribution for the 1-hour and 8-hour ozone NAAQS. *See* 62 FR 60,326; 63 FR 57,377, and 57,395. In requesting the court to stay the limited issues raised exclusively regarding the 8-hour basis for the SIP call, EPA also clearly articulated that the 8-hour and 1-hour bases were wholly independent of each other and that ''the emission reductions that must be achieved, and the requirement for States to submit SIPs meeting NO_X budgets are fully and independently supported by EPA's findings under the 1-hour NAAQS alone.'' Motion for Stay of Judicial Consideration of Certain Issues Raised In Petitioners' Briefs at 3, *Michigan* v. *EPA,* (No. 98–1497, D.C. Cir.) Nov. 19, 1999. The court granted EPA's request to stay consideration of the 8-hour basis for the SIP call and upheld in most significant respects the 1-hour basis for the SIP call. No party has sought rehearing on the grounds that the 1-hour standard alone cannot support the SIP call rule.

The EPA agrees with the commenters that the stay of the 8-hour basis of the rule will have no effect on the emissions budget for those 19 States and D.C. that are still covered by the NO_X SIP call based on the 1-hour standard. As provided above, EPA determined that the level of reductions needed to address significant contribution for the 1-hour NAAQS is the same as the level needed to address the 8-hour NAAQS and thus the budgets are the same.[10]

[10] The EPA notes that in reviewing the SIP call, as based on the 1-hour standard, the court remanded two issues to EPA that may affect the ultimate budget numbers for each State: (1) the definition of electric generating units as it relates to cogeneration units; and (2) the control level the Agency assumed for stationary internal combustion engines. Although the court only remanded, and did not vacate, the portions of the budgets based on EPA's analysis of these two issues, EPA has informed the 20 States that remain subject to the SIP call, as based on the 1-hour standard, that their initial SIPs in response to the SIP call need not account for the portion of the budget represented by emissions from these two source categories. The EPA is currently developing a proposed rule to

Thus, the stay has no practical effect on the SIP that these 19 States and D.C. will need to submit to address the SIP call.

Comment: One commenter claims that EPA should provide in the final rule, as it did in its similar stay of the 8-hour basis of the section 126 rule, that EPA would lift the stay of the 8-hour basis of the SIP call rule only through notice-and-comment rulemaking.

Response: The EPA agrees that it would need to lift the stay through rulemaking. In that rulemaking, EPA also would consider whether to modify the findings based on the 8-hour standard in light of the court's decision with respect to the findings for the 1-hour standard.

IV. Administrative Requirements

A. Executive Order 12866: Regulatory Impact Analysis

Under Executive Order 12866, (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget (OMB) because this action is simply staying its finding in the NO_X SIP call related to the 8-hour ozone standards. The final NO_X SIP call was submitted to OMB for review. The EPA prepared a regulatory impact analysis (RIA) for the final NO_X SIP call titled ''Regulatory Impact Analysis for the NO_X SIP Call, FIP, and Section 126 Petitions.'' The RIA and any written comments from OMB to EPA and any written EPA responses to those comments are included in the docket. The docket is available for public inspection at the EPA's Air Docket Section, which is listed in the **ADDRESSES** section of this preamble. This action does not create any additional impacts beyond what was promulgated in the final NO_X SIP call, therefore, no additional RIA is needed.

B. Unfunded Mandates Reform Act

This action also does not impose any additional enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). The EPA prepared a statement for the final NO_X SIP call rule that would be required by UMRA if its statutory provisions applied and consulted with governmental entities as would be required by UMRA. Because today's action does not create any additional mandates, no further UMRA analysis is needed.

C. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This action 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. This action stays EPA's findings in the NO_X SIP call rule related to the 8-hour ozone NAAQS and imposes no additional burdens beyond those imposed by the final NO_X SIP call rule. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. The EPA stated in the final NO_X SIP call rule that Executive Order 13084 did not apply because the final rule does not significantly or uniquely affect the communities of Indian tribal governments or call on States to regulate NO_X sources located on tribal lands. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Executive Order 12898: Environmental Justice

In addition, this action does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). For the final NO_X SIP call, the Agency conducted a general analysis of the potential changes in ozone and particulate matter levels that may be experienced by minority and low-income populations as a result of the requirements of the rule. These findings are presented in the RIA.

F. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses,

address the remanded issues for purposes of the 1-hour standard. Although the court's decision on these two issues, as well as the court's vacatur of the rule as it applies to Wisconsin, Georgia, and Missouri, was only for purposes of the 1-hour standard, EPA plans to consider the effect of the court's reasoning on the 8-hour basis for the SIP call at the same time that EPA undertakes any rulemaking to lift the stay of the 8-hour basis of the SIP call.

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 as defined in the Small Business Administration's (SBA) regulations at 13 CFR 12.201; (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.

This action will not impose any requirements on small entities. This action stays EPA's findings in the NO_X SIP call rule related to the 8-hour ozone NAAQS and does not itself establish requirements applicable to small entities.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because this action is not ''economically significant'' as defined under Executive Order 12866 and the Agency does not have reason to believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children.

H. National Technology Transfer and Advancement Act

In addition, the National Technology Transfer and Advancement Act of 1997 does not apply because today's action does not require the public to perform activities conducive to the use of voluntary consensus standards under that Act. The EPA's compliance with these statutes and Executive Orders for the underlying rule, the final NO_X SIP call, is discussed in more detail in 63 FR 57477–57481 (October 27, 1998).

I. Paperwork Reduction Act

The EPA stated in the final NO_X SIP call that an information collection request was pending. Today's action imposes no additional burdens beyond those imposed by the final NO_X SIP call. Any issues relevant to satisfaction of the requirements of the Paperwork Reduction Act will be resolved during review and approval of the pending information collection request for the NO_X SIP call.

J. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit if (i) the agency action consists of ''nationally applicable regulations promulgated, or final action taken, by the Administrator,'' or (ii) such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

Any final action related to the NO_X SIP call is ''nationally applicable'' within the meaning of section 307(b)(1). As an initial matter, through this rule, EPA interprets section 110 of the CAA in a way that could affect future actions regulating the transport of pollutants. In addition, the NO_X SIP call requires 22 States and the District of Columbia to decrease emissions of NO_X. The NO_X SIP call also is based on a common core of factual findings and analyses concerning the transport of ozone and its precursors between the different States subject to the NO_X SIP call. Finally, EPA has established uniform approvability criteria that would be applied to all States subject to the NO_X SIP call. For these reasons, the Administrator has also determined that any final action regarding the NO_X SIP call is of nationwide scope and effect for purposes of section 307(b)(1). Thus, any petitions for review of final actions regarding the NO_X SIP call must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

K. 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. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A ''major rule'' 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 October 18, 2000.

List of Subjects in 40 CFR Part 51

Environmental protection, Air pollution control, Administrative practice and procedure, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Transportation, Volatile organic compounds.

Dated: September 8, 2000.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart G—Control Strategy

2. Section 51.121 is amended by adding paragraph (q) to read as follows:

§ 51.121 Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen.

* * * * *

(q) *Stay of Findings of Significant Contribution with respect to the 8-hour standard.* Notwithstanding any other provisions of this subpart, the effectiveness of paragraph (a)(2) of this section is stayed.

[FR Doc. 00–23947 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 210–0247a; FRL–6850–1]

Revisions to the California State Implementation Plan, San Diego County Air Pollution Control District and Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the San Diego County Air Pollution Control District (SDCAPCD) and Bay Area Air Quality Management District (BAAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the wood products coating and the metal container, closure, and coil coating source categories. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on November 17, 2000 without further notice, unless EPA receives adverse comments by October 18, 2000. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460;

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812;

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123; and,

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1226.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SDCAPCD	67.11	Wood Products Coating Operations	08/13/97	05/18/98
BAAQMD	8–11	Metal Container, Metal Closure, and Metal Coil Coating	11/19/97	03/28/00

EPA found these rule submittals to meet the completeness criteria in 40 CFR part 51, appendix V on the following dates: July 17, 1998 for SDCAPCD Rule 67.11; and, May 19, 2000 for BAAQMD Rule 8–11. EPA must find a submittal to be complete before we begin our formal review.

B. Are There Other Versions of These Rules?

There are no previous versions of SDCAPCD Rule 67.11 in the California SIP. Although the SDCAPCD adopted earlier versions of this rule, these versions were submitted to EPA and later withdrawn by CARB. In contrast, EPA approved a version of BAAQMD Rule 8–11 into the SIP on December 23, 1997.

C. What Is the Purpose of the Submitted Rules or Rule Revisions?

SDCAPCD Rule 67.11, Wood Products Coating Operations, is a rule designed to reduce volatile organic compound (VOC) emissions at industrial sites preparing and coating wood products such as furniture, cabinets, shutters, and frames. Rule 67.11 establishes VOC emission limits in grams of VOC per litre (gr/l) of coating. It also allows using of add-on emission control devices. The rule also contains provisions for record keeping, appropriate test methods, and exemptions. Rule 67.11 reduces VOC emissions by requiring the following actions: low VOC coatings use or use of pollution control equipment; proper storage, clean-up, handling, and disposal of VOC containing material; and, emission limits on the use of strippers on wood products.

BAAQMD Rule 8–11, Metal Container, Closure, and Coil Coatings, reduces VOC emissions at industrial sites coating metal coils, cans, drums, pails, and lids. VOCs are emitted during the preparation, coating, and drying of these metal components. Rule 8–11 establishes VOC emission limits per liter of coating and also allows for using of add-on emission control devices.

BAAQMD's August 17, 1997 amendments to Rule 8–11 made several changes to the existing rule by adding new VOC content limits for the following coating categories upon adoption in 1997:

—Interior body spray coatings for two and three piece cans;
—Interior and exterior body spray coatings applied to new drums;
—End sealing compound used on non-food and beverage cans and non-food drums;
—End sealing compound used on food cans; and,
—End sealing compound used on food drums.

Most of these coating categories had their VOC content limits lowered in January 1998 and January 2000. The remaining VOC content limits, end sealing compound used on food cans and food drums, will be lowered in January 2002.

The TSD has more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). Both the SDCAPCD and the BAAQMD regulate an ozone nonattainment

area (see 40 CFR part 81), so SDCAPCD Rule 67.11 and BAAQMD Rule 8–11 must fulfill RACT.

EPA used the following guidance and policy documents to define specific enforceability and RACT requirements:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** document,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. ''Guideline Series: Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations,'' USEPA, April, 1996.

4. ''Control of Volatile Organic Emissions from Existing Stationary Sources Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light Duty Trucks,'' USEPA, May 1977, EPA–450/2–77–008.

B. Do the Rules Meet the Evaluation Criteria?

SDCAPCD Rule 67.11 is inconsistent with the relevant policy and guidance regarding RACT. However, using a negative declaration, SDCAPCD certified that there are no major sources of VOC emissions for the wood furniture source category operating in San Diego County. Because the wood products CTG's applicability statement is the same as the CAA's major source threshold of 25 tons per year potential to emit, SDCAPCD has exempted itself from the wood products CTG requirements. However, should new or existing sources within the wood products industry in San Diego County exceed the 25 tons per year potential to emit threshold, SDCAPCD will have to revise Rule 67.11 to comply with the wood products CTG and RACT.

SDCAPCD adopted their wood furniture negative declaration on October 22, 1997. The CARB submitted the negative declaration and supporting material on February 25, 1998. EPA published its approval of the negative declaration on September 23, 1998 at 63 FR 50764; effective November 23, 1998.

We believe the revisions to BAAQMD Rule 8–11 are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations.

The TSD has more information on our evaluation of these rules.

C. EPA's Recommendations to Further Improve the Rules

The TSD for each rule describes additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If EPA receives adverse comments by October 18, 2000, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on November 17, 2000. This will incorporate these rules into the federally enforceable SIP.

III. Background Information

Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The 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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 17, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 20, 2000

Felicia Marcus,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(255)(i)(F)(1) and (c)(277)(i)(C)(1) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(255) * * *

(i) * * *

(F) San Diego County Air Pollution Control District.

(*1*) Rule 67.11 adopted on March 14, 1989 and amended on August 13, 1997.

* * * * *

(277) * * *

(i) * * *

(C) Bay Area Air Quality Management District.

(*1*) Rule 8–11 adopted on January 24, 1979 and amended on November 19, 1997.

* * * * *

[FR Doc. 00–23645 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301046; FRL–6744–5]

RIN 2070–AB78

Hexythiazox; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends and re-establishes time-limited tolerances for combined residues of the insecticide hexythiazox (trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide) and its metabolite containing (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety at 3.0 ppm on strawberry; 0.1 ppm on dates; 0.1 ppm on cotton seed, undelinted; and 2.0 ppm on cotton gin byproducts for an additional 2–year period. These tolerances will expire and be revoked on October 31, 2002. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on strawberry, dates, and cotton. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: This regulation is effective September 18, 2000. Objections and requests for hearings, identified by docket control number OPP–301046, must be received by EPA on or before November 17, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301046 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–9358; and e-mail address: deegan.dave@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301046. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued two final rules, one published in the **Federal Register** of October 13, 1998 (63 FR 54594) (FRL–6030–3), and the other published in the **Federal Register** of November 26, 1997 (62 FR 62986) (FRL–5750–9), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established time-limited tolerances for the combined residues of hexythiazox and its metabolites at 3.0 ppm on strawberry; at 0.1 ppm on dates; and at 0.1 ppm on cotton, undelinted seed; and at 2.0 ppm on cotton gin byproducts, with expiration dates of September 15, 2000 (strawberry and dates) and October 1, 1999 (cotton). EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment.

EPA received requests to extend the use of hexythiazox on strawberry, dates, and on cotton for this year's growing season due to the continued lack of effective registered products to control mite species in the cultivation of these crops. After having reviewed each submission, EPA concurs that emergency conditions continue to exist. EPA has authorized under FIFRA section 18 the use of hexythiazox on strawberry, dates, and on cotton for control of various mite species in California (all three commodities) and Florida (strawberry only).

EPA assessed the potential risks presented by residues of hexythiazox in or on strawberry, dates, and cotton. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of October 13, 1998 (63 FR 54594). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are extended (in the case of strawberry and dates) and re-established (in the case of cotton) for an additional 2–year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although these tolerances will expire and be revoked on October 31, 2002, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on strawberry, dates, and cotton after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301046 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 17, 2000.

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

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

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

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or

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

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

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301046 to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

IV. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

V. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: September 8, 2000.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

§ 180.448 [Amended]

2. In § 180.448, amend the table in paragraph (b) by revising the date ''10/1/99'' to read ''10/31/02'' and ''9/15/00'' to read ''10/31/02'' wherever it appears.

[FR Doc. 00–23949 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6870–1]

Florida: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Florida has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Florida's changes to their hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on November 17, 2000 unless EPA receives adverse written comment by October 18, 2000. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 3030–8960; (404) 562–8440. You can view and copy Florida's application from 8 a.m. to 5 p.m. at the following addresses: The Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400 and from 8:30 a.m. to 3:45 p.m., EPA Region 4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960, Phone number (404) 562–8190, Kathy Piselli, Librarian.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960; (404) 562–8440.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Florida's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Florida Final authorization to operate its hazardous waste program with the changes described in the authorization application. Florida has responsibility for permitting Treatment, Storage, Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Florida, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Florida subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Florida has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits
- Take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which Florida is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the state program changes.

E. What Happens If EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Florida Previously Been Authorized For?

Florida initially received Final authorization on January 29, 1985, effective February 12, 1985 (50 FR

3908), to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on December 1, 1987, effective March 3, 1988 (52 FR 45634), December 16, 1988, effective January 3, 1989 (53 FR 50529), December 14, 1990, effective February 12, 1991 (55 FR 51416), February 5, 1992, effective April 6, 1992 (57 FR 4371), February 7, 1992, effective April 7, 1992 (57 FR 4738), May 20, 1992, effective July 20, 1992 (57 FR 21351), November 9, 1993, effective January 10, 1994, (58 FR 59367), July 11, 1994, effective September 9, 1994 (59 FR 35266), August 16, 1994, effective October 17, 1994 (59 41979), October 26, 1994, effective December 27, 1994 (59 FR 53753), April 1, 1997, effective June 2, 1997 (62 FR 15407). The authorized Florida program was incorporated by reference into the CFR on January 20, 1998, effective March 23, 1998 (63 FR 2896).

G. What Changes Are We Authorizing With Today's Action?

On July 17, 2000, Florida submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. Florida's revisions consist of provisions contained in HSWA Clusters I and II (Corrective Action), RCRA Cluster III (Corrective Action Management Units), and RCRA Cluster VII (Organic Air Emission Standards). We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Florida's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Florida Final authorization for the following program changes:

Description of federal requirement	Federal Register	Analogous/State authority	Effective/ date
Checklist 17L HSWA Codification Rule; HSWA Corrective Action.	7/15/85, 50 FR 28702–28755	62–730.180(1) Florida Administrative Code (F.A.C.); 62–730.180(4)(b), F.A.C; 62–730.180(6), F.A.C.; 403.704(29), 403.721(2), 403.721(6)(f), (h), (i), and (j), 403.722(3), 403.724, 403.8055, Florida Statutes (F.S.).	2/4/00
	40 CFR 270.60(b)(3)	*	
	40 CFR 270.60(b)(3)(vii)	**	
Checklist 44B HSWA Codification Rule 2; Corrective Action Beyond the Facility Boundary.	12/1/87, 52 FR 45788–45799	62–730.180(1) F.A.C.; 62–730.180(4)(b) F.A.C.; 62–730.180(6) F.A.C.; 403.704(29), 403.721(2), 403.721(6)(f) and (h), 403.724, 403.8055, F.S.	2/4/00
Checklist 121 Corrective Action Management Units and Temporary Units.	2/16/93, 58 FR 8658–8685	62–730.020(1) F.A.C.; 403.704(29), 403.721(2), 403.8055, F.S.; 62–730.180(1) F.A.C.; 62–730.180(6) F.A.C.; 403.704(29), F.S.; 403.721(2), 403.721(6), 403.722(3), 403.724, 403.8055, F.S.; 62.730.180(2), F.A.C.; 403.704(29), 403.721(2), 403.721(6), 403.8055, F.S.; 62–730.183, F.A.C.; 403.704(29), 403.721(2), 403.8055, F.S.; 62–730.220(3), F.A.C.; 403.704(29), 403.721(2), 403.8055, F.S.	2/4/00
	270.42 Appendix 1 (optional requirements).	This optional rule was not adopted by Florida. Rule 62–730.290(1)(d), F.A.C. states that the Department may require permit modifications for the causes set forth in 40 CFR 270.41 and 270.42.	
Checklist 154 Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers (HSWA).	12/6/94, 59 FR 62896; 5/19/95, 60 FR 26828; 9/29/95, 60 FR 50426; 11/13/95, 60 FR 56952; 2/9/96, 61 FR 4903; 6/5/96, 61 FR 28508; 11/25/96, 61 FR 59932.	62–204.800(7)(e)1., Air Pollution Control F.A.C., 403.061(7), 403.8055, F.S. 62–730.021(1)(a), F.A.C. 403.721(2), 403.8055, F.S. 62–730.030(1), F.A.C. 403.72(1), 403.8055, F.S. 62–730.160(1), F.A.C. 403.721(2), 403.8055, F.S. 62–730.180(1) F.A.C. 403.721(2) & (6), 403.8055, F.S. 62–730.180(2), F.A.C. 403.721(2) & (6), 403.8055 F.S. 62–730.220(3), F.A.C. 403.061(7), 403.087, 403.721(2), 403.722(2), (3), (4), & (7), 403.8055, F.S.	10/1/99 2/4/00

*The Florida Hazardous Waste Program does not manage the UIC program. Therefore it does not adopt 40 CFR 270.60.
**The Florida Hazardous Waste Program does not manage the NPDES program. Therefore, it does not adopt 40 CFR 270.60(b)(3)(vii).

H. Where Are the Revised State Rules Different From the Federal Rules?

There are no State requirements in this program revision considered to be more stringent or broader in scope than the Federal requirements.

I. Who Handles Permits After the Authorization Takes Effect?

Florida will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until the permits expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to

implement and issue permits for HSWA requirements for which Florida is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Florida?

Florida is not authorized to carry out its hazardous waste program in Indian country within the State, which includes:

- Seminole Tribe of Florida
- Miccosukee Tribe of Indians of Florida

Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

K. What Is Codification and Is EPA Codifying Florida's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart K for this authorization of Florida's program changes until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The 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 document 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 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 action will be effective November 17, 2000.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 29, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00–23779 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6869–4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final deletion of the Superfund Site from the National Priorities List (NPL).

SUMMARY: EPA Region 5 announces the deletion of the Cliff/Dow Dump Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substance Pollution Continency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, (CERCLA). EPA and the Michigan Department of Environmental Quality (MDEQ) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: This ''direct final'' action will be effective November 17, 2000 unless EPA receives dissenting comments by October 18, 2000. If written dissenting comments are received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Kenneth Glatz, Remedial Project Manager, or Gladys Beard, Associate Remedial Project Manager, U.S.

Environmental Protection Agency, Superfund Division, U.S. EPA, Region 5, 77 W. Jackson Blvd., (SR–6J), Chicago, IL 60604. Requests for comprehensive information on this Site is available through the public docket which is available for viewing at the Site Information Repositories at the following locations: U.S. EPA Region 5, Administrative Records, 77 W. Jackson Blvd., Chicago, IL 60604, 312–886–0900; and the Peter White Public Library, 217 N. Front St., Marquette, Michigan 49855 until September 22, 2000, after September 22, 2000 the Northern Michigan University's Lydia Olson Hall and the Michigan Department of Environmental Quality, Knapps Building, 300 S. Washington St., Lansing, Michigan 48933.

FOR FURTHER INFORMATION CONTACT: Kenneth Glatz or Gladys Beard (SR–6J), U.S. Environmental Protection Agency, 77 W. Jackson, Chicago, IL, (312) 886–7253, FAX (312) 886–4071, e-mail *beard.gladys@epa.gov*, or Bruce VanOtteren, Michigan Department of Environmental Quality, P.O Box 30426, Lansing, MI, 48909.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis of Intended Site Deletion
V. Action

I. Introduction

The Environmental Protection Agency (EPA) Region 5 announces the deletion of the Cliff/Dow Dump Site, Marquette, Marquette County, Michigan, from the National Priorities List (NPL), appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. EPA and the State of Michigan have determined that the remedial action for the Site has been successfully executed. EPA will accept comments on this action for thirty days after publication of this action in the **Federal Register**.

Section II of this action explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the history of the Cliff/Dow Site and explains how the Site meets the deletion criteria. Section V states EPA's action to delete the Site from the NPL unless dissenting comments are received during the comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that Sites may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a Site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria has been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if the Site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the Site will be conducted at least every five years after the initiation of the remedial action at the Site to ensure that the Site remains protective of public health and the environment. In the case of this Site, EPA will not conduct any five year reviews since no wastes were left on Site. EPA determined that conditions at the Site remain protective of public health and the environment. As explained below, the Site meets the NCP's deletion criteria listed above. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without the application of the Hazard Ranking System (HRS).

III. Deletion Procedures

The following procedures were used for the intended deletion of the Site:

(1) All appropriate responses under CERCLA have been implemented and no further action by EPA is appropriate; (2) The MDEQ concurred with the proposed deletion decision; (3) A notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day dissenting public comment period on EPA's Direct Final Action to Delete; and, (4) All relevant documents have been made available for public review in the local Site information repositories. EPA is requesting only dissenting comments on the Direct Final Action to Delete.

For deletion of the Site, EPA's Regional Office will accept and evaluate public comments on EPA's Final Notice before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary, responding to each significant comment submitted during the public comment period. Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in Section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a Site from the NPL does not preclude eligibility for future response actions.

IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

Site Background and History

The Cliff/Dow Disposal Site is located in the north half of section 10 T48N, R25W of Marquette County, in a wooded area off County Road 550, about one half mile west of Dead River in the City of Marquette, Michigan. The two-acre Site is currently owned by the City of Marquette, and is zoned ''deferred use''. Recreational activity in the area is concentrated along the river and associated with sport fishing. The area around the Site is largely undeveloped. A small area to the east of the Site, and property to the north of the Site is zoned industrial. A tourist park, operated by the City of Marquette, is located southeast of the Site across the river.

The Ciff/Dow Chemical Company was the operator of the Site from 1954 until the mid 1960's. The Dow Chemical Company and The Cleveland Cliffs Company owned the stock of the Cliff/Dow Chemical Company. In 1968 the Georgia-Pacific corporation and the E.L. Bruce Company acquired the stock of the Cliff/Dow Chemical Company from the Dow Chemical Company and the Cleveland-Cliffs Iron Company, and continued to do business under the name of Royal Oak Charcoal Company. During this time period, hazardous substances were disposed in a small bog depression at the County Road 550 Site.

In 1981 hikers reported to Marquette city officials of having their clothing contaminated by surface tar at the fill area. Subsequent sampling and analysis of fill material by the EPA in 1982 indicated the presence of high concentrations of organic Hazardous

Substance List (HSL) compounds, primarily polyaromatic hydrocarbons (PAHs) and phenols. EPA placed the Cliff/Dow Site on the Federal National Priorities List (NPL) of hazardous waste sites in September 1983. The Dow Chemical Company, the Cleveland Cliffs Iron Company, the Georgia-Pacific Corporation, and the City of Marquette were sent Special Notice Letters pursuant to section 122 of CERCLA. These letters stated that they were considered Potentially Responsible Parties (PRP's) at the Cliff-Dow Superfund Site, and requested their participation in the remediation of the fill area. On September 25, 1984, in response to a release or a substantial threat of a release of hazardous substances at or from the Site, the PRP's signed a 106 Administrative Consent Order for conducting a Remedial Investigation/Feasibility Study (RI/FS) and pre-design for the Site. A snow fence was placed around the fill in November 1984 to deter unauthorized entry. In November 1984, RI/FS field work began. The RI report was completed in August 1987, and the FS was completed in April 7, 1989. In September 1989, a Record of Decision (ROD) was issued by the EPA for the Site. The Proposed Plan had selected off-site disposal of the fill material for the proposed remedy. During the Public comment period the PRP's requested that the EPA allow them to demonstrate that on-site biological treatment would meet all nine remedy selection criteria and be more cost effective than off-site disposal. All factors considered, EPA determined that enhanced biological treatment of the residually contaminated fill material would be a viable innovative treatment technology. It would be the selected remedy if it could be demonstrated during the remedial design pilot studies, that the ROD requirements could be achieved by on-site biological treatment in a reasonable time frame. The major components of the selected remedial action in the ROD included:

- Excavation and treatment, via incineration, of approximately 200 cubic yards of exposed tar;
- Excavation, segregation and treatment, via incineration, of approximately 200 cubic yards of buried tar;
- Excavation and treatment, via enhanced biological treatment, of approximately 9,200 cubic yards of residual contaminated fill material;
- Import of clean backfill and topsoil cover/revegetation of excavation area;
- Site deed restrictions that prevent installation of drinking water wells within the vicinity of the contaminated groundwater boundaries and the disturbance of fill material until health based remedial action goals had been achieved; and
- Groundwater/air monitoring program to confirm the adequacy of enhanced biological treatment of residual contaminated fill material and in-situ biotreatment of residual groundwater contamination.

On June 27, 1990, the remedial action for the excavation and incineration of exposed and readily accessible tar was completed. The tar was excavated and incinerated at an off-site incinerator. On January 4, 1992, the Marquette County Health Department issued an Order prohibiting installation of any water wells on the Site until future factual evidence shows that the groundwater is suitable for use as drinking water at this location. On November 25, 1992, the City of Marquette placed Restrictive Covenants on the fill area restricting activities at the Site that may result in human health exposure greater than the cleanup standards in the ROD. These activities satisfy the institutional control and deed restriction requirements of the ROD. In August 1993, the PRPs issued the results of a bench scale Forced Air Biological Treatment (FABT) study. The FABT did not demonstrate that the ROD clean-up values could be obtained at a reasonable cost, in a reasonable time frame. Further requests by the Agency for more comprehensive site characterization indicated that the tar fraction was more extensive than the RI had indicated. Field studies by the PRP's to demonstrate that the tar could be segregated from the fill material were also unsuccessful. On July 5, 1995, consistent with the Proposed Plan, and as provided for in the ROD, the PRPs accepted a Unilateral Order for removal and disposal of all tar and fill from the Site with contamination above ROD clean up levels, and quarterly monitoring of select Site wells for a one year period.

In the summer of 1995, the PRPs excavated 28,000 tons of contaminated Site material, sent it to an off-site licensed landfill for disposal, and replaced it with clean borrow material and seeded. Four quarterly groundwater monitoring events occurred at the Site after the remedy was complete. One well showed trace amounts of benzene, these results being consistent with early RI findings. Results of all other wells were either non-detect or well below risk and hazard index criteria. Confirmatory Sampling at Dead River also supported the findings that there was no groundwater problem.

The groundwater monitoring program implemented during the quarterly Operation and Maintenance (O & M) phase was performed in accordance with the approved Quality Assurance Project Plan for O & M. The laboratory used for the analysis of the groundwater samples was determined to be acceptable for use by the U.S. EPA Region 5 Environmental Sciences Division based on previous laboratory audits. Split samples were also analyzed by the MDNR, and were in agreement with the PRPs results. The post RA groundwater analytical results were below health based concerns. Therefore, EPA and the MDEQ have decided to remove this Site from the NPL.

V. Action

The remedy selected for this Site has been implemented in accordance with the ROD. The remedy has resulted in the significant reduction of the long-term potential for release of contaminants, therefore, threats to human health and the environment have been minimized. EPA and the State of Michigan find that the remedy implemented continues to provide adequate protection of human health in the environment.

The MDEQ concurs with the EPA that the criteria for deletion of the Site have been met. Therefore, EPA is deleting the Site from the NPL.

This action will be effective November 17, 2000. However, if EPA receives dissenting comments by October 18, 2000, EPA will publish a document that withdraws this action.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous Waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 6, 2000.

David A. Ullrich,

Acting Regional Administrator, Region 5.

Part 300, title 40 of chapter I of the Code of Federal Regulations is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321 (c)(2); 42 U.S.C. 9601–9657; E.O. 12777,56 FR 54757, 3 CFR, 1991 Comp.; p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p.193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the site for

''Cliff/Dow Dump, Marquette, Michigan.''

[FR Doc. 00–23641 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[GC Docket No. 95–21]

Ex Parte Presentations in Commission Proceedings; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: On December 9, 1999 (64 FR 68946), the Commission revised the rules governing ex parte presentations in Commission proceedings. Inadvertently, a note to § 1.1202(d)(1) was omitted. This document corrects this rule.

DATES: Effective September 18, 2000.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission published a document amending part 1 of the Commission's rules in the **Federal Register** on December 9, 1999 (64 FR 68946). This document corrects the **Federal Register** as it appeared in rule FR Doc. 99–31620, published on December 9, 1999 (64 FR 68946).

§ 1.1202 [Corrected]

1. On page 68947, in the second column, in § 1.1202, paragraph (d) is corrected to add Note 1 to paragraph (d)(1) to read as follows:

* * * * *

Note 1 to paragraph (d)(1): Persons who file mutually exclusive applications for services that the Commission has announced will be subject to competitive bidding or lotteries shall not be deemed parties with respect to each others' applications merely because their applications are mutually exclusive. Therefore, such applicants may make presentations to the Commission about their own applications provided that no one has become a party with respect to their application by other means, *e.g.,* by filing a petition or other opposition against the applicant or an associated waiver request, if the petition or opposition has been served on the applicant.

* * * * *

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–23212 Filed 9–15–00; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 65, No. 181
Monday, September 18, 2000

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

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 97–001T]

RIN: 0583–AC35

Elimination of Requirements for Partial Quality Control Programs; Certification of Scales

AGENCY: Food Safety and Inspection Service, Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the final rule ''Elimination of Partial Quality Control (PQC) Programs,'' published May 30, 2000, with respect to the certification of scales for accuracy. As an alternative to State or local certification of scales for accuracy, FSIS is proposing to permit official establishments to use data from documented procedures that demonstrate compliance with National Institute of Standards and Technology Handbook 44.

DATES: Comments must be received on or before October 3, 2000.

ADDRESSES: Send one original and two copies of all comments to the FSIS Docket Clerk, Docket 97–001T, Room 102 Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. All comments received in response to this notice will be considered part of the public record and will be available for viewing in the Docket Room (Room 102 Cotton Annex) between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Daniel L. Engeljohn, Ph.D., Director, Regulations Development and Analysis Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 720–5627, fax number (202) 690–0486.

SUPPLEMENTARY INFORMATION:

Background

On May 30, 2000, FSIS published the final rule ''Elimination of Requirements for Partial Quality Control Programs'' (65 FR 34381).

The final rule, which became effective August 28, 2000, removed from the Federal meat and poultry products inspection regulations the remaining requirements pertaining to partial quality control (PQC) programs. A PQC program, as distinguished from a total quality control (TQC) system, controls a single product, operation, or part of an operation in a meat or poultry establishment. A TQC system controls all products and processes in an establishment. The final rule removed the design requirements for PQC programs and the requirements for establishments to have PQC programs for certain products or processes. The final rule was intended to make the regulations more consistent with the Pathogen Reduction(PR)/Hazard Analysis and Critical Control Points (HACCP) regulations and to give federally inspected establishments greater flexibility to adopt new technologies and methods that will improve food safety and other consumer protections.

Status of Establishment PQC Programs

Since publication of the final rule, some establishments have asked the Agency whether they could continue to use their PQC programs, including PQC programs for net weight. They have asked whether FSIS will continue to accept the data generated by the programs, or whether the Agency will carry out lot inspections of products otherwise subject to the programs, a process that could delay shipment of their products. Some inquirers have appeared to be under the impression that, with the final rule, PQC programs are no longer valid.

FSIS has told these inquirers that establishments can continue to implement PQC programs that are not in conflict with their HACCP plans, but that the Agency will no longer have specific requirements for such programs. As stated in the preamble to the final rule, the Agency encourages establishments to implement statistically sound quality systems, but, under the final rule, they are not required to have such systems. After the final rule becomes effective, FSIS will continue to accept and evaluate data from TQC systems or PQC programs as the Agency has in the past. The Agency will issue instructions to its field force on implementing the final rule. These instructions will reflect the Agency's expectation that establishments that continue to have PQC programs will continue to use them to control their processes.

Net Weight Control; Testing of Scales

Some persons who have contacted the Agency have asked specifically about the status of PQC programs that control net weight. Establishments believe that, if such programs are rescinded, their products would be subject to lot inspection by FSIS. FSIS has answered that the final rule does not rescind PQC programs for net weight. Establishments can continue to use PQC programs for net weight, and the Agency will continue to accept and evaluate the data from such programs.

Others have asked whether the Agency will recognize TQC system or PQC net weight program data regarding the testing of scales. They referred to the fact that the final rule removes the requirement for an establishment to have a total quality control (TQC) system provision for net weight or a partial quality control (PQC) program for net weight control in lieu of displaying, on or near its scales, a valid certification from a State or local weights and measures authority or from a State-registered or -licensed scale repair firm or person (9 CFR 317.21(b), 381.121d(b), as amended).

With respect to the amended regulations on the testing of scales (9 CFR 317.21(b), 381.121d(b)), FSIS states in the preamble of the final rule that the Agency is simply requiring that there be a certification of accuracy from State or local authorities or from a State-registered or -licensed repair firm or person. FSIS also states that establishments can continue to maintain the scale-checking provisions in their QC programs and systems (65 FR 34385). The Agency does not say whether it will accept the scale checking data generated by TQC systems or PQC programs. The inference to be made from the final rule is that the only documentation of the accuracy of scales that FSIS will accept is a certification of accuracy by State or local authorities or by a State-registered

or licensed repair firm or person. FSIS wishes to clarify, however, that the Agency intends to accept and evaluate data on net weight and on the accuracy of scales as well as other types of TQC or PQC data supporting an establishment's compliance with regulatory requirements.

FSIS notes that the other regulations on accuracy and testing of scales (9 CFR 317.20, 317.21(a), 381.121c, 381.121d(a)) continue in force. FSIS also notes that in the past, when evaluating TQC and PQC net weight program provisions for testing scales, FSIS has always expected the systems and programs to ensure compliance with the regulations and the requirements of National Institute of Standards and Technology Handbook 44. When evaluating data and information from TQC systems, PQC programs, or other documented procedures relating to the accuracy of scales, the Agency will continue to expect the data to reflect compliance or non-compliance with the Handbook 44 requirements.

FSIS is, therefore, proposing to amend the final rule to permit establishments to provide for alternative documentation that scales meet the requirements of NIST Handbook 44 and the other regulatory requirements for accuracy and testing of scales, in lieu of State or local certification of scales. Under this proposal, such documentation could be data or information generated by a TQC system or PQC program or records of tests conducted in accordance with NIST Handbook 44 requirements or other requirements of the regulations.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not ''significant'' within the meaning of Executive Order 12866. This rulemaking is not expected to impose any new costs on the regulated industry or on other sectors of the economy.

The Administrator has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities. Most of the entities that would be affected by this proposal are small business establishments, under Small Business Administration criteria (500 or fewer employees).

The proposal would permit establishments to use data from documented procedures to demonstrate that their scales comply with the requirements of NIST Handbook 44, in lieu of certification by State or local authorities or State-licensed repair services or persons. The documented procedures could include TQC systems or PQC programs for net weight. Approximately 240 establishments that operate TQC systems and several hundred establishments that have PQC programs for net weight could continue to use those systems and programs that control the accuracy of scales. In other words, establishments would not have to change their current practices for ensuring the accuracy of their scales to comply with this proposal. The effect of this proposal on the affected establishments would therefore not be significant.

Comment Period

This proposal is intended to make a provision of the May 30, 2000, final rule more flexible. During the rulemaking proceeding that culminated in the final rule, interested parties were given the opportunity to comment on a May 18, 1999, proposed rule and the comments received were favorable. None of the comments addressed the matter of certification of scales for accuracy. FSIS therefore regards this matter as relatively non-controversial.

Further, given that the final rule is already in effect, FSIS concludes that any clarifying amendments to the regulation should be made as close to its effective date as possible. For these reasons, FSIS is providing a short, 15-day comment period from the date of publication of this proposed rule in the **Federal Register**.

Additional Public Notification

Public awareness of all stages 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 final rule, FSIS will announce it and provide copies of this **Federal Register** publication in the weekly FSIS Constituent Update. FSIS communicates the Constituent Update by fax to over 300 organizations and individuals and makes it available on line through the FSIS web page located at ''http://www.fsis.usda.gov''. The update provides information on FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other information that could affect or would be of interest to the Agency's constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who 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, readers of this document may fax their requests to the Congressional and Public Affairs Office, at (202) 720–5704.

List of Subjects

9 CFR Part 317

Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 381

Poultry and poultry products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, FSIS is proposing to amend 9 CFR, chapter III, the Federal meat and poultry inspection regulations, as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for part 317 would continue to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. Paragraph (b) of § 317.21 would be revised as follows:

§ 317.21 Scales; testing of.

(a) * * *

(b) The operator of each official establishment shall display on or near each scale a valid certification of the scale's accuracy from a State or local government's weights and measures authority or from a State registered or licensed scale repair firm or person, or shall have alternative documented procedures showing that the scale meets the requirements of NIST Handbook 44.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

4. Paragraph (b) of § 381.121d would be revised as follows:

§ 381.121d Scales; testing of.

(a) * * *

(b) The operator of each official establishment shall display on or near each scale a valid certification of the scale's accuracy from a State or local government's weights and measures authority or from a State registered or licensed scale repair firm or person, or shall have alternative documented procedures showing that the scale meets the requirements of NIST Handbook 44.

Done at Washington, DC, on September 12, 2000.

Thomas J. Billy,

Administrator.

[FR Doc. 00–23910 Filed 9–15–00; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–19–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes Powered by Pratt & Whitney Model PW4000 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This proposal would require a one-time detailed visual inspection of certain wire bundles located in the aft section of the strut forward fairing panel of both engine struts to detect chafing damage, and repair or replacement of wiring, if necessary. This action is necessary to prevent the potential for dual wire faults from grounded, separated, or shorted wires; which could result in inadvertent takeoff thrust overboost, in-flight loss of thrust, or engine shutdown.

DATES: Comments must be received by November 2, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–19–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–19–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dennis Kammers, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2956; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

The proposals contained in this notice may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–19–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–19–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating several incidents of severe chafing of certain wire bundles in both engine struts on Model 767 series airplanes powered by Pratt & Whitney PW4000 series engines. One incident resulted in damage to the shielding of multiple wires. The subject wire bundles contain wires associated with the following engine systems: electronic control, fire/overheat detection, starter air valve, airborne vibration monitoring, inlet probe heat, and fuel shutoff valve. The affected wires are routed through two clamps attached to a hydraulic pressure line, and the chafing may be caused by a high-frequency pump ripple transmitted from the engine-driven hydraulic pump. This chafing could potentially lead to dual wire faults from grounded, separated, or shorted wires; which could result in inadvertent takeoff thrust overboost, in-flight loss of thrust, or in-flight engine shutdown.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 767–73A0049, Revision 2, dated April 27, 2000, which describes procedures for a one-time detailed visual inspection of certain wire bundles located in the aft section of the strut forward fairing panel of both engine struts to detect chafing damage, and repair or replacement of damaged wire bundles. The service bulletin also contains instructions for submitting a report of the inspection results to the manufacturer.

The service bulletin references Boeing Standard Wiring Practices Manual for accomplishment of the repair of fire detection or overheat system wires.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Service Bulletin and Proposed Rule

Operators should note that, although the effectivity listing in the service

bulletin specifies ''all PW4000 powered 767 airplanes line numbers 0001 through 0778,'' the applicability statement of this AD specifies ''Model 767 series airplanes powered by Pratt & Whitney Model PW4000 series engines.'' The FAA has determined that it is necessary to include line numbers 0779 and subsequent in the applicability of this AD because those additional airplanes are subject to the same unsafe condition as the airplanes specified in the service bulletin.

Operators also should note that Section 3.B.1.a.(3) of the Accomplishment Instructions of the service bulletin describes instructions for repairing fire detection or overheat system wires in accordance with Boeing Standard Wiring Practices Manual, Subject 20–10–13, Section 2. The FAA has determined that Section 2 of Subject 20–10–13 does not provide the special instructions for repair of fire detection or overheat system wires. These repairs should be accomplished in accordance with Subject 20–10–13, Section 4B, of Boeing Standard Wiring Practices Manual. This section describes the assembly of splices with fire detection or overheat system wires.

Interim Action

This is considered to be interim action. The inspection reports that are required by this AD will enable the manufacturer to obtain better insight into the nature, cause, and extent of the chafing, and eventually to develop final action to address the unsafe condition. Once final action has been identified, the FAA may consider further rulemaking.

Cost Impact

There are approximately 147 airplanes of the affected design in the worldwide fleet. The FAA estimates that 61 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $7,320, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 2000–NM–19–AD.

Applicability: Model 767 series airplanes powered by Pratt & Whitney Model PW4000 series engines, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the potential for dual wire faults from grounded, separated, or shorted wires; which could result in inadvertent takeoff thrust overboost, in-flight loss of thrust, or engine shutdown, accomplish the following:

Detailed Visual Inspection

(a) Prior to the accumulation of 10,000 hours time-in-service or within 180 days after the effective date of this AD, whichever occurs later: Perform a one-time detailed visual inspection of the wire bundles located in the aft section of the strut forward fairing panel of both engine struts to detect chafing damage, in accordance with Boeing Service Bulletin 767–73A0049, Revision 2, dated April 27, 2000.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Corrective Action

(1) If any chafing damage of any wire bundle is detected: Prior to further flight, repair the wire bundle in accordance with the service bulletin, except as provided by paragraph (a)(2) of this AD.

(2) If any chafing damage of the fire detection and/or overheat system wires is detected: Prior to further flight, repair the wires in accordance with the instructions described in Boeing Standard Wiring Practices Manual D6–54446, Subject 20–10–13, Section 4B, dated August 1, 1998. (The fire detection and/or overheat system wires can be repaired one time with a maximum of two splices for each wire segment, which is a temporary repair only.) Replace all spliced wires at the next scheduled strut system maintenance check, but no later than 6,000 flight hours or 18 months after the effective date of this AD, whichever occurs earlier, in accordance with the service bulletin.

(3) If the fire detection and/or overheat system wires are spliced or replaced, conduct the system tests specified in Section 3.B.1.a.(4) of the Accomplishment Instructions of the service bulletin.

(b) Following accomplishment of paragraph (a) of this AD: Report inspection results, as described in Boeing Service Bulletin 767–73A0049, Revision 2, dated April 27, 2000, to Boeing Commercial

Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207.

(c) Where there are differences between the AD and the service bulletin the AD prevails.

Alternative Methods of Compliance

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

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

Special Flight Permit

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

Issued in Renton, Washington, on September 12, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–23853 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–312–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, and –800 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–600, –700, and –800 series airplanes. This proposal would require inspections of the fasteners in the elevator balance panel assemblies to detect various discrepancies; and corrective actions, if necessary. This proposal is prompted by a report that an elevator balance panel was found disconnected from the horizontal stabilizer due to the improper installation of fasteners during production. The actions specified by the proposed AD are intended to prevent jamming, restricting, or binding of the elevator control surfaces due to loose or missing fasteners, which could make the movement of the elevator difficult and decrease aerodynamic control of the airplane.

DATES: Comments must be received by October 18, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–312–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Scott Fung, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1221; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number. 99–NM–312–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–312–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that an elevator balance panel was found disconnected from the horizontal stabilizer on a Boeing Model 737–600 series airplane. Investigation revealed that the fasteners of the elevator balance panel were improperly installed during production. Investigation also revealed that the fasteners connecting the balance panel to the elevator did not have an adequate grip length. The installation of fasteners with inadequate grip lengths occurred during production. These conditions, if not corrected, could result in jamming, restricting, or binding of the elevator control surfaces, which could make the movement of the elevator difficult and decrease aerodynamic control of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–55A1064, dated October 15, 1998. Paragraph 3.A. of the Accomplishment Instructions of the service bulletin describes procedures for a detailed visual inspection of the fasteners in the elevator balance panel to detect inadequate grip length, gaps between the bolt head, washer, and structure, and missing fasteners; and follow-on actions. The follow-on actions include repetitive inspections (*i.e.*, 250 flight hours) for certain conditions; repetitive daily inspections for certain other conditions and installation of new fasteners, if necessary, and accomplishment of the procedures specified in Paragraph 3.B. of the Accomplishment Instructions of the service bulletin (described below); as applicable.

Paragraph 3.B. of the Accomplishment Instructions of the service bulletin describes procedures for a detailed visual inspection of the fasteners that attach the balance panels to the elevator and that attach the idler hinge to the stabilizer support beam for the correct length; inspection of related nut plates for correct locking torque; replacement of all fasteners and nut plates that are not satisfactory; and repair or replacement of any damaged

structures. Accomplishment of these actions would eliminate the need for the repetitive inspections described above.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below. The proposed AD also would require that operators report results of inspection findings to the FAA.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, unlike the procedures described in Boeing Service Bulletin 737–55A1064, dated October 15, 1998, this proposed AD would not permit further flight if any of the following conditions are detected:

- Inadequate grip length or gaps between the bolt head, washer, and structure in the balance panel;
- Loose (*i.e.*, minimum locking torque of nut plate not achieved) or missing fasteners;
- Any fastener with an inadequate grip length in the elevator balance panel assemblies.

The FAA has determined that, because of the safety implications and consequences associated with such discrepant fasteners, any subject discrepant fastener that are found must be replaced with new fasteners, prior to further flight.

Operators also should note that the service bulletin does not specify procedures for disposition of certain repair conditions. This proposed AD would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

The service bulletin recommends accomplishing the detailed visual inspection of the fasteners in the elevator balance panel within 250 flight hours (after the release of the service bulletin). However, because of the low utilization rate of the affected airplanes and the degree of urgency associated with addressing the subject unsafe condition, the FAA has determined that accomplishing that inspection within 250 flight hours or 30 days after the effective date of this AD, whichever occurs first, represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 123 airplanes of the affected design in the worldwide fleet. The FAA estimates that 52 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 11 work hours per airplane (including access and close up hours) to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $34,320, or $660 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 99–NM–312–AD.

Applicability: Model 737–600, –700, and –800 series airplanes, as listed in Boeing Alert Service Bulletin 737–55A1064, dated October 15, 1998; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent jamming, restricting, or binding of the elevator control surfaces, which could make the movement of the elevator difficult and decrease aerodynamic control of the airplane, accomplish the following:

Inspections of Fasteners, and Corrective Action, If Necessary

(a) Within 250 flight hours or 30 days after the effective date of this AD, whichever occurs first, perform a detailed visual inspection of the fasteners in the elevator balance panel to detect inadequate grip length, gaps between the bolt head, washer, and structure, and missing fasteners, in accordance with paragraph 3.A. of the Accomplishment Instructions of Boeing Service Bulletin 737–55A1064, dated October 15, 1998.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If adequate grip length is detected, if no gap is detected, and if no fastener is missing, repeat the inspection thereafter at intervals

not to exceed 250 flight hours until the requirements of paragraph (b) of this AD have been accomplished; or prior to further flight, accomplish the actions specified in paragraph (b) of this AD.

(2) If inadequate grip length is detected, if any gap is detected, or if any fastener is missing, prior to further flight, accomplish the actions specified in paragraph (b) of this AD.

Inspection and Corrective Actions, If Necessary

(b) Within 3,000 flight cycles or 18 months after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect missing fasteners at the locations specified in Figure 2 of Boeing Alert Service Bulletin 737–55A1064, dated October 15, 1998, to detect inadequate grip length, and to determine the locking torque of the nut plates specified in Figure 2 of the service bulletin. These actions shall be done in accordance with paragraph 3.B. (''Fastener Inspection and Replacement'') of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1064, dated October 15, 1998. Accomplishment of the inspection constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1) of this AD.

(1) If no loose (i.e., minimum locking torque of nut plate not achieved) fastener is detected, if no fastener is missing, and if adequate grip length is found, no further action is required by this paragraph.

(2) If any fastener with an inadequate grip length is found, prior to further flight, replace the fastener with a new fastener in accordance with the service bulletin; and perform a detailed visual inspection of adjacent elevator and horizontal stabilizer structure to detect damage. If any damage is found on adjacent elevator or horizontal stabilizer structure, prior to further flight, repair or replace the damaged structure or component in accordance with the service bulletin.

(3) If any nut plate is found to have inadequate locking torque, prior to further flight, install a new nut plate in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(4) If any fastener is missing, prior to further flight, install a new fastener in accordance with the service bulletin; and perform a detailed visual inspection of adjacent elevator and horizontal stabilizer structure to detect damage. If any damage is found on adjacent elevator or horizontal stabilizer structure, prior to further flight, repair or replace the damaged structure or component in accordance with the service bulletin.

Reporting Requirement

(c) Within 10 days after accomplishing any inspection required by paragraphs (a) and (b) [not including paragraph (b)(2)] of this AD, submit a report of the inspection results (positive findings only) to the Manager, Seattle Manufacturing Inspection District Office, ANM–108S, 2500 East Valley Road, Suite C–2, Renton, WA 98055–4056; fax (425) 227–1159. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on September 12, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–23854 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–124–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200 and −300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

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

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all Boeing Model 757–200 series airplanes, that would have required repetitive clearing of the drain passage at the aft end of the main landing gear (MLG) truck beam to ensure moisture and contaminants within the truck beam can properly drain. That proposal was prompted by reports of fracture of MLG truck beams. This new action revises the proposed rule by expanding the applicability and, for certain airplanes, adding a new inspection and follow-on actions. The actions specified by this new proposed AD are intended to prevent stress corrosion cracking, leading to fracture of a MLG truck beam during ground operations, which could result in either reduced controllability of the airplane or a fire.

DATES: Comments must be received by October 13, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–124–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–124–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date

for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–124–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–124–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to all Boeing Model 757–200 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on September 15, 1999 (64 FR 50016). That NPRM would have required repetitive clearing of the drain passage at the aft end of the main landing gear (MLG) truck beam to ensure moisture and contaminants within the truck beam can properly drain. That NPRM was prompted by reports of fracture of MLG truck beams. That condition, if not corrected, could result in either reduced controllability of the airplane or a fire.

Actions Since Issuance of Previous Proposal

Since the issuance of that NPRM, the FAA has reviewed and approved Boeing Alert Service Bulletins 757–32A0135 (for Model 757–200 series airplanes), and 757–32A0138 (for Model 757–300 series airplanes), both dated June 8, 2000. The service bulletins describe procedures for repetitive clearing of the drain passage at the aft end of the truck beam of the MLG to ensure moisture and contaminants within the truck beam can properly drain. For certain airplanes, Service Bulletin 757–32A0135 also specifies an internal inspection of the truck beam protective finish (plating and primer) to detect discrepancies, and either overhaul or replacement of the truck beam if the primer is flaked, cracked, or missing, or if corrosion is present. The service bulletin references Chapter 32–11–56 of the Boeing 757 Component Maintenance Manual for overhaul of the truck beam, and Chapter 32–11–17 of the Boeing 757 Airplane Maintenance Manual for replacement of the truck beam.

Additionally, a note has been added to the supplemental NPRM to give credit to operators that may have previously accomplished the clearing procedure in accordance with Boeing Service Letter 757–SL–32–060, dated March 31, 1999, which was referenced as the appropriate source of service information in the NPRM.

Conclusion

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

Differences Between Proposed Rule and Alert Service Bulletins

Operators should note that, although the alert service bulletins recommend repeating the clearing procedure at planned maintenance intervals (such as ''C'' checks), after accomplishment of the initial action, the FAA has determined that repeating the procedure at every ''C'' check thereafter would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (less than one hour). In light of all of these factors, the FAA finds a compliance time of 4 years since the last overhaul of the MLG or since the date of manufacture of the MLG (for MLG that has not been overhauled), or within 90 days after the effective date of this AD, whichever occurs latest, for initiating the initial actions to be warranted. For the repetitive clearing procedures, the FAA finds an interval of 6 months, if the drain was previously found to be clogged, or 18 months, if the drain was previously found to be unclogged, to be warranted. The FAA finds that these intervals are warranted in that they represent appropriate intervals of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 874 airplanes of the affected design in the worldwide fleet. The FAA estimates that 350 Model 757–200 series airplanes of U.S. registry would be affected by this AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at that the average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be $21,000, or $60 per airplane, per inspection cycle.

For Group 1 airplanes, as listed in Boeing Alert Service Bulletin 757–32A0135: It would take approximately 28 work hours per airplane to accomplish the proposed internal inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection is estimated to be $1,680 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Currently, there are no 757–300 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this

inspection would be $60 per airplane, per inspection cycle.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 99–NM–124–AD.

Applicability: Model 757–200 series airplanes as listed in Boeing Alert Service Bulletin 757–32A0135, dated June 8, 2000; and Model 757–300 series airplanes as listed in Boeing Alert Service Bulletin 757–32A0138, dated June 8, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent stress corrosion cracking, leading to fracture of a main landing gear (MLG) truck beam during ground operations, which could result in either reduced controllability of the airplane or a fire, accomplish the following:

Repetitive Clearing Procedure

(a) Within 4 years since the last overhaul of the MLG or since the date of manufacture of the MLG (for MLG that have not been overhauled), or within 90 days after the effective date of this AD, whichever occurs latest: Insert a wooden probe, or similar non-metallic object, into the aft drain hole of the MLG truck beam, to clear the drain passage and ensure it can properly drain, in accordance with Boeing Alert Service Bulletin 757–32A0135 (for Model 757–200 series airplanes), or 757–32A0138 (for Model 757–300 series airplanes), both dated June 8, 2000, as applicable.

(1) If the aft drain hole is found unclogged, repeat the clearing procedure thereafter at intervals not to exceed 18 months.

(2) If the aft drain hole is found clogged, repeat the clearing procedure thereafter at intervals not to exceed 6 months.

Note 2: Previous accomplishment of the clearance of the drain passage in accordance with Boeing Service Letter 757–SL–32–060, dated March 31, 1999, is considered acceptable for compliance with the requirements specified in paragraph (a) of this AD.

Internal Inspection

(b) For Group 1 airplanes as listed in Boeing Alert Service Bulletin 757–32A0135, dated June 8, 2000: Within 8 years since the date of manufacture of the MLG (for MLG that have not been overhauled), or within 6 months after the effective date of this AD, whichever occurs latest, perform an internal inspection of the truck beam protective finish (plating and primer) to detect discrepancies (flaked, cracked, missing finish, or corrosion), as illustrated in Figure 2 of the alert service bulletin.

Corrective Action

(1) If no discrepancy is detected, prior to further flight, apply corrosion preventive compound in accordance with the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is detected, prior to further flight, overhaul or replace the truck beam, as applicable, in accordance with the Accomplishment Instructions of the alert service bulletin.

Note 3: Overhaul of the MLG prior to the effective date of this AD in accordance with Boeing Alert Service Bulletin 757–32A0135, dated June 8, 2000, is considered acceptable for compliance with the requirements specified in paragraph (b) of this AD.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Issued in Renton, Washington, on September 12, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–23855 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–57–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 (military) airplanes. This proposal would require, among other actions, various inspections to detect cracks of the cockpit enclosure window sill, and follow-on and corrective actions, as applicable. This action is necessary to prevent fatigue cracking of the internal doublers and frame structure of the fuselage skin of the cockpit enclosure window sill. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 2, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–57–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–57–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5324; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–57–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–57–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports of cracking of the internal doublers and frame structure of the fuselage skin of the cockpit enclosure window sill on McDonnell Douglas Model DC–9 series airplanes. These airplanes had accumulated between 61,624 and 100,238 total flight cycles. The cause of such cracking has been attributed to high-cycle fatigue. Fatigue cracking of the subject area, if not corrected, could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC9–53–290, dated December 14, 1999. The service bulletin describes the following procedures:

- A general visual inspection to determine if a particular type of repair that has been installed;
- A general visual inspection to detect loose or missing fasteners or cracks of the upper nose skins of the cockpit;
- A magnetic particle inspection to detect cracks of the zees; and
- A detailed visual, borescope, and high frequency eddy current (HFEC) inspection to detect cracks of the skins, frames, beams, and angles. The service bulletin also describes the following follow-on and corrective actions, as applicable, that include:
- A permanent repair (including visual and magnetic particle inspections, and replacement/rework);
- Inspections to detect cracks of the completed repair; and repair, if necessary;
- A temporary repair; and follow-on inspections to detect cracks of the internal structure and external doublers; and
- Replacement of any cracked zee with a new part.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Cost Impact

There are approximately 809 Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 572 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 7 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $240,240, or $420 per airplane.

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

cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2000–NM–57–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 (military) airplanes; as listed in McDonnell Douglas Service Bulletin DC9–53–290, December 14, 1999; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the internal doublers and frame structure of the fuselage skin of the cockpit enclosure window sill, accomplish the following:

Note 2: Where there are differences between the AD and the referenced service bulletin, the AD prevails.

Various Inspections

(a) Before the accumulation of 40,000 total landings, or within 5,000 landings after the effective date of this AD, whichever occurs later, do the actions specified in (a)(1), (a)(2), (a)(3), and (a)(4) of this AD per paragraph 3., ''Accomplishment Instructions,'' of McDonnell Douglas Service Bulletin DC9–53–290, dated December 14, 1999.

(1) Do a general visual inspection to determine if any repair identified in paragraphs 3.A.6. and 3.A.8. of the Accomplishment Instructions of the service bulletin has been accomplished prior to the effective date of this AD. AND

(2) Do a general visual inspection to detect cracks of the upper nose skins of the cockpit. AND

(3) Do a magnetic particle inspection to detect cracks of the zees. AND

(4) Do a detailed visual, borescope, and high frequency eddy current (HFEC) inspection to detect cracks of the skins, frames, beams, and angles.

Note 3: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

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.''

Condition 1 (No Crack and No Previous Repair)

(b) If no crack and no previous repair is detected during any inspection required by paragraphs (a)(1) through (a)(4) of this AD, do the actions specified in paragraph (b)(1) of this AD, or in paragraphs (b)(2) and (b)(3) of this AD, at the times specified in those paragraphs.

(1) Repeat the inspections required by paragraphs (a)(2), (a)(3), and (a)(4) of this AD thereafter every 5,000 landings.

(2) Before further flight, do the permanent repair (including visual and magnetic particle inspections, and replacement/rework) specified in Condition 1, Option 2 of the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–53–290, dated December 14, 1999. Accomplishment of the permanent repair stops the repetitive inspections required by paragraph (b)(1) of this AD.

(3) Within 40,000 landings after doing the permanent repair required by paragraph (b)(2) of this AD, do the inspections specified in paragraphs (a)(2), (a)(3), and (a)(4) of this AD to detect cracks of the completed repair, per McDonnell Douglas Service Bulletin DC9–53–290, dated December 14, 1999.

(i) I no crack is detected, repeat the inspections specified in paragraph (b)(3) of this AD thereafter every 5,000 landings.

(ii) If any crack is detected, before further flight, repair per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

Condition 2 (Any Crack Within Limits)

(c) If any crack is detected during any inspection required by paragraphs (a)(2) through (a)(4) of this Ad, and that crack is WITHIN the limits specified in Condition 2 of the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–53–290, dated December 14, 1999, do the actions specified in paragraphs (c)(1) through (c)(4) of this AD, or in paragraphs (b)(2) and (b)(3) of this AD; at the times specified in those paragraphs. The actions required by paragraphs (c)(1) through (c)(3) of this AD must be done per the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–53–290, dated December 14, 1999.

(1) Before further flight, do the temporary repair per Condition 2, Option 1 of the Accomplishment Instructions of the service bulletin.

(2) Within 2,000 landings after doing the temporary repair, do a general visual

inspection to detect cracks of the external doublers.

(3) Within 3,500 landings after doing the temporary repair, do borescope and HFEC inspections to detect cracks of the internal structure.

(4) Within 8,000 landings after doing the temporary repair, do the action specified in paragraphs (b)(2) of this AD; and at the time specified in paragraph (b)(3) of this AD, do the actions specified in that paragraph.

(d) If no crack is detected during any general visual inspection required by paragraph (c)(2) of this AD, repeat the general visual inspection thereafter every 2,000 landings.

(e) If no crack is detected during any borescope or HFEC inspection required by paragraph (c)(3) of this AD, repeat the borescope and HFEC inspections thereafter every 3,500 landings.

(f) If any crack is detected during any inspection required by paragraph (c)(2) or (c)(3) of this AD, at the times specified in paragraphs (b)(2) and (b)(3) of this AD, do the actions specified in those paragraphs.

Condition 3 (Existing Repairs Accomplished Per Certain Service Information)

(g) If any repair is detected during any inspection required by paragraph (a)(1) of this AD, and that repair has been accomplished previously in accordance with the service information identified in Condition 3 of the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–53–290, dated December 14, 1999, do the actions specified in paragraph (g)(1) of this AD, or in paragraphs (g)(2) and (g)(3) of this AD, at the times specified in those paragraphs.

(1) At the times specified in paragraphs (c)(2) and (c)(3) of this AD, do the actions specified in those paragraphs; and at the time specified in paragraphs (d), (e), and (f) of this AD, do the applicable follow-on or corrective actions specified in those paragraphs.

(2) Within 8,000 landings after doing the temporary repair, do the action specified in paragraph (b)(2).

(3) Within 40,000 landings after doing the permanent repair, do the actions specified in paragraph (b)(3) of this AD.

Condition 4 (Existing Repairs Not Accomplished Per Certain Service Information)

(h) If any repair is detected during any inspection required by paragraph (a)(1) of this AD, and the repair has not been accomplished previously in accordance with the service information identified in Condition 3 of the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–53–290, dated December 14, 1999, before further flight, repair per a method approved by the Manager, Los Angeles ACO.

Condition 5 (Any Crack Outside Limits)

(i) If any crack is detected during any inspection required by paragraphs (a)(2) through (a)(4) of this AD, and that crack is OUTSIDE the limits specified in Condition 2 of the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–53–290, dated December 14, 1999, at the times specified in paragraphs (b)(2) and (b)(3) of this AD, do the actions specified in paragraphs (b)(2) and (b)(3) of this AD.

Corrective Action for Cracked Zee

(j) If any cracked zee is detected during any inspection required by paragraph (a)(3) of this AD, before further flight, replace the cracked zee with a new part per McDonnell Douglas Service Bulletin DC9–53–290, dated December 14, 1999.

Alternative Methods of Compliance

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

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

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

Issued in Renton, Washington, on September 12, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–23852 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–23–AD]

RIN No. 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH Model EC135 P1 and EC135 T1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) for Eurocopter Deutschland GmbH (ECD) Model EC135 P1 and EC135 T1 helicopters. This proposal would require inspecting the hydraulic line shielding hose (hose), replacing any unairworthy hose with an airworthy hose, and installing a nylon cable tie. This proposal is prompted by the tail rotor drive shaft Thomas coupling contacting and chafing the hose that shields the fenestron tail rotor hydraulic lines. The actions specified by the proposed AD are intended to prevent damage to the hose, leaking of accumulated hydraulic fluid to an area with an ignition source, inflight fire, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before November 17, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–23–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications

should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–SW–23–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–23–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

ECD issued Alert Service Bulletin EC 135–29A–003, dated February 24, 1999 (ASB), which specifies inspecting the hose, changing the hose if necessary, and also fitting with a ty-rap if necessary.

This helicopter model is manufactured in the Federal Republic of Germany and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral airworthiness agreement. The FAA has examined the findings, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

The FAA has identified an unsafe condition that is likely to exist or develop on other ECD Model EC135 P1 and EC135 T1 helicopters of the same type design registered in the United States. The proposed AD would require, within 50 hours time-in-service (TIS), inspecting the hose to determine if the tail rotor drive shaft Thomas coupling near the No. 1 hanger bearing is rubbing against the hose. The purpose of the hose is to prevent any accumulated or pressurized hydraulic fluid from entering an engine compartment with elevated temperatures that could start a fire. If damage is found, the proposed AD would require replacing the unairworthy hose with an airworthy hose within 25 hours TIS. The AD would also require, within 50 hours TIS, installing a nylon cable tie to increase the clearance between the drive shaft and the hose. Inspecting, replacing any unairworthy hose with an airworthy hose, and installing a nylon cable tie constitutes terminating action for this AD. The actions would be required to be accomplished in accordance with the ASB described previously.

The FAA estimates that 25 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 9.75 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $14,625 assuming no parts will be required.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Eurocopter Deutschland GmbH: Docket No. 2000–SW–23–AD.

Applicability: Model EC135 P1 and EC135 T1 helicopters, serial numbers 0005 through 0094 with hydraulic line shielding hose DN 56 (hose), part number (P/N) L290M20X1 001, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the hose, leaking of accumulated hydraulic fluid to an area with an ignition source, inflight fire, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 50 hours time-in-service (TIS),

(1) Inspect the hose in accordance with the Accomplishment Instructions, paragraph 3.A., of Eurocopter Alert Service Bulletin EC 135 29A–003, dated February 24, 1999 (ASB). If a damaged hose is found, within 25 hours TIS, replace the unairworthy hose with an airworthy hose in accordance with the Accomplishment Instructions, paragraph 3.B., of the ASB.

(2) Install a nylon cable tie in accordance with the Accomplishment Instructions, paragraph 3.C., of the ASB.

(b) Inspecting the hose, replacing any unairworthy hose with an airworthy hose, and installing a nylon cable tie constitute terminating action for the requirements of this AD.

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

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

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the

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

Issued in Fort Worth, Texas, on September 8, 2000.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–23860 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–67–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GMBH Model MBB–BK 117 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD) for Eurocopter Deutschland GMBH (ECD) Model MBB-BK 117 helicopters. That AD currently requires, before further flight, creating a component log card or equivalent record and determining the calendar age and number of flights on each tension-torsion (TT) strap. This action would establish a life limit for certain main rotor TT straps. This proposal is prompted by an accident in which a main rotor blade (blade) separated from an ECD Model MBB-BK 117 helicopter due to fatigue failure of a TT strap. The actions specified by this AD are intended to prevent fatigue failure of a TT strap, loss of a blade, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before November 17, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–67–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Charles Harrison, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5128, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–SW–67–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–67–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On January 5, 2000, the FAA issued AD 2000–01–11, Amendment 39–11509 (65 FR 2017, January 13, 2000), applicable to ECD Model MBB-BK 117 helicopters. That AD currently requires, before further flight, creating a component log card or equivalent record and determining the age and number of flights on each TT strap. Also, AD 2000–01–11 requires inspecting and removing, as necessary, certain unairworthy TT straps. That action was prompted by an accident in which a blade separated from an ECD Model MBB-BK 117 helicopter due to fatigue failure of a TT strap. The requirements of that AD are intended to prevent failure of a TT strap, loss of a blade, and subsequent loss of control of the helicopter.

Since the issuance of that AD, we have determined the need to establish a life limit for the TT strap. We have also determined that the graduated inspection criteria and the accompanying TT strap lives specified in the current AD are no longer necessary after a life limit is established.

ECD issued Alert Service Bulletin MBB-BK 117 No. ASB-MBB-BK 117–10–120, Revision 1, dated August 31, 1999 (ASB). The ASB describes procedures for determining the total accumulated installation time and number of flights on each TT strap. The ASB also specifies inspecting and replacing, as necessary, certain unairworthy TT straps. The ASB further states that certain TT straps must be renumbered prior to installation. The Luftfahrt Bundesamt (LBA), the airworthiness authority for the Federal Republic of Germany, classified this ASB as mandatory and issued AD 1999–284/2, dated September 1, 1999, to ensure the continued airworthiness of these helicopters in the Federal Republic of Germany.

Since an unsafe condition has been identified that is likely to exist or develop on other ECD Model MBB-BK 117 helicopters registered in the United States, the proposed AD would require establishing a life limit for the TT straps of 120 months or 25,000 flights, whichever occurs first.

The FAA estimates that 127 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 16 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $10,400 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,442,720.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11509 (65 FR 2017, January 13, 2000), and by adding a new airworthiness directive (AD), to read as follows:

Eurocopter Deutschland GMBH: Docket No. 99–SW–67–AD. Supersedes AD 2000–01–11, Amendment 39–11509, Docket No. 99–SW–60–AD.

Applicability: Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue failure of a tension-torsion (TT) strap, loss of a main rotor blade (blade), and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight,

(1) Remove TT straps, P/N 2604067 (Bendix) or J17322–1 (Lord), from service or re-identify them as P/N 117–14110 or 117–14111, respectively, in accordance with the Accomplishment Instructions, paragraph 2.B.1.2., Eurocopter Deutschland GMBH Alert Service Bulletin MBB–BK–117 No. ASB–MBB–BK 117–10–120, Revision 1, dated August 31, 1999 (ASB). TT straps, P/N 2604067 (Bendix) or J17322–1 (Lord), are no longer eligible for installation.

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

(3) Review the history of the helicopter and each TT strap. Determine the age since initial installation on any helicopter (age) and the number of flights on each TT strap. Enter both the age and the number of flights for each TT strap on the component log card or equivalent record. When the number of flights is unknown, multiply the number of hours time-in-service (TIS) by 5 to determine the number of flights.

(4) Remove any TT strap from service if the total hours TIS or number of flights and age cannot be determined

(b) Before further flight, remove any TT strap, part number (P/N) 117–14110 or 117–14111, that has been in service 120 months since initial installation on any helicopter or accumulated 25,000 flights (a flight is a takeoff and a landing). Replace the TT strap with an airworthy TT strap.

(c) This AD revises the Airworthiness Limitations Section of the maintenance manual by establishing a life limit for the TT strap, P/N 117–14110 and 117–14111, of 120 months or 25,000 flights, whichever occurs first.

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

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

(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 helicopter to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in the Luftfahrt Bundesamt (Federal Republic of Germany) AD 1999–284/2, dated September 1, 1999.

Issued in Fort Worth, Texas, on September 8, 2000.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–23861 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–19–AD]

Airworthiness Directives; Eurocopter Deutschland Model EC135 P1 and T1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD) for Eurocopter Deutschland Model EC135 P1 and T1 helicopters that currently requires visual and dye-penetrant inspections for a cracked stator blade of the fenestron tail rotor (tail rotor). That AD also requires either stop drilling a cracked blade or, as necessary, replacing an unairworthy stator blade with an airworthy stator blade. This action would require replacing the existing stator blade assembly with a new stator blade assembly that incorporates a reinforced base and modified riveting and limits the applicability to certain serial numbered tail booms. This proposal is prompted by additional reports of cracked stator blades of the tail rotor. The actions specified by the proposed AD are intended to prevent failure of the tail rotor and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before November 17, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–19–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. Comments may be inspected at the Office of the Federal Register between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the

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

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–SW–19–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–19–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On December 2, 1997, the FAA issued AD 97–20–13, Amendment 39–10240; (62 FR 65198, dated December 11, 1997), to require visual and dye-penetrant inspections for a cracked stator blade of the tail rotor. That AD also requires that a cracked stator blade be stop-drilled or replaced with an airworthy stator blade if the crack is 15mm or longer or if more than three stator blades are affected. That action was prompted by the discovery of cracks on the stator blades of the fenestron tail rotor. The requirements of that AD are intended to prevent failure of the tail rotor and subsequent loss of control of the helicopter.

Since the issuance of that AD, additional cracks have been reported on the stator blades of the fenestron tail rotor. The manufacturer has developed a stator blade assembly that incorporates a reinforced base and modified riveting.

We have identified an unsafe condition that is likely to exist or develop on other Eurocopter Deutschland Model EC135 P1 and T1 helicopters of the same type design. The proposed AD would supersede AD 97–20–13 to require replacing any stator blade assembly, part number (P/N) L 535A4201 052, with a stator blade assembly, P/N L 535A4201 053, that incorporates a reinforced base and modified riveting. The proposed AD would also limit the applicability to certain serial numbered tail booms.

The FAA estimates that 25 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The manufacturer states in its service bulletin that parts and labor will be furnished at no cost. Based on that information, there would be no cost impact from the proposed AD on U.S. operators.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10240 (62 FR 65198, dated December 11, 1997), and by adding a new airworthiness directive (AD) to read as follows:

Eurocopter Deutschland: Docket No. 2000–SW–19–AD. Supersedes AD 97–20–13, Amendment 39–10240, Docket No. 97–SW–46–AD.

Applicability: Model EC135 P1 and T1 helicopters, with tail boom serial number EVL 001 through EVL 045, installed, certificated in any category.

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

Compliance: Required within 90 days, unless accomplished previously.

To prevent failure of the stator blades of the fenestron tail rotor and subsequent loss of control of the helicopter, accomplish the following:

(a) Replace stator blade assembly, part number (P/N) L 535A4201 052, with stator blade assembly, P/N L 535A4201 053.

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

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

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

Issued in Fort Worth, Texas, on September 11, 2000.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–23863 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 210–0247b; FRL–6850–2]

Revisions to the California State Implementation Plan, San Diego County Air Pollution Control District and Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Diego County Air Pollution Control District (SDCAPCD) and Bay Area Air Quality Management District (BAAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the wood products coating and the metal container, closure, and coil coating source categories. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by October 18, 2000.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812;

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123; and,

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (Air–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1226.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: SDCAPCD 67.11 and BAAQMD 8–11. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: August 1, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 00–23646 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA–24–01–7201b; A–1–FRL–6870–9]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; (Amendment to Massachusetts' SIP [For Ozone and for Carbon Monoxide] for City of Cambridge Vehicle Trip Reduction Program—in the Metropolitan Boston Air Pollution Control District)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes, and requires the City of Cambridge to implement and operate, the City of Cambridge Vehicle Trip Reduction Program as a substitute for the commercial parking control measures currently in the SIP. EPA takes this action under the Clean Air Act to help minimize ozone and carbon monoxide air pollution in the Boston area.

DATES: Comments must be received on or before October 18, 2000. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning , Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA and the Bureau of Waste Prevention, Department of Environmental Protection, One Winter Street, 8th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Donald O. Cooke, (617) 918–1668 or e-mail *COOKE.DONALD@EPA.GOV.*

SUPPLEMENTARY INFORMATION: On January 28, 1998, the Massachusetts Department of Environmental Protection (MA DEP) submitted a revision to its State Implementation Plan (SIP) for Massachusetts' Ozone and Carbon Monoxide, for a City of Cambridge Vehicle Trip Reduction Program (CVTRP) in the Metropolitan Boston Air Pollution Control District. The revision consists of Massachusetts's new state regulation 310 CMR 60.04—''City of Cambridge Vehicle Trip Reduction Program.''

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1. Background on parking management in the City of Cambridge, and the CVTRP.

A. What is the CVTRP?

The CVTRP requires Cambridge to control air emissions from cars by regulating the availability of off-street commercial parking and by encouraging the use of alternatives to single passenger cars. Under the CVTRP, Cambridge may exceed a maximum ''baseline'' number of commercial parking spaces only if it adopts vehicle trip reduction measures that offset the vehicle miles traveled (VMT) and emissions associated with the additional spaces. This ''performance standard''

gives Cambridge the flexibility to develop and impose different measures, which may include but are not limited to municipal employee trip reduction measures, municipal parking rate increases, bicycles and pedestrian mobility measures, and transportation demand management for expansions and new developments. By December 26, 2000, Cambridge must complete feasibility studies on promotion of clean fuels and low/zero emission vehicles, as well as taxi cab improvements and zoning. Cambridge must monitor its measures and periodically evaluate whether the CVTRP is meeting the performance standard.

B. What Would the CVTRP Replace?

Since 1973, a series of Federal and Massachusetts regulations have limited commercial parking in the City of Cambridge (Cambridge) as a way of minimizing ozone and carbon monoxide air pollution. This program, known as the Cambridge Parking Freeze or the Freeze, is a Federal and state requirement established in Massachusetts' SIP prior to the 1990 Clean Air Act Amendments, and is identified at Title 40 CFR 52.1128, 52.1134, and 52.1135, and subsequent SIP submittals from the Commonwealth.

The CVTRP replaces or substitutes for portions of the Freeze in the SIP. Only the commercial parking control measures identified in 40 CFR 52.1128 and 52.1135 that affect Cambridge are being considered for substitution at this time. Section 52.1134, which regulates on-street and residential parking in Cambridge, and other portions of these rules affecting parts of Boston and Logan Airport, will not be affected by the proposed CVTRP.

2. Issues of concern

A. What types of parking spaces are covered by the CVTRP?

The CVTRP defines ''commercial parking space'' as a parking space available to the general public for a fee, with specific exceptions. These exceptions are for on-street parking, spaces at a ''park-and-ride'' facility operated in conjunction with the regional transit authority (the ''MBTA''), spaces for residents of specific buildings or groups of buildings, and spaces ''owned or operated by a commercial entity whose primary purpose is other than the operation of parking facilities, for the exclusive use of lessees, employees, patrons, customers, clients, patients, guests, or residents and not available for use by the general public.'' 310 CMR 60.04(2). This definition is consistent with the definition in the Freeze, as it has been implemented and interpreted by EPA, MA DEP, and Cambridge, in light of the intent of the Freeze and the Court of Appeals opinion in *South Terminal Corp.* versus *EPA,* 504 F.2d 646, 671–72 (1st Cir. 1974).

EPA's intent when it enacted the Freeze in 1973 was to limit commuter parking by capping off-street commercial parking, with exceptions for residential, free customer, and employee parking facilities. 38 FR 30964—30965 (Nov. 8, 1973). When various parties challenged the Freeze and other aspects of EPA's ''Transportation Control Plan'' for metropolitan Boston, EPA committed to '''clarify that residential parking spaces, free customer spaces and employee parking spaces are exempt''' from the Freeze; the *South Terminal* Court approved the Freeze ''as so interpreted but not otherwise.'' 504 F.2d at 671–72.

Following the *South Terminal* decision, EPA revised the Freeze to limit the ''availability of commercial parking facilities.'' 40 CFR 52.1135(c). The new regulation defined such facilities as ''any lot, garage, ... on or in which motor vehicles are temporarily parked for a fee,'' with exceptions for on-street and residential parking. *Id.* at § 52.1135(a)(5). The revised rule delegated to the Governor the authority to approve city programs implementing freeze. *Id.* at § 52.1135(e) & (f).

Massachusetts included the Freeze as a part of its state-adopted, Federally-approved SIP twice in the late 1970s and early 1980s. *See* 40 CFR 52.1120(c)(30) & (53). The Governor delegated the implementation of the parking freeze to Cambridge, based on procedures and criteria adopted by the City. The Cambridge procedures and criteria are consistent with the terms of *South Terminal* and the definition of commercial parking facility proposed in today's rule. Like today's proposal, they define ''Commercial Parking Facility'' to cover off-street parking available to the general public for a fee, with exceptions for spaces at MBTA park-and-ride facilities and residential, customer, and employee parking.

During the state rulemaking on the CVTRP, various parties argued that the exemption of employee and customer parking for a fee is inconsistent with 40 CFR 52.1135 and thus the CVTRP should also cover such parking. In light of the Governor's discretion to authorize Cambridge to write implementing procedures, the deviations from the definition as promulgated by EPA were not significant enough for EPA to require the Freeze portion of the SIP to be revised. Moreover, as described above, the implementing procedures are consistent with both *South Terminal* and EPA's intent as expressed in its rulemakings. Therefore, the definition of ''commercial parking space'' proposed for approval by this notice is consistent with MA DEP's and EPA's interpretation of the Freeze and appropriate for the CVTRP.

B. What is the baseline for measuring success of the CVTRP performance standard?

The CVTRP requires the City of Cambridge to offset VMT associated with the issuance of new commercial parking space permits in Cambridge in excess of the 13,452 spaces allowed by the existing Cambridge Parking Freeze. This total of commercial parking spaces, the ''13,452 baseline,'' is the sum of commercial parking spaces in Cambridge as of October 15, 1973, plus 10,000 spaces the City has available due to its removal of 20,000 on-street spaces from regular and legal use by commuters. *See* 40 CFR 52.1135(a)(6) & (n). The 13,452 baseline reflects MA DEP's estimate of the number of spaces removed from commuter use (removed spaces) and its understanding of the Freeze expressed in the 1978 and 1983 transportation elements of the SIP (TESIPs). EPA previously has approved the removed space estimate and MA DEP's interpretation of the Freeze into the SIP. *See* 40 CFR 52.120(c)(30) & (53). These actions establish the numerical limit on spaces under the Freeze that is the baseline under the CVTRP.

Management of the commercial parking supply in Cambridge remains an integral component of the CVTRP. Cambridge currently has less than 13,452 commercial parking spaces. Cambridge must continue monitoring the number of commercial parking spaces so that trips, VMT, and motor vehicle emissions (generated by these additional spaces) are completely offset once the City exceeds the 13,452 baseline. Offsetting VMT and its associated air pollutants will maintain a level of air emissions less than or equal to those estimated to occur absent replacement and substitution of the Cambridge Parking Freeze.

MA DEP and EPA hope that the City of Cambridge will be able to analyze and implement pricing mechanisms (i.e., parking pricing and transit subsidies) and ways to reallocate permitted parking in Cambridge in order to encourage alternatives to single occupant vehicles. The regulations provide a framework for the City of Cambridge to accomplish this through the requirement to study zoning and require further work on travel demand management.

C. Is a Lower Baseline Required by EPA's Freeze Regulations?

EPA's approvals of the 1978 and 1983 TESIPs as part of the SIP supersedes any previous SIP provisions that may suggest that the Freeze baseline does not include the 10,000 spaces added to the October 15, 1973 total by the removal of 20,000 spaces from regular and legal use by commuters. Moreover, the history of the adoption of the Freeze and additional language in the EPA's Freeze rule support the conclusion that removed spaces are part of the Freeze baseline.

The definition of the Freeze promulgated by EPA in 1975 after the *South Terminal* decision require Cambridge ''to maintain at all times after October 15, 1973, the total quantity of commercial parking spaces available for use [on] said date; Provided, That such quantity may be increased by spaces [under] construction . . . prior to October 15, 1973, or as specifically permitted by paragraphs (n), (p) and (q) of this section; provided further that such additional spaces do not result in an increase of more than 10 percent in the total commercial parking spaces available for use on October 15, 1973.'' Paragraphs (n), (p), and (q) respectively authorize increases for removed spaces, spaces at an MBTA park-and-ride facility, and on-street spaces physically eliminated from all use.

Read in isolation, the definition of the Freeze might suggest that the 10% limit should apply to increases in the Freeze limit authorized by these paragraphs. However, the history, language, and intent of the Freeze rule suggests that the 10 percent limitation on ''additional spaces'' only applies to spaces under construction in 1973 and does not apply to spaces ''specifically permitted by paragraphs (n), (p), and (q).''

Historically, when EPA initially promulgated the Freeze in 1973, the rule only contained the grandfathering exception for spaces under construction and the 10% limitation. Thus, as initially promulgated, the 10% limitation on ''additional spaces'' applied to spaces under construction as of October 15, 1973.

Paragraphs (n), (p), and (q) contain specific language that facially conflicts with the 10 percent limitation. Under paragraph (n), ''the total quantity of commercial parking spaces allowable in Cambridge under this section shall be raised accordingly''; paragraph (q) has similar language. Paragraph (p) said that MBTA park-and-ride facilities could be constructed ''without regard to the limitations on number of spaces imposed by this section.'' This facial conflict cannot be resolved to say that the three paragraphs are subject to the 10 percent limit without ignoring the clear allowance for unlimited additional spaces at MBTA park-and-ride facilities and reading out the other provisions for increasing the ''total quantity . . . allowable . . . under this section.'' Furthermore, the facial conflict cannot be resolved to say that 10 percent limit in the Freeze applies to removed spaces and eliminated spaces but not park-and-ride facilities because the Freeze definition refers to all three paragraphs in the same clause.

To resolve this facial conflict, it is reasonable to read the 10% limit to apply only to ''additional spaces,'' as that term was originally used, and not to spaces ''specifically permitted'' under paragraphs (n), (p), and (q). This reading is more consistent with EPA's 1975 explanatory preamble. The preamble explained that EPA added these three paragraphs to provide Cambridge with additional flexibility for local planning and did not say that this flexibility rule was subject to the 10 percent limit. Therefore, the 13,452 baseline is authorized not only by the TESIP rulemakings cited above, but also is consistent with a permissible interpretation of the 1975 regulatory text, which some commenters have cited in challenging EPA and MA DEP's acceptance of the 13,452 baseline.

The interpretation of EPA, shared by MA DEP and Cambridge, is due deference if the text of the Freeze is ambiguous. Furthermore, EPA's approval of the 1978 and 1983 TESIPs into the SIP makes this issue moot. By explicitly including the 13,452 baseline in the CVTRP, MA DEP has removed any ambiguity about what is the total number of commercial spaces in Cambridge.

D. How Will MA DEP Verify That the CVTRP is Working?

The CVTRP's monitoring and enforcement provisions must be adequate to determine whether Cambridge is meeting the offset requirement of the program. Under the CVTRP, Cambridge must monitor continuously both the number of commercial spaces within the City and the effectiveness of the program. In addition, Cambridge must periodically prepare a ''Monitoring and Demonstration Report'' that describes CVTRP implementation and results and submit copies to MA DEP, EPA, and the Boston Metropolitan Planning Organization. Each Report would include a count of total commercial parking spaces, contain estimates of VMT and emissions associated with parking in excess of the Freeze limit, describe offsetting vehicle trip reduction measures and resources devoted to program implementation, and present the results of particular measures. Because of the uncertainty about how Cambridge will monitor trip reduction measures, EPA commented to the state that the public should have an opportunity to comment on the monitoring plan and Reports.

In response to comments from EPA and others during the rulemaking adopting the CVTRP, the MA DEP and Cambridge agreed that the City's Reports should go through a specific review process that MA DEP added to the rule. As part of this new process, MA DEP may directly make a finding on whether a Report demonstrates that Cambridge is meeting its obligations; alternatively, MA DEP may refer a Report to an advisory ''Oversight Committee.'' By agreement between MA DEP and Cambridge, the Oversight Committee will be composed of three City appointees, three MA DEP appointees, and one joint appointee. When Cambridge is within 75 spaces of the Freeze limit, the City will submit at least one Report directly to the Oversight Committee. If the Oversight Committee advises MA DEP that a Report does not show that Cambridge has met its obligations, then MA DEP must hold a public hearing before making a finding on the Report. If MA DEP either directly finds a Report inadequate or makes such a finding upon advice of the Oversight Committee and after a public hearing, then Cambridge must work with MA DEP to resolve any inadequacy before issuing any additional parking permits. If MA DEP and Cambridge do not resolve their differences, then the City may seek an adjudicatory hearing under Massachusetts administrative law.

E. What are EPA's concerns about the procedures for verifying that the CVTRP is working?

EPA continues to have concerns about whether the new review process provides adequate opportunities for public input. The rule's review process gives Cambridge an opportunity to challenge a MA DEP determination that the City's CVTRP measures are inadequate, but the review process does not allow the public to challenge a MA DEP finding that the CVTRP measures are adequate. Furthermore, the rule lacks a provision requiring MA DEP to take public comment before directly acting on a Report. Similarly, the rule does not require the Oversight Committee to take public comment before reviewing or approving a Report,

nor must MA DEP take comment if the Oversight Committee advises that Cambridge has met its obligations.

The new review process also leads to questions regarding whether the rule establishes an adequate enforcement mechanism for making sure that the CVTRP does not result in greater VMT and emissions than the Freeze. New spaces in excess of the 13,452 limit are permitted and built before MA DEP or the Oversight Committee evaluates the effectiveness of the offsetting VMT reduction measure(s). Under the review process, the major consequence of Cambridge failing to offset VMT from permitting more than 13,452 spaces is to prohibit issuance of any new commercial parking space permits until the City resolves the inadequacy. Cambridge has no time limit on when it must resolve the inadequacy. While Cambridge resolves the inadequacy, the prohibition on new permits becomes a new ''freeze,'' but the rule imposes this new freeze at a ''freeze plus'' level of spaces and emissions.

Under section 110(a)(2) of the Act, EPA may not approve a SIP submittal that lacks adequate monitoring and enforcement provisions. The concerns discussed above would lead EPA not to approve the CVTRP into the SIP were the state seeking significant credit against obligations under the Act. However, the CVTRP is similar to the type of programs EPA has approved as consistent with EPA's ''Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs into State Implementation Plans (SIPs),'' dated October 24, 1997. This Guidance explains the utility of such programs (VMEPs) and the difficulty in estimating and monitoring the emission reductions derived from them. The Guidance provides that EPA may give a small amount of SIP credit for a VMEP when a state describes the VMEP, projects the VMEP's emission reductions, commits to monitor, evaluate and report on the VMEP's performance, and commits to make up any shortfall in a timely manner if the VMEP does not result in projected emission reductions. The CVTRP, like the Freeze it would replace, is a directionally sound VMEP-type program for which no specific SIP credit is sought or given. *See* 40 FR 25152 and 25155 (June 12, 1975) (contributions of Freeze not quantified when adopted). EPA's concerns about the monitoring, evaluation, and reporting provisions under the CVTRP rule are less than what EPA would have if MA DEP had sought measurable credit against SIP requirements.

While the CVTRP has no specific requirement for public input into the evaluation of any Report, statements during the state rulemaking and incentives in the rule for Cambridge, MA DEP, and the Oversight Committee to seek public input decrease EPA's concern over this issue. For example, in MA DEP's response to comments document developed during the state rulemaking, MA DEP committed to having the Oversight Committee consider and resolve specific issues and problems raised on the Report that accompanied the rule proposal. Similarly, the Report approval process gives the Oversight Committee an incentive to conduct public outreach even when the rule does not mandate public comment. If the Oversight Committee recommends approval of a Report, then the rule requires MA DEP to approve the Report unless its disapproval is ''based on additional information.'' The Oversight Committee would have an incentive to take public input to assemble as complete a factual record as possible to leave no basis for MA DEP to overturn its approval decision.

EPA also believes that Cambridge will remedy in a timely manner any inadequacy in its VMT offset measures rather than choose to continue indefinitely at a ''freeze plus'' level of VMT and emissions. The impetus for Cambridge seeking to substitute the CVTRP for the Freeze is the City's belief that the Freeze creates a cloud on future potential development. A new, automatic prohibition on additional commercial parking reimposed at a ''freeze plus'' level of VMT and emissions would similarly cloud development. Thus, should Cambridge fail to adequately demonstrate compliance, the automatic reimposition of a freeze would be a strong incentive for the City to impose new CVTRP measures quickly and remedy any shortfall.

EPA believes that Cambridge and MA DEP will seek public input in the review and approval of Reports under section 12 on the CVTRP, and that the City will remedy expeditiously any MA DEP finding that the City has not met its VMT offset requirements. EPA expects that, during the comment period on this rule, the City and MA DEP will confirm these beliefs in comments on the proposal. In the absence of such confirming comments from both MA DEP and Cambridge, EPA would treat the lack of confirmation as significant new information. In that event, EPA would reopen the comment period and would reconsider whether a disapproval or conditional approval of this rule is appropriate.

Cambridge must maintain records documenting assumptions used in preparing the Report and demonstrating compliance. After considering the commitments of MA DEP and the incentives for MA DEP and Cambridge under the CVTRP, EPA believes that the monitoring and enforcement provisions are adequate to ensure that the CVTRP will meet its performance standard. EPA will use its oversight authority to verify that the CVTRP is meeting or exceeding its implementation goals.

F. How will the CVTRP accomplish the same emission savings as generated by the existing commercial Parking Freeze?

EPA has determined that the proposed rulemaking will achieve equivalent emissions reductions to those achieved under the Freeze. The rationale for this equivalency determination is that the vehicle trips, VMT or air emissions of any commercial parking spaces added beyond what the freeze allows will be offset through the implementation of the CVTRP.

This action will have a beneficial effect on air quality by continuing emission reductions currently achieved by the Freeze. EPA has assumed that, as a substitution for the Freeze, the CVTRP must meet the requirements of section 193 of the Clean Air Act, known as the savings clause.[1] The savings clause is satisfied because, for every new permitted commercial parking space added to the Cambridge's inventory beyond the 13,452 space baseline, the City will implement vehicle trip reduction measures to offset all air pollutant emissions (volatile organic compounds, nitrogen oxides and carbon monoxide) associated with that new parking space. This is consistent with the intent of the SIP's commercial parking control plan to avoid new VMT and their associated motor vehicle

[1] EPA has assumed that ther CVTRP must meet section 193 of the Act, which applies to nonattainment areas. However, EPA notes that it revoked the one-hour ozone standard for Eastern Massachusetts on June 9, 1999, please see 64 FR 30911–30917. Therefore, the Cambridge Parking Freeze Area is not currently a nonattainment area for any National Ambient Air Quality Standard. Nevertheless, the reasonably foreseeable designation of Eastern Massachusetts as nonattainment for the newly-adopted eight-hour ozone standard would make it reasonable for the EPA to see that the rule meets this standard. Also, EPA signed the final rule to rescind the revocation of the one-hour ozone standard on July 5, 2000, please see 65 FR 45184–45274. The one-hour ozone standard will become applicable in Eastern Massachusetts on January 16, 2001. Even if the requirements of section 193 will apply to this proposed revision to the SIP, EPA does not expect the substitution of the CVTRP for the Freeze will interfere with any applicable requirement concerning attainment, which is the alternate standard under section 110(1).

emissions. This action is being taken under section 110 of the Clean Air Act.

The CVTRP would reduce vehicle trips and vehicle miles traveled which result in eliminating motor vehicle emissions of volatile organic compounds (VOCs), nitrogen oxides (NOx), and carbon monoxide (CO), thereby allowing for the addition of commercial parking spaces and the added vehicle trips they generate with no net environmental impact. No new emission reduction credit is being added to the SIP at this time as the CVTRP is not required to achieve additional emission reductions, only equivalent reductions which would have been achieved under the Freeze proposed to be replaced. This is consistent with the savings clause of the Clean Air Act, section 193.

G. How Will the CVTRP be Enforced?

Cambridge must inspect non-residential parking facilities to ensure they are in compliance with appropriate permits and ensure non-commercial spaces are not available for commercial parking. Cambridge must take enforcement action against violators and forward a copy of all inspections reports to MA DEP. MA DEP may enforce the CVTRP under applicable state law, and EPA may initiate enforcement once it approves the CVTRP into the Massachusetts SIP. As an approved SIP element, the requirements of this regulation are also directly enforceable as an emission standard or limit pursuant to sections 113 and 304(a) of the Federal Clean Air Act. The public could commence a civil action for failure to implement or achieve, in accordance with the provisions of section 304 of the Clean Air Act.

H. What are the penalties if the City fails to completely offset emissions associated with parking above the baseline?

Among the penalties allowed under the CAA, the failure of the City of Cambridge to achieve the performance standard and other requirements of the CVTRP Regulation could result in a finding of non-conformity under section 176(c) of the Clean Air Act, the Commonwealth's Transportation Conformity Regulations (310 CMR 60.03), and EPA's Transportation Conformity Rule 40 CFR part 93, subpart A.

EPA will have the ability to evaluate Reports and CVTRP implementation. Cambridge cannot claim credit for a program already in the Massachusetts SIP unless Cambridge's implementation of or contribution to such a program achieves results in excess of the goals for the program in the SIP. Failure of Cambridge's monitoring plan and Report to adequately demonstrate maintenance of a level of motor vehicle air emissions less than or equal to those estimated to occur absent replacement and substitution of the Cambridge Commercial Parking Freeze will require the City to resolve such inadequacies and to halt issuance of any new commercial parking spaces in excess of the baseline.

I. How Can the Public Comment?

EPA is proposing to approve the Massachusetts SIP revision for the Cambridge Vehicle Trip Reduction Program, which was submitted on January 28, 1998. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the *Addresses* section of this document.

3. Overview of the CVTRP

The City of Cambridge Vehicle Trip Reduction Program regulation consist of fourteen subsections summarized as follows:

(1) Purpose: Authorizes the City of Cambridge to implement the CVTRP as a replacement and substitution to the Cambridge commercial parking freeze.

(2) Definitions: Includes the definition of (a) *Oversight Committee*—a panel jointly appointed by the MA DEP and City of Cambridge; (b) *Vehicle trip reduction programs*—are programs designed to reduce vehicle miles of travel or vehicle trips by influencing travel behavior and demand or by reducing air emissions from mobile sources by utilizing clean fuels; and, (c) *Commercial parking space*—means a parking space available for use by the general public at any time for a fee and shall not include: (i) parking spaces which are owned or operated by a commercial entity whose primary business is other than the operation of parking facilities, for the exclusive use of its lessees, employees, patrons, customers, clients, patients, guests or residents and not available for use by the general public; (ii) parking spaces restricted for the use of the residents of a specific residential building or group of buildings; (iii) spaces located on public streets; or (iv) spaces located at a park-and-ride facility operated in conjunction with the Massachusetts Bay Transportation Authority (MBTA).

(3) Applicability: Within the geographic boundaries of the City of Cambridge.

(4) Terms of Vehicle Trip Reduction Program: The City of Cambridge shall implement a CVTRP that offsets VMT associated with the issuance of new commercial parking space permits in Cambridge in excess of the 13,452 spaces allowed by the Cambridge Parking Freeze, to maintain a level of air emissions less than or equal to those estimated to occur absent replacement and substitution of the Cambridge Parking Freeze.

(5) Vehicle Trip Reduction Program: may include, but not limited to; (a) municipal employee trip reduction measures; (b) increase of municipal parking rates; (c) bicycle and pedestrian mobility measures; and (d) transportation demand management for expansions and new development.

(6) Feasibility Studies: By December 26, 2000, the City of Cambridge shall complete the following studies; (a) promotion of clean fuels and low/zero emission vehicles; (b) taxi cab improvements; (c) zoning (revisions of zoning ordinance to promote reduction of VMT and traffic congestion and to increase commuting alternatives to the single-occupant vehicle.

(7) Travel Demand Management: The City of Cambridge shall work and coordinate with the Commonwealth and the MA DEP to explore additional ways to manage travel demand and demand for parking in Cambridge, and ways in which Cambridge can facilitate the transfer of parking space permits and/or parking spaces.

(8) City Enforcement Programs: The CVTRP regulation contains an enforcement section which requires Cambridge to inspect non-residential parking facilities to ensure that they are in compliance with appropriate permits. Cambridge must take enforcement action against violators. In addition, the regulation identifies the prohibition against idling by buses, trucks, taxis, and automobiles which Cambridge may take enforcement action in accordance with MA DEP's idling regulation, (310 CMR 7.11(1)(b) Air Pollution control regulations, U Transportation Media). A copy of all inspections reports shall be forwarded to MA DEP.

(9) Coordination Activities: Cambridge may pursue improved coordination with the MBTA regarding improvements to public transit and local para-transit.

(10) Monitoring and Demonstration Plan: The City shall continuously monitor the number of commercial parking spaces within the City and monitor the effectiveness of the CVTRP

in achieving a combination of reductions in VMT, vehicle trips and vehicle air emission to satisfy the performance standard that a level of air emissions less than or equal to those estimated to occur absent replacement and substitution of the Cambridge commercial parking freeze.

(11) Recordkeeping and Reporting: The CVTRP regulation requires the City of Cambridge to submit status reports to MA DEP, EPA Region 1 Office and the chairman of the Boston Metropolitan Planning Organization, on its progress in implementing the regulation. The status reports are required to be submitted every year for three years beginning one year after the regulation is approved by EPA as a SIP revision, and then every other year. The City of Cambridge shall maintain records that document the assumptions used in the Report to determine emission reductions from the CVTRP and to demonstrate compliance with in meeting the performance standard and other requirements of 310 CMR 60.04.

(12) Monitoring and Demonstration Report Review: The Report serves as the City of Cambridge's demonstration that the vehicle trip reduction programs are achieving the required reductions in vehicle trips, VMT and air emissions to maintain a level of air emissions less than or equal to those estimated to occur absent replacement and substitution of the Cambridge Commercial Parking Freeze. The MA DEP shall independently or in combination with the Oversight Committee determine the Monitoring and Demonstration Report to be adequate or inadequate. Should the Oversight Committee determine that the City has failed to meet its obligation, a public hearing shall be held and MA DEP shall consider the public comments in MA DEP's determination. Cambridge must resolve any failure to achieve and maintain a level of air emissions less than or equal to those estimated to occur absent replacement and substitution of the Cambridge Commercial Parking Freeze prior to issuing any additional commercial parking space permits over and above the baseline.

(13) Enforcement Program: MA DEP may enforce 310 CMR under applicable state law, and EPA may initiate enforcement action once the CVTRP is approved into the Massachusetts SIP. As an approved SIP element the requirements of this regulation are also directly enforceable as an emission standard or limit pursuant to sections 113 and 304(a) of the Federal Clean Air Act. The public could commence a civil action for failure to implement or achieve, in accordance with the provisions of section 304 of the Clean Air Act.

(14) Responsibilities Under the Clean Air Act: Programs already included in Massachusetts SIP may not be included in the CVTRP except to the extent Cambridge's implementation of or contribution to such program achieves results in excess of the goals established in the SIP for such program. Cambridge's failure to comply with the performance standard established in the CVTRP regulation may result in a finding of non-conformity under section 176(c) of the Clean Air Act.

II. Proposed Action

EPA is proposing to approve the SIP amendment for Ozone and Carbon Monoxide for the Cambridge Vehicle Trip Reduction Program in the Metropolitan Boston Air Pollution Control District. This proposed revision would replace the City of Cambridge's commercial parking freeze (40 CFR 52.1128 and 52.1135) with a city-wide Cambridge Vehicle Trip Reduction Program (CVTRP).

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: September 7, 2000.

Mindy S. Lubber,

Acting Regional Administrator, EPA—New England.

[FR Doc. 00–23946 Filed 9–15–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 244–0259; FRL–6870–7]

Revisions to the California State Implementation Plan, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes two actions on Regulations 1 and 2 submitted for the Bay Area Air Quality Management District (''BAAQMD'' or ''District'') portion of the California State Implementation Plan (SIP). The Regulations were submitted for purposes of meeting requirements of the Clean Air Act, as amended in 1990 (''CAA'' or ''Act''), with regard to new source review (NSR) in areas that have not attained the national ambient air quality standards (NAAQS). First, EPA proposes a full approval of Regulation 1—General Provisions and Definitions. Second, EPA proposes a limited approval and limited disapproval of three Regulation 2 rules: Rule 1—Permits, General Requirements; Rule 2—Permits, New Source Review; and Rule 4—Permits, Emissions Banking.

Today's action also serves to stop the federal sanctions clock that started 18 months ago (February 25, 1999)—the effective date of EPA's final limited approval and limited disapproval rulemaking on an earlier version of Regulation 2, Rules 1, 2 and 4. EPA has stopped the sanctions clock associated with our 1999 rulemaking because BAAQMD has substantially corrected all deficiencies identified in that final rulemaking. However, despite the BAAQMD correction of the deficiencies in Regulation 2, EPA has identified two new deficiencies in Regulation 2 preventing our full approval of it. We are taking comments on this proposal and plan to follow with a final action. Upon final action, if either of the deficiencies identified in today's rule remain, a new 18-month sanctions clock will begin on our final action on the rule.

DATES: Any comments must arrive by October 18, 2000.

ADDRESSES: Mail comments to David Wampler, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted Regulations and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted Regulations at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, California 94109.

FOR FURTHER INFORMATION CONTACT: David Wampler, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1256.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists Regulation 1 and the three rules in Regulation 2 [1] addressed by this proposal, with the dates that they were adopted by the BAAQMD and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Agency	Rule No.	Rule title	Adopted	Submitted
BAAQMD	Reg. 1	General Requirements	May 17, 2000	August 3, 2000
BAAQMD	Reg. 2 Rule 1	Permits—General Requirements	May 17, 2000	August 3, 2000
BAAQMD	Reg. 2 Rule 2	Permits—New Source Review	May 17, 2000	August 3, 2000
BAAQMD	Reg. 2 Rule 4	Permits—Emissions Banking	May 17, 2000	August 3, 2000

On August 17, 2000, Regulations 1 and 2 submittals were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. What is the purpose of the rule revisions?

Regulation 1 and three rules in Regulation 2 (hereinafter ''Reg. 2 rules'') were revised by the BAAQMD in May 2000, in part, to correct rule deficiencies we raised in the final limited approval limited disapproval rulemaking for Regulation 2, rules 1, 2 and 4 on January 26, 1999 (64 FR 3850; see also our proposed rulemaking on November 6, 1998 and the Technical Support Document (TSD) for that rulemaking). Regulation 1—General Provisions was last approved into the SIP on September 29, 1998 (63 FR 51833). BAAQMD made some revisions to Regulation 1 to clarify language. The revisions do not substantially change Regulation 1 as previously approved.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

EPA evaluated Regulation 1 and the Reg. 2 rules for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). Our interpretation of these requirements, which forms the basis for today's action,

[1] Regulation 2 also contains: Rule 3—Power Plants; Rule 6—Major Facility Review; Rule 7—Acid Rain; Rule 8—Interchangeable Emission Reduction Credits. Rule 5 has not yet been adopted and Rules 7 and 8 are not in the current SIP.

also appears in the various EPA policy guidance documents.

EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those State submittals containing nonattainment NSR SIP requirements (See 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion.

The Act requires States to comply with certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) and section 110(l) of the Act require that each implementation plan or revision to an implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas shall meet the applicable provisions of section 110(a)(2).

In addition, we reviewed the Reg. 2, rules to determine whether the BAAQMD revisions adequately corrected six deficiencies that we had identified in our final limited approval and limited disapproval action dated January 26, 1999. (See also our proposed action dated November 6, 1998 at 63 FR 59924). Our review determined that the BAAQMD Reg. 2 rule revisions substantially corrected the six deficiencies we had earlier identified. However, in part because of the correction of the prior deficiencies, the Reg. 2 rules now contain two additional deficiencies (discussed below) which prevent full approval under part D of the CAA. Therefore, EPA today is proposing a limited disapproval of the Reg. 2 rules. If EPA finalizes this limited disapproval of the Reg. 2 rules, BAAQMD will have 18 months from the date of the final action to correct any deficiencies to avoid federal sanctions. See CAA section 179(b). Further, the final disapproval triggers the Federal implementation plan requirements under 110(c).

B. What are the rule deficiencies?

This discussion summarizes how certain provisions in the revised Reg. 2 rules conflict with section 110 and part D of the Act and prevent full approval of the SIP revision. We have included in our discussion suggested corrections to the deficiencies. A detailed discussion of the rule deficiencies is included in the Technical Support Document (TSD) for this rulemaking. The TSD is available from the EPA Region IX office.

• *BAAQMD Regulation 2 Rule 2—Alternative Siting Analysis*

For a proposed new major facility or a proposed major modification, CAA section 173(a)(5) requires BAAQMD to analyze alternative sites, sizes, production processes, and environmental control techniques for a proposed source and determine if the analysis demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification. Reg. 2, rule 2 has omitted the required alternatives analysis and determination.

Discussion: When the District was developing the corrections to the Reg. 2 rules, we informally notified them that rule 2 should be amended to include the section 173(a)(5) alternative siting analysis requirement. The District had included the requirement in a April 12, 2000 draft version of the rule and we had acknowledged it as approvable in our March 15, 2000 NSR Rule comment letter. However, prior to Board adoption of the rule, the District decided to remove the provision (see document in SIP submittal entitled ''Changes from the April 12 Draft''). Therefore, the adopted rule does not contain the section 173(a)(5) requirement. This omission is a rule deficiency that must be corrected before EPA can grant full approval of the submitted rule. To correct the deficiency, BAAQMD could re-insert the rule language that they had previously included in the April 12, 2000 draft rule.

• *Rule 2–2–423. Demonstration of Offset Program Equivalence*

EPA's final January 26, 1999 limited disapproval found that rule 2 was deficient because it did not require emission reductions to be surplus at the time of use. Instead, the rule only required emission reductions to be surplus when they were generated and banked. In response, BAAQMD added section 2–2–423 (and supporting section 2–2–246). We find that these provisions substantially, although not completely, correct the deficiency. Therefore, the correction is sufficient to stop the sanctions clock and prevent imposition of immediate sanctions. However, to ensure that the deficiency is fully corrected, we are proposing to cite section 2–2–423 as a new deficiency. This new deficiency arises because it is not clear what steps the District will take (and by when) if the annual offset analysis fails to make the required demonstration of offset equivalency and the small facility bank does not have sufficient surplus emission reductions.

Discussion: In our final rulemaking on January 26, 1999, EPA stated that all emission reduction credits (ERCs) ''must be adjusted at the time of use pursuant to the requirements of sections 173(a), 173(c)(1) and 173(c)(2) of the Clean Air Act ('Act').''

In response, BAAQMD added section 2–2–423 requiring the District to provide an annual demonstration to EPA that the number of offsets provided for all new or modified sources,[2] less adjustments to those offsets for federal purposes [3] occurring between credit generation and use, exceed the number of offsets required that year under federal law for new major stationary sources (>100 tons per year) or major modifications (>40 tons per year). EPA believes that this system to demonstrate equivalency is acceptable for satisfying the CAA section 173(c)(2) offset requirements.

Section 2–2–423 also includes a remedy if the annual analysis fails to make the required demonstration. If triggered, the remedy requires the District to provide sufficient offsets to make up the difference out of the small facility bank (see 2–4–414). If the small facility bank does not contain the necessary additional surplus emission reductions, the District, ''shall obtain the necessary emission reductions.'' EPA has determined that the District's unspecified commitment to provide additional surplus offsets limits our ability to fully approve the rule. The rule does not indicate what the District will do to find the necessary 1surplus reductions and does not identify a deadline.

How the Deficiency Can be Corrected. To correct the deficiency the District must amend the provision at 2–2–423. Either of the two following options may be approvable:

[2] BAAQMD requires more stationary sources to obtain offsets than is required under federal law. For example, for ozone precursors, federal law requires new stationary sources with a potential to emit (PTE) above 100 tons per year to be offset at a 1.15:1 ratio. BAAQMD Rule 2–2–302 requires offsets at a 1.15:1 ratio for stationary sources with a PTE above 50 tons per year. For new stationary sources with a PTE between 15 and 50 tons per year, BAAQMD requires offsets at a 1.0:1.0 ratio.

[3] Adjustments for federal purposes are included in rule 2–2–423.1 through 3 and are required if: BAAQMD adopts a rule to meet the federal attainment demonstration requirements (see CAA section 171(c)); a measure is approved into the SIP and it applies to BAAQMD; or EPA promulgates a New Source Performance Standard or Maximum Achievable Control Technology standard. For more information on adjusting previously banked emission reduction credits, please see August 26, 1994 EPA memorandum entitled, ''Response to Request for Guidance on Use of Pre-1990 ERC's and Adjusting for RACT at Time of Use,'' from John Seitz, Director of OAQPS to David Howekamp, Director, Region IX, Air and Toxics Division.

• If the small facility bank does not contain the necessary surplus emission reductions, the District must not issue permits to new major stationary sources or major modifications of non-attainment pollutants until the District demonstrates that the deficit has been balanced; or

• If the small facility bank does not contain the necessary surplus emission reductions, the District may continue to issue permits for new major sources or major modifications provided the offsets for those sources are demonstrated to be surplus at the time the permit is issued. This remedy would be in effect until the remaining shortfall is eliminated by securing the necessary emission reductions. EPA believes any shortfall must be eliminated in a timely manner not to exceed one year.

C. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, today's action is separated into two parts: first, EPA is proposing a full approval of Regulation 1 and; second, EPA is proposing a limited approval and limited disapproval of Regulation 2, rules 1, 2 and 4. Each of these actions strengthens the SIP. If finalized, this action would incorporate all the submitted rules into the SIP, including those provisions identified as deficient.

EPA proposes full approval of Regulation 1 because the BAAQMD only modified the rule slightly to clarify some definitions and remove a regulatory exclusion for emergency standby engines. None of the changes significantly alter the existing SIP-approved version.

The approval of the Reg. 2 rules is limited because EPA is simultaneously proposing a limited disapproval of the rules under section 110(k)(3). If this disapproval is finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months. These sanctions would be imposed according to 40 CFR 52.31. A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rules have been adopted by the BAAQMD, and EPA's final limited disapproval would not prevent the local agency from enforcing them.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

III. Background Information

Why Were These Rules Submitted?

These rules were submitted primarily to correct the six deficiencies identified in our January 26, 1999 final rulemaking (60 FR 3850). Please refer to the TSD for more information on the rule changes that were made to correct the deficiencies.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

B. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the

Executive Order do not apply to this proposed rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. National Technology Transfer and Advancement Act

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

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: August 25, 2000.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 00–23945 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 268 and 271

[FRL–6870–6]

RIN–2050–AE65

Land Disposal Restrictions; Treatment Standards for Spent Potliners From Primary Aluminum Reduction (K088) and Regulatory Classification of K088 Vitrification Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: On July 12, 2000 (65 FR 42937), EPA issued a proposed rule presenting potential revisions to the Land Disposal Restrictions treatment standards applicable to spent potliners from primary aluminum reduction (EPA hazardous waste: K088). The proposal requested comment on the proposed treatment standards, the Agency's proposal to classify K088 vitrification units as RCRA subpart X miscellaneous treatment units, and the appropriateness of extending the rational proposed for K088-vitrification units to all vitrification units treating RCRA hazardous waste. The Agency is extending the comment period because several commenters have requested more time to address the issues raised in the proposal, and to generate data on hazardous concentrations in untreated and treated K088 waste. This document extends the comment period for the proposed rule.

DATES: The comment period for this proposed rule is extended from the original closing date of September 11, 2000 to December 11, 2000.

ADDRESSES: If you wish to comment on this notice of proposed rulemaking (NPRM), you must send an original and two copies of the comments referencing docket number F–2000–TSSP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. You may also submit comments electronically by sending electronic mail through the Internet to: rcradocket@epamail.epa.gov. You should identify comments in electronic format with the docket number F–2000–TSSP–FFFFF. You must submit all electronic comments as an ASCII (text) file, avoiding the use of special characters and any form of encryption. If you do not submit comments electronically, EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (text) format or a word processing format that can be converted to ASCII (text). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter.

You should not submit electronically any confidential business information (CBI). You must submit an original and two copies of CBI under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S.

EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

You may view public comments and supporting materials in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by calling (703) 603–9230. You may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: For general information or to order paper copies of this **Federal Register** document, contact the RCRA Hotline Monday through Friday between 9:00 a.m. and 6:00 p.m. EST, toll free at (800) 424–9346; or (703) 412–9810 from Government phones or if in the Washington, D.C. local calling area; or (800) 553–7672 for the hearing impaired. For technical information contact, Elaine Eby or John Austin, Office of Solid Waste (5302W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. Elaine Eby may be reached at 703–308–8449, eby.elaine@epamail.epa.gov; and John Austin may be reached at 703–308–0436, austin.john@epamail.epa.gov.

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste.

40 CFR Part 261

Environmental protection, Hazardous materials, Recycling, Waste treatment and disposal.

40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous material transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: September 6, 2000.

Elizabeth A. Cotsworth,

Director, Office of Solid Waste.

[FR Doc. 00–23944 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6869–9]

Florida: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Florida has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Florida. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by October 18, 2000.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104. You can examine copies of the materials submitted by Florida during normal business hours at the following locations: EPA Region 4 Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104, Phone number: (404) 562–8190; or The Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400, Phone number: (850) 488–0300.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia, 30303–3104, Phone number: (404) 562–8440.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: August 29, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00–23778 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6869–5]

National Oil and Hazardous Substances; Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed direct final deletion of the Cliff/Dow Dump Superfund Site (Site) from the National Priorities List (NPL).

SUMMARY: The EPA proposes to delete the Cliff/Dow Dump Superfund site (Site) from the NPL and requests public comment on this action. The NPL constitutes appendix B to part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. EPA has determined that the Site currently poses no significant threat to public health or the environment, as defined by CERCLA, and therefore, further remedial measures under CERCLA are not appropriate. We are publishing this proposed rule without prior notification because the Agency views this as a noncontroversial revision and anticipates no dissenting comments. A detailed rationale for this proposal is set forth in the direct final rule published elsewhere in this issue of the **Federal Register**. If no dissenting comments are received, the deletion will become

effective. If EPA receives dissenting comments, the direct final action will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Comments concerning this action must be received by October 18, 2000.

ADDRESSES: Comments may be mailed to Kenneth Glatz, Remedial Project Manager, or Gladys Beard, Associate Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 W. Jackson, Chicago, IL 60604. Comprehensive information on this Site is available through the public docket which is available for viewing at the Site Information Repositories at the following locations: U.S. EPA Region 5, Administrative Records, 77 W. Jackson Boulevard, Chicago, Il 60604 (312)–886–0900, the Peter White Public Library, 217 N. Front St., Marquette, MI 49855, until September 22, 2000, the University, Quad 2 Central Area After September 22 and the Michigan Department of Environmental Quality, Knapps Center, Lansing, Michigan 48933.

FOR FURTHER INFORMATION CONTACT: Kenneth Glatz Remedial Project Manager, at (312) 886–1434 or Gladys Beard Associate Remedial Project Manager at (312) 886–7253, or Bruce VanOtteren, Michigan Department of Environmental Quality, P.O. Box 30426, Lansing, MI, 48909. Written correspondence can be directed to Ms. Beard at U.S. Environmental Protection Agency, (SR–6J) 77 W. Jackson Blvd., Chicago, IL 60604.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Action which is located in the Rules section of this **Federal Register.**

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321 (c) (2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Dated: September 6, 2000.

David A. Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 00–23642 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 65, No. 181

Monday, September 18, 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

Animal and Plant Health Inspection Service

[Docket No. 00–089–1]

National Wildlife Services Advisory Committee; Notice of Solicitation for Membership

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of solicitation for membership.

SUMMARY: We are giving notice that the Secretary anticipates reestablishing the National Wildlife Services Advisory Committee for a 2-year period. The Secretary is soliciting nominations for membership for this Committee.

DATES: Consideration will be given to nominations received on or before November 2, 2000.

ADDRESSES: Nominations should be addressed to the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Mr. Martin Mendoza, Director, Operational Support Staff, WS, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737–1234; (301) 734–7921.

SUPPLEMENTARY INFORMATION: The National Wildlife Services Advisory Committee (the Committee) advises the Secretary of Agriculture on policies, program issues, and research needed to conduct the Wildlife Services program. In addition, the Committee serves as a public forum enabling those affected by the Wildlife Services program to have a voice in the program's policies.

The Committee Chairperson and Vice Chairperson shall be elected by the Committee from among its members.

Terms will expire for the current members of the Committee in September 2000. We are soliciting nominations from interested organizations and individuals to replace members on the Committee. An organization may nominate individuals from within or outside its membership. The Secretary will select members to obtain the broadest possible representation on the Committee, in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) and U.S. Department of Agriculture (USDA) Regulation 1041–1. Equal opportunity practices, in line with USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Done in Washington, DC, this 12th day of September 2000.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–23899 Filed 9–15–00; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Notice of Meetings and Request for Comments Regarding Agricultural Risk Management Education Needs

AGENCY: The Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Announcement of meetings.

SUMMARY: Section 133 of Public Law 106–224, the Agricultural Risk Protection Act of 2000, amended the Federal Crop Insurance Act to add section 524, which requires the Cooperative State Research, Education, and Extension Service (CSREES) to establish a competitive grants program for the purpose of educating agricultural producers about the full range of risk management activities. These activities include the use of futures, options, agricultural trade options, crop insurance, cash forward contracting, debt reduction, production diversification, farm resources risk reduction, and other risk management strategies. CSREES will be conducting listening sessions at three separate locations to receive input about the full range of risk management educational needs for agricultural producers. The stakeholder input requirements at 7 U.S.C. 7613(c) do not apply to the first request for proposals under a new program. This request for comments is independent of that provision. CSREES will not solicit additional stakeholder input in formulating the first request for proposals for this program, and thus encourages all interested parties to convey their comments at this time.

Dates and Locations

All comments must be received by CSREES by September 30, 2000. The three listening sessions will be convened from 10:00 a.m. to 3:00 p.m. and will be held on the dates noted below and at the following locations:

- September 20, 2000, McKimmon Center, North Carolina State University, Raleigh, North Carolina 27695–7401, (919) 515–2277, (919) 515–6974 (Fax).
- September 25, 2000, Holiday Inn-Airport, 3300 Vista Avenue, Boise, Idaho 83705, (208) 344–8365, (208) 381–0608 (Fax).
- September 27, 2000, Holiday Inn-Airport, 11832 Plaza Circle, Kansas City, Missouri 64153, (816) 464–2345, (816) 464–2543 (Fax).

All sessions are open to the public.

An agenda and information on local arrangements can be obtained from the Sessions Coordinators (listed as the agency contacts below). Lodging arrangements should be made by contacting the session venues directly.

Comments

Written comments, limited to five pages in 12-point pitch, will be accepted and can either be submitted in person at the time of the session or sent to the Sessions Coordinators at the address listed below. Those wanting to make oral comments, limited to five minutes, should preregister on or before the session date by contacting the Sessions Coordinators. CSREES will make a transcript of the oral comments received at each meeting. To the extent possible, CSREES will provide an oral summary of comments at the beginning of each meeting.

FOR FURTHER INFORMATION CONTACT: Agnes Lamar or Donald A. West, Sessions Coordinators, Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2210; 1400

Independence Avenue, S.W., Washington, D.C. 20250–2210; Telephone, (202) 401–4318; fax number (202) 401–1706; e-mail address, rmea@reeusda.gov.

Done at Washington, D.C. this 12th day of September, 2000.

Charles W. Laughlin,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 00–23908 Filed 9–14–00; 9:10 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Conduct an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: We are making a correction to information published in a Notice that announced the intent of the National Agricultural Statistics Service (NASS) to request approval for an information collection, the Childhood Agricultural Injury Study of Minority Farm Operators. The Notice was published in the **Federal Register** on June 21, 2000 on page 38498. The scope of the survey has been expanded and it is now the National Childhood Agricultural Injury and Occupational Health Survey of Minority Farm Operators.

DATES: Comments on this notice must be received by October 18, 2000, to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4117 South Building, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION: On June 21, 2000, we published in the **Federal Register** a Notice that announced the intent of the National Agricultural Statistics Service (NASS) to request approval for an information collection described as the Childhood Agricultural Injury Study of Minority Farm Operators. Another survey, the Occupational Health Survey of Minority Farm Operators, has now been merged with the injury survey to reduce the number of contacts on the same target population. We have updated the abstract below and are extending the comment period to provide an additional 30 days for comment.

Title: National Childhood Agricultural Injury and Occupational Health Survey of Minority Farm Operators.

Type of Request: Intent to Seek Approval to Conduct an Information Collection.

Abstract: The National Childhood Agricultural Injury and Occupational Health Survey of Minority Farm Operators is designed to (1) provide estimates of childhood nonfatal injury incidence and description of injury occurring to children less than 20 years of age who reside, work, or visit farms operated by minorities and (2) describe the occupational health status of ethnic and racial minority farm operators, including African American, Native American, Hispanic, and other minority operators. In addition to these minority populations, female farm operators will be included in the survey and a smaller number of white male operators will be contacted as a comparison group. Data will be collected by telephone from all 50 states with 40,000 receiving the injury questionnaire, 10,000 receiving the health questionnaire, and 10,000 receiving both questionnaires. Data will relate to accidents, injuries and occupational health problems occurring during the 2000 calendar year. These data will be used by the National Institute of Occupational Safety and Health to (1) establish a measure of the number and rate of childhood injuries associated with production agriculture and study the specific types of injuries sustained and (2) describe the scope and magnitude of occupationally-related health problems of minority and female farm operators and their families. Reports will be generated and information disseminated to all interested parties concerning the finding of this study. These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 12 minutes per response for the injury questions and 25 minutes per response for the health questions. The injury instrument allows for screen-outs for non-farms and households with no children.

Respondents: Minority Farm Operators.

Estimated Number of Respondents: 60,500.

Estimated Total Annual Burden on Respondents: 13,503 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, the Agency OMB Clearance Officer, at (202) 720-5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Ginny McBride, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4162 South Building, Washington, D.C. 20250–2000.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, D.C., August 9, 2000.

Rich Allen,

Associate Administrator.

[FR Doc. 00–23909 Filed 9–15–00; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Municipal Interest Rates for the Fourth Quarter of 2000

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of municipal interest rates on advances from insured electric loans for the fourth quarter of 2000.

SUMMARY: The Rural Utilities Service hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the fourth calendar quarter of 2000.

DATES: These interest rates are effective for interest rate terms that commence during the period beginning October 1, 2000, and ending December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Gail P. Salgado, Management Analyst, Office of the Assistant Administrator, Electric Program, Rural Utilities Service, U.S. Department of Agriculture, Room 4024–S, Stop 1560, 1400 Independence

Avenue, SW, Washington, DC 20250–1560. Telephone: 202–205–3660. FAX: 202–690–0717. E-mail: GSalgado@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the fourth calendar quarter of 2000 for municipal rate electric loans. RUS regulations at § 1714.4 state that each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. Pursuant to § 1714.5, the interest rates on these advances are based on indexes published in the ''Bond Buyer'' for the four weeks prior to the fourth Friday of the last month before the beginning of the quarter. The rate for interest rate terms of 20 years or longer is the average of the 20 year rates published in the Bond Buyer in the four weeks specified in § 1714.5(d). The rate for terms of less than 20 years is the average of the rates published in the Bond Buyer for the same four weeks in the table of ''Municipal Market Data—General Obligation Yields'' or the successor to this table. No interest rate may exceed the interest rate for Water and Waste Disposal loans.

The table of Municipal Market Data includes only rates for securities maturing in 2000 and at 5 year intervals thereafter. The rates published by RUS reflect the average rates for the years shown in the Municipal Market Data table. Rates for interest rate terms ending in intervening years are a linear interpolation based the average of the rates published in the Bond Buyer. All rates are adjusted to the nearest one eighth of one percent (0.125 percent) as required under § 1714.5(a). The market interest rate on Water and Waste Disposal loans for this quarter is 5.500 percent.

In accordance with § 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the fourth calendar quarter of 2000.

Interest rate term ends in (year)	RUS rate (0.000 percent)
2021 or later	5.500
2020	5.500
2019	5.500
2018	5.500
2017	5.500
2016	5.500
2015	5.500
2014	5.500
2013	5.500
2012	5.500
2011	5.375
2010	5.375
2009	5.250
2008	5.250
2007	5.125
2006	5.125
2005	5.000
2004	4.875
2003	4.625
2002	4.500
2001	4.250

Dated: September 11, 2000.

Christopher A. McLean,

Administrator, Rural Utilities Service.

[FR Doc. 00–23826 Filed 9–15–00; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

National Power Cooperative; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from National Power Cooperative for financing assistance from the Rural Utilities Service (RUS) to finance the construction of a 500 megawatt combustion turbine plant in Van Wert County, Ohio.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW, Washington, D.C. 20250–1571, telephone (202) 720–0468, e-mail at bquigel@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The proposed plant will be a natural gas fired, simple cycle, combustion turbine plant constructed on a 56.5 acre site in Van Wert County, Ohio. About 30 acres of the site will be needed for the plant buildings and other structures. The site is located near Convoy just southwest of the intersection of Mentzer Road and Shaner Road. No natural gas pipeline or electric transmission line improvements will be needed beyond the proposed plant boundaries.

Based on its environmental assessment of the project, RUS has concluded that the construction and operation of the 500 megawatt plant at the proposed site would have no significant impact to the quality of the human environment. Therefore, RUS will not prepare an environmental impact statement for its action related to this project.

Copies of the FONSI are available from RUS at the address provided herein or from Keith A. Crabtree of National Power Cooperative at (614) 846–5757. Keith's e-mail address is kac@buckeyepower.com.

Dated: September 11, 2000.

Blaine D. Stockton, Jr.,

Assistant Administrator, Electric Program.

[FR Doc. 00–23827 Filed 9–15–00; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Oglethorpe Power Corporation; Notice of Intent

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of intent to hold a public meeting and prepare an environmental assessment.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 CFR Parts 1500–1508), and RUS Environmental Policies and Procedures (7 CFR Part 1794) proposes to prepare an Environmental Assessment related to possible financing assistance to Oglethorpe Power Corporation to construct a 652 megawatt simple cycle combustion turbine in Talbot County or Harris County, Georgia.

Meeting Information: RUS will conduct a public meeting in an open house format on Thursday, October 5, 2000, from 4:30 p.m. until 7:30 p.m. at Central Elementary—High School Talbotton, Highway 41 North, Talbotton, GA. All interested parties are invited to attend the meeting.

FOR INFORMATION CONTACT: Bob Quigel, Engineering and Environmental Staff, Rural Utilities Service, at (202) 720–0468. Bob's E-mail address is bquigel@rus.usda.gov. You can also contact Greg Jones of Oglethorpe Power Corporation at 1–800–241–5374, extension 7890. Greg's email address is greg.jones@opc.com.

SUPPLEMENTARY INFORMATION: Oglethorpe Power Corporation proposes to construct the natural gas fired electric generation plant at one of two potential sites. One site is located in Talbot County, Georgia, approximately 10 miles southwest of Talbotton. This site is approximately 2 miles north of U.S. 80 and State Road 22. Approximately 5

miles of natural gas pipeline and no new electric transmission line would be associated with a plant at this site. The other site is located in Harris County, Georgia, approximately 7.5 miles north of downtown Columbus. The site is adjacent to the east side of Interstate 185 north of Interchange 9. Approximately 3 miles of natural gas pipeline and reconductoring of several miles of electric transmission line would be associated with a plant at this site.

The proposed project will be composed of 6,108 megawatt (nominal) Siemens V84.2 combustion turbines capable of burning natural gas or fuel oil. It is the goal of Oglethorpe Power Corporation to have 4 of the units in operation by the summer of 2002 and the last two in operation in the summer of 2003.

Alternatives considered by RUS and Oglethorpe Power Corporation to constructing the generation facility proposed include: (a) no action, (b) purchased power, (c) renewable energy, (d) hydroelectric generation, (e) pumped storage hydroelectric generation, and (f) distributed generation.

An alternative evaluation and site selection study for the project was prepared by Oglethorpe Power Corporation. The alternative evaluation and site selection study are available for public review at RUS in Room 2242, 1400 Independence Avenue, SW, Washington, DC, and at the headquarters of Oglethorpe Power Corporation located at 2100 East Exchange Place, Tucker, Georgia. This document will also be available at the Talbot County Library at Jefferson Avenue and Harrison Street in Talbotton, Georgia, phone (706) 665–3134, the Harris County Library in Hamilton, Georgia, phone (706) 628–4685, and the Bradley Library at 1120 Bradley Street in Columbus, Georgia, phone (706) 649–0780.

Government agencies, private organizations, and the public are invited to participate in the planning and analysis of the proposed project. Representatives of RUS and Oglethorpe Power Corporation will be available at the scoping meeting to discuss RUS' environmental review process, describe the project and alternatives under consideration, discuss the scope of environmental issues to be considered, answer questions, and accept oral and written comments. Written comments will be accepted for at least 30 days after the public scoping meeting.

From information provided in the alternative evaluation and site selection study, input that may be provided by government agencies, private organizations, and the public, Oglethorpe Power Corporation will prepare an environmental analysis to be submitted to RUS for review. RUS will use the environmental analysis to determine the significance of the impacts of the project and may adopt it as its environmental assessment of the project. RUS' environmental assessment of the project would be available for review and comment for 30 days.

Should RUS determine, based on the environmental assessment of the project, that the impacts of the construction and operation of the plant would not have a significant environmental impact, it will prepare a finding of no significant impact. Public notification of a finding of no significant impact would be published in the **Federal Register** and in newspapers with a circulation in the project area.

Any final action by RUS related to the proposed project will be subject to, and contingent upon, compliance with environmental review requirements as prescribed by CEQ and RUS environmental policies and procedures.

Dated: September 12, 2000.

Glendon Deal,

Acting Director, Engineering and Environmental Staff.

[FR Doc. 00–23911 Filed 9–15–00; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–804]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom: Notice of Amended Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative reviews.

SUMMARY: On August 11, 2000, the Department of Commerce published the final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom. The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. The period of review is May 1, 1998, through April 30, 1999. Based on the correction of certain ministerial errors, we have changed the margins for ball bearings and parts thereof for two Japanese companies.

EFFECTIVE DATE: September 18, 2000.

FOR FURTHER INFORMATION CONTACT: Dave Dirstine or Robin Gray, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4033 or (202) 482–4023, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (1999).

Background

On August 11, 2000, the Department published the final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom (64 FR 35590) (Final Results). The reviews covered 36 manufacturers/exporters and the period May 1, 1998, through April 30, 1999. The Japanese products subject to the orders are ball bearings and parts thereof (BBs), cylindrical roller bearings and parts thereof (CRBs), and spherical plain bearings and parts thereof (SPBs).

After publication of our final results, we received a timely allegation from a respondent, Tsubaki-Nakashima Co., Ltd. (Tsubaki), that we had made a ministerial error in calculating the final results. We agree with the respondent. We also received a timely allegation from the petitioner, The Torrington Company, that we had made a ministerial error in calculating the final results applicable to Koyo Seiko Co., Ltd. (Koyo). We agree with the petitioner. Both of these errors were the result of incorrect computer-programming language we used to calculate the weighted-average margins for the Final Results. See the analysis memorandum from analyst to file, dated

September 7, 2000, for a description of the changes we made to correct these ministerial errors.

Amended Final Results of Review

As a result of the correction of the ministerial errors and amended margin calculations, the following weighted-average margins exist for Koyo and Tsubaki for the period May 1, 1998, through April 30, 1999:

Manufacturer/exporter	BBs rate (percent)	CRBs rate (percent)	SPBs rate (percent)
Koyo Seiko Co., Ltd	5.41	[1] 0.92	[1] 0.00
Tsubaki-Nakashima Co., Ltd	11.85	([2])	([2])

[1] No change from Final Results.
[2] No shipments or sales subject to this review. The firm has no individual rate from any segment of this proceeding.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We will also direct Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the final results of review (64 FR 35590) and as amended by this determination. The amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative reviews.

We are issuing and publishing this determination and notice in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: September 8, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–23903 Filed 9–15–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Heavy Forged Hand Tools From the People's Republic of China; Announcement of Correction to the Notice of Amended Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Correction to the Notice of Amended Final Results of Administrative Reviews.

SUMMARY: On August 18, 2000, the Department of Commerce (''the Department'') published its amended final results of the February 1, 1998 through January 31, 1999 administrative reviews of the antidumping duty orders on heavy forged hand tools from the People's Republic of China (*see* 65 FR 50499). In the notice of the amended final results, the Department incorrectly noted that the memorandum concerning the clerical error allegation is to Troy H. Cribb from Holly A. Kuga. The memorandum is to Tom F. Futtner from Ronald M. Trentham.

FOR FURTHER INFORMATION CONTACT: Howard Smith, AD/CVD Enforcement Group II, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5193.

Dated: September 11, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 00–23902 Filed 9–15–00; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091200D]

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting(s).

SUMMARY: The Mid-Atlantic Fishery Management Council's Comprehensive Management Committee will hold a public meeting.

DATES: The meetings will be held on Monday, October 2, 2000, from 1 p.m. to 5 p.m., and Tuesday, October 3, 2000, from 8:30 a.m. until 3:30 p.m.

ADDRESSES: This meeting will be held at the Sheraton Society Hill, One Dock Street, Philadelphia, PA; telephone: 215-238-6000.

Council Address: Mid-Atlantic Fishery Management Council, Room 2115, 300 S. New Street, Dover, DE 19904.

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

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss and identify possible sources of summer flounder commercial bycatch, i.e., who is responsible for the commercial bycatch, and when and where is it taken. Possible solutions to reduce the take of commercial bycatch, and where bycatch can not be avoided, to reduce the mortality of it will be discussed and developed for purposes of providing written recommendations to the Mid-Atlantic Fishery Management Council regarding the resolution of commercial bycatch in the summer flounder fishery.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council Office (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 12, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–23923 Filed 9–15–00 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091200E]

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council and the New England Fishery Management Council's Joint Dogfish Committee will hold a public meeting.

DATES: The meeting will be held on Wednesday, October 4, 2000, from 10 a.m. until 5 p.m.

ADDRESSES: This meeting will be held at the Sheraton Society Hill, One Dock Street, Philadelphia, PA; telephone: 215-238-6000.

Council address: Mid-Atlantic Fishery Management Council, Room 2115, 300 S. New Street, Dover, DE 19904. New England Fishery Management Council, 50 Water Street, The Tannery - Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302-674-2331, ext. 19, or Paul Howard, Executive Director, New England Fishery Management Council; telephone: 978-465-0492.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to review the Atlantic States Marine Fisheries Commission's spiny dogfish management update, review updated status of stock information, review issues/management measures to be considered for Amendment 1 (alternative stock rebuilding strategies and schedules, quota management measures, measures to reduce discards, limited access, measures to address fishery management plan deficiencies with respect to spawning stock biomass target, essential fish habitat and gear impacts), and discuss 2001-02 management measures.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Mid- Atlantic Council Office (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 13, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–23924 Filed 9–15–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091200C]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Oversight Committee in October, 2000. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Wednesday, October 4, 2000, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 225 McClellan Highway, Boston, MA 02128; telephone: (617) 569-5250.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465-0492.

SUPPLEMENTARY INFORMATION: The Scallop Committee will further define and specify management alternatives for Final Framework Adjustment 14 to the Scallop Fishery Management Plan. The framework adjustment will change the management specifications for the 2000 fishing year (at the September 27th Council meeting, the Council will identify the initial framework management alternatives). After analysis by the Plan Development Team, a final alternative will be approved by the full Council at it's November 14-16, 2000 meeting. Other, long-range management issues, including research priorities for 2001, may also be discussed.

Framework Adjustment 14 is an annual adjustment to the management measures and regulations that will govern the Atlantic sea scallop fishery between March 1, 2001 and February 28, 2002. The adjustment will focus on changing the annual days-at-sea allocation for full-time, part-time, and occasional limited access scallop vessels, management options for fishing in the Hudson Canyon and VA/NC Areas, new closures to protect small scallops, and prohibiting the possession of shell stock inshore of the days-at-sea monitoring line. Other management adjustments may arise during the initial framework meeting and will be discussed at this meeting.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: September 12, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–23922 Filed 9–15–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091200B]

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Meetings of the North Pacific Fishery Management Council and its advisory committees.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings.

DATES: The meetings will be held on Monday, October 2, 2000, through Monday, October 9, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: All meetings will be held at the Centennial Building, 330 Harbor Drive, Sitka, AK, unless otherwise noticed at the Centennial Building and on the Council's website: www.fakr.noaa.gov/npfmc.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907-271-2809.

SUPPLEMENTARY INFORMATION: The Council's Advisory Panel will begin at 8 a.m., Monday, October 2, and continue through Thursday, October 5. The Scientific Committee will begin at 8 a.m. on Monday, October 2, and continue through Wednesday, October 4. The Council will begin their plenary session at 8 a.m. on Wednesday, October 4, continuing through Monday, October 9. All meetings are open to the public except Executive Sessions which may be held during the week to discuss litigation and/or personnel matters.

Council: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports:
(a) Executive Director's Report.
(b) State Fisheries Report by Alaska Dept. of Fish and Game.
(c) NMFS Management Report.
(d) Enforcement and Surveillance reports by NMFS and the Coast Guard.
2. Pacific cod/Steller sea lion interactions: Review and take final action on amendment package.
3. American Fisheries Act:
(a) Update on the Environmental Impact Statement and rulemaking.
(b) Final action on groundfish processing sideboards and Bering Sea/Aleutian Islands (BSAI) pollock processing excessive share caps.
(c) Report from industry on Pacific cod sideboard issues.
4. Halibut subsistence regulations: final action on alternatives.
5. Halibut Charter Individual Fishing Quota (IFQ) Program:
(a) Preliminary review of draft analysis and progress report.
(b) Discussion of Gulf of Alaska Coastal Community Coalitions proposals with regard to halibut IFQs for communities.
6. Community Development Quota (CDQ) Program:
(a) Initial review of an amendment package to conform State of Alaska and Federal regulations.
(b) Review State of Alaska recommendations for CDQ allocations for 2001.
7. Groundfish Management:
(a) Recommend interim and preliminary harvest specifications for 2001 BSAI and Gulf of Alaska (GOA) groundfish fisheries.
(b) Initial review of an amendment to allocate BSAI Pacific cod among pot gear sectors.
(c) Progress report on rationalization of the GOA groundfish fisheries.
8. Crab Management:
(a) Review of Stock Assessment and Fishery Evaluation reports for BSAI king and Tanner crab.
(b) Progress report on crab co-op development and buyback program.
9. Staff Tasking: Review progress on current staff tasking and provide direction to staff.

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

Advisory Meetings

Advisory Panel: The agenda for the Advisory Panel will mirror that of the Council listed above, with the exception of the reports under Item 1.

Scientific and Statistical Committee: The Scientific and Statistical Committee will address the following items on the Council agenda:

1. Steller sea lion/Pacific cod interactions.
2. Halibut Charter IFQ Program.
3. CDQ Program
4. All issues under Groundfish Management.
5. All issues under Crab Management.

Other Committee/Workgroup & Industry Meetings

During the meeting week, the following groups will hold meetings to discuss various agenda issues of interest:

Crab Cooperative Industry Meeting: Thursday, September 7, 2000, 6:30 p.m.

Council/Alaska Board of Fisheries Joint Committee: Thursday, September 7, 2000, at 1 p.m. (Agenda will be posted on Council website: www.fakr.noaa.gov/npfmc)

Other committees and workgroups may hold impromptu meetings throughout the meeting week. Such meetings will be announced during regularly-scheduled meetings of the Council, Advisory Panel, and SSC, and will be posted at the hotel.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen at 907-271-2809 at least 7 working days prior to the meeting date.

Dated: September 13, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–23921 Filed 9–15–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081700E]

Marine Mammals; File No. 914-1470-01

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that the University of Southern Mississippi, Department of Biological Sciences, USM Box 5018, Hattiesburg, MS 39401 (Principal Investigator: Dr. Bobby L. Middlebrooks), has been issued an amendment to scientific research Permit No. 914-1470 to import elephant seal samples from Argentina.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713-2289); and

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432 (813/570-5312).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Simona Roberts, 301/713-2289.

SUPPLEMENTARY INFORMATION: On July 11, 2000, notice was published in the

Federal Register (65 FR 42676) that an amendment of Permit No. 914-1470, issued November 12, 1998 (63 FR 64066), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: September 12, 2000.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–23920 Filed 9–15–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.090500C]

Marine Mammals; File No. P368D

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Isuance of permit amendment.

SUMMARY: Notice is hereby given that Dr. James T. Harvey, Moss Landing Marine Laboratories, P.O. Box 450, Moss Landing, CA 95039-0450 has been issued an amendment to scientific research Permit No. 938.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713-2289);

Regional Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (907/586-7221).

FOR FURTHER INFORMATION CONTACT: Simona Roberts or Ruth Johnson, 301/713-2289.

SUPPLEMENTARY INFORMATION: On August 7, 2000, notice was published in the **Federal Register** (65 FR 48221) that an amendment of Permit No. 938, issued February 2, 1995 (60 FR 7753), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 938 authorizes the permit holder to take various species of marine mammals of the suborders Mysticeti, Odontoceti, Pinnipedia, and southern sea otter of the California coast annually during: aerial and vessel surveys, behavioral observations, photographic identification, and VHF and TDR tagging. With this amendment, the permit holder is now authorized to place implantable VHF and TDR tags on up to eight killer whales in southeast Alaska.

Dated: September 12, 2000.

Ann D. Terbush,

Division Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–23919 Filed 9–15–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of Novel Ceramic Ferroelectric Materials Patents for Exclusive, Partially Exclusive or Non-exclusive Licenses (Manufacturing Only)

AGENCY: U.S. Army Research Laboratory, DoD.

ACTION: Notice of Availability.

SUMMARY: The Department of the Army re-announces the general availability of exclusive, partially exclusive or non-exclusive licenses (manufacturing only) relative to U.S. Patent No. 5,486,491, issued 23 Jan 1996, entitled ''Ceramic Ferroelectric Composite Material—BSTO–ZRO2'', U.S. Patent No. 5,312,790, issued 17 May 1994, entitled ''Ceramic Ferroelectric Material'', and U.S. Patent No. 5,427,988, issued 27 Jun 1995, entitled ''Ceramic Ferroelectric Composite Material—BSTO–MGO''. Licenses shall comply with 35 U.S.C. 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–CS–TT/Bldg. 459, Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–23916 Filed 9–15–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 17, 2000.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 12, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: Reinstatement.

Title: GEPA 424 Data Collection on the Distribution of Federal Education Funds.

Frequency: Biennially.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 125.

Burden Hours: 6,488.

Abstract: This data collection fulfills a Congressional mandate to obtain information on the distribution of Federal education funds to school districts. Specifically, this data collection obtains information on subgrants and contracts made under state-administered programs as well as programs that provide funds directly to school districts.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her internet addressJackie_Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–23845 Filed 9–15–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–417–001]

Colorado Interstate Gas Company; Notice of Tariff Compliance Filing

September 12, 2000.

Take notice that on September 7, 2000, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Fourth Revised Sheet No. 110, to be effective September 1, 2000.

CIG states that pursuant to FERC Commission Order, dated August 31, 2000, this compliance filing is being made to correct the pagination from Third Revised Sheet No. 110 to Fourth Revised Sheet No. 110.

CIG further states that copies of this filing have been served on CIG's jurisdictional customers and public bodies.

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

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–23837 Filed 9–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3358–000]

Energy Alternatives, Inc.; Notice of Issuance of Order

September 12, 2000.

Energy Alternatives, Inc. (Energy Alternatives) submitted for filing a rate schedule under which Energy Alternatives will engage in wholesale electric power and energy transactions at market-based rates. Energy Alternatives also requested waiver of various Commission regulations. In particular, Energy Alternatives requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Energy Alternatives.

On September 5, 2000, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Energy Alternatives 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).

Absent a request for hearing within this period, Energy Alternatives is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Energy Alternatives' issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is October 5, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–23833 Filed 9–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–429–002]

Kansas Pipeline Company; Notice of Revised Tariff Filing

September 12, 2000.

Take notice that on September 8, 2000, Kansas Pipeline Company (KPC) tendered for filing revised sheets, to be effective March 27, 2000. The revised tariff sheets; listed below, include language to indicate the expiration date

for waiver of the price cap for short-term capacity release transactions. The revised tariff sheets are:

Sub Fifth Revised Sheet No. 15
Sub Fifth Revised Sheet No. 21

KPC States that copies of this filing have been served on all Kansas Pipeline Company customers and state commissions involved in this proceeding.

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

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 00–23838 Filed 9–15–00; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–324–002]

Koch Gateway Pipeline Company; Notice of Compliance Filing

Setpember 12, 2000.

Take notice that on September 7, 2000, Koch Gateway Pipeline Company (Koch) filed additional information regarding its annual cash-out report in compliance with the Commission's August 3, 2000 letter order requiring Koch to provide additional information to support the activity in the Report.

Koch states that copies of the filing have been served upon each party designated on the official service list compiled by the Secretary in the above captioned proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before September 19, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 00–23835 Filed 9–15–00; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–184–002]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

September 12, 2000.

Take notice that on September 8, 2000, Natural Gas Pipeline Company of America (Natural) tendered for filing to be a part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets to be effective September 1, 2000.

Natural states that these tariff sheets were filed in compliance with the Federal Commission's ''Order After Technical Conference Accepting Tariff Sheets'' issued August 31, 2000, in Docket Nos. RP00–184–000 and RP00–184–001. The only tariff changes reflected in this filing are those required by the Order or those necessary to conform the tariff sheets accepted in the Order with prior Commission action in another docket.

Natural requests waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets submitted herein to become effective September 1, 2000, consistent with the Order.

Natural states that copies of the filing have been mailed to all parties set out on the Commission's official service list in Docket No. RP00–184.

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

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 00–23836 Filed 9–15–00; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2721–013; Maine]

Penobscot Hydro, LLC; Notice of Intent To Conduct Public Scoping Meetings and Site Visit

September 12, 2000.

The Federal Energy Regulatory Commission (Commission/FERC) received an application from the Penobscot Hydro, (LLC Penobscot) to relicense the Howland Hydroelectric Project No. 2721–013. The 1.875-megawatt project is located on Piscataquis River in Penobscot County, Maine. The Commission will hold public and agency scoping meetings on October 3 and 4, 2000, for preparation of an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA) for the issuance of a major license for the project.

Scoping Meetings

Scoping meeting will focus on public and resource agency and non-governmental organization (NGO) concerns. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Evening Scoping Meeting

Date: Tuesday, October 3, 2000
Time: 7 p.m. to 9 p.m.
Place: Howland Town Hall
Address: 8 Main Street, Howland, Maine

Morning Scoping Meeting

Date: Wednesday, October 4, 2000
Time: 9 a.m. to 11 a.m.
Place: Howland Town Hall
Address: 8 Main Street, Howland, Maine

To help focus discussion, we will distribute a Scoping Document (SD1) outlining the subject areas to be

addressed at the meeting to the parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meetings.

Site Visits

Penobscot and FERC staff will conduct a project site visit beginning at 2:00 p.m. on October 3, 2000. All interested individuals, organizations, and agencies are invited to attend. All participants should meet at the Howland Project powerhouse, off Route 116 in Howland, Maine. All participants are responsible for their own transportation to the site. Anyone who wishes to attend the site visit, or with questions about the visit, should contact Mr. Scott Hall of Penobscot at (207) 827–5364.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) Solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the relative depth of analysis for issues to be addressed in the EA; and (5) identify resource issues that are of lesser importance, and, therefore, do not require detailed analysis.

Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to clearly identify themselves for the record. Speaking time for attendees at the meetings will be determined before the meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session. All speakers will be provided at least 5 minutes to present their views.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Persons choosing not to speak at the meetings, but who have views on the issues, may submit written statements for inclusion in the public record at the meeting. In addition, written scoping comments may be filed with the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, until November 6, 2000. All filings should contain an original and eight copies, and must clearly show at the top of the first page ''Howland Hydroelectric Project, FERC No. 2721–013.''

For further information, please contact Ed Lee at (202) 219–2809 or e-mail at *ed.lee@ferc.fed.us* and Peter Foote at (716) 568–0425 or e-mail at foote@1berger.com.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–23834 Filed 9–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–539–000]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 12, 2000.

Take notice that on September 8, 2000, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to be effective October 9, 2000.

First Revised Sheet No. 38
First Revised Sheet No. 49
First Revised Sheet No. 100
First Revised Sheet No. 121
Original Sheet No. 454A

REGT states that the purpose of this filing is to reflect the implementation of nondiscriminatory waiver of fuel charges for a transaction that will not require the use of fuel on REGT's system.

REGT states that a copy of the filing has been mailed to each of REGT's customers and interested state commissions.

Any person desiring to be heart or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–23839 Filed 9–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Regulatory Regulation Commission

[Docket No. EL00–108–00]

Tenaska Power Services Co., Complainant v. Southwest Power Pool, Inc., Respondent; Notice of Complaint

September 12, 2000.

Take notice that on September 11, 2000, Tenaska Power Services Co. (TPS), tendered for filing a complaint, pursuant to Rule 206 of Commission's Rules of Practice and Procedure and Section 306 of the Federal Power Act, against the Southwest Power Pool, Inc. (SPP) requesting that the Commission order SPP to honor TPS' long-term firm point-to-point requests for transmission service through the ERCOT East DC tie into Texas. Because that service is set to commence on October 1, 2000, TPS requests fast track processing of its complaint by the Commission pursuant to Section 206(h) of the Commission's Rules of Practice and Procedure.

Copies of the filing were served via facsimile upon SPP and other known interested parties. Questions concerning this Complaint may be directed to counsel for Complainant, Neil L. Levy, Kirkland & Ellis, 655 Fifteenth Street, N.W., Suite 1200, Washington, DC 20005, Phone (202) 879–5116, Fax (202) 879–5200, e-mail Neil_Levy@dc.kirkland.com.

Any person desiring to be heard or to protest filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules and Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before September 18, 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 proceeding. 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 also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before September 18, 2000.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–23868 Filed 9–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3248–000]

Virginia Electric and Power Company; Notice of Filing

September 12, 2000.

Take notice that on July 24, 2000, Virginia Electric and Power Company (Virginia Power) tendered for filing a Letter of Termination to Conectiv Energy Supply, Inc. (Conectiv) successor to Atlantic City Electric, under its Service Agreement with Virginia Power dated November 6, 1995 and approved by the FERC by letter order dated February 8, 1996 in Docket No. ER96–653–000. In the letter, Virginia Power notifies Conective that the Service Agreement with Atlantic City Electric Company is to terminate. Virginia Power requests that the letter of Termination be designated as First Revised Service Agreement No. 47 under FERC Electric Tariff, Original Volume No. 4.

Virginia Power also respectfully requests an effective date of the termination of the Service Agreement of September 24, 2000, which is sixty (60) days from the date of the filing of the Letter of Termination.

Copies of the filing were served upon Conective Energy Supply, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

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 and protests should be filed on or before September 22, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http;//www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–23840 Filed 9–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–896–000, et al.]

California Independent System Operator Corporation, et al.; Electric Rate and Corporate Regulation Filings

September 11, 2000.

Take notice that the following filings have been made with the Commission:

1. California Independent System Operator Corporation

[Docket Nos. ER99–896–000; ER99–1971–000; ER00–2383–000]

Take notice that on September 5, 2000, the California Independent System Operator Corporation (ISO) tendered for filing a Notice of Implementation, posted on the ISO Home page and sent to all Market Participants on August 1, 2000, which specifies that, effective September 10, 2000, the ISO will implement non-payment for noninstructed deviations from awarded Ancillary Services capacity (the No-Pay rule).

The ISO states that this filing has been served on all parties listed on the official service lists in the above-referenced dockets.

Comment date: September 26, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Indianapolis Power & Light Company

[Docket No. ER00–1026–004]

Take notice that on September 7, 2000, Indianapolis Power & Light Company (IPL) filed a notification of its election to report changes in status every three years in compliance with the Commission's February 24 order in this proceeding. IPL also informed the Commission of AES Corporation's planned acquisition of IPALCO Enterprises, Inc., the parent of Indianapolis Power & Light Company.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. FPL Energy Cape, LLC

[Docket No. ER00–3068–001]

Take notice that on September 5, 2000, pursuant to the Commission's Order dated August 4, 2000, FPL Energy Cape, LLC, 100 Middle Street, Portland, Maine 04101, tendered for filing with the Federal Energy Regulatory Commission an amendment to its application to sell wholesale power at market-based rates pursuant to Section 205 of the Federal Power Act.

Copies of this filing have been served upon all parties listed on the official service list maintained by the Secretary of the Commission for these proceedings.

Comment date: September 26, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Western Resources, Inc.

[Docket No. ER00–3445–001]

Take notice that on September 5, 2000, Western Resources, Inc. (WR) submitted for filing an amendment to its August 18, 2000 filing in this proceeding. The amendment includes an Order No. 614 compliant version of the First Amendment to the Electric Power Supply Agreement between WR and the City of Toronto, Kansas.

Copies of the filing were served upon the City of Toronto, Kansas and the Kansas Corporation Commission.

Comment date: September 26, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. LSP Energy Limited Partnership

[Docket No. ER00–3539–001]

Take notice that on September 7, 2000, LSP Energy Limited Partnership (LSP Energy) tendered for filing under Section 205 of the Federal Power Act an executed amendment to a long-term electric service agreement between LSP Energy and Virginia Electric and Power Company.

LSP Energy requests an effective date of August 9, 2000 for such amendment.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Illinois Power Company

[Docket No. ER00–3592–000]

Take notice that on September 5, 2000, Illinois Power Company tendered for filing a fully executed Network Integration Transmission Service Agreement and a fully executed Network Operating Agreement (collectively, the Agreements) between Archer-Daniels-Midland Company and Illinois Power Company pursuant to

section 35.12 of the Commission's Regulations, 18 CFR 35.12. Under the Agreements, Illinois Power may provide network services to Archer-Daniels-Midland Company in accordance with Illinois Power's FERC Electric Tariff.

Illinois Power has requested that the Commission accept the fully executed Agreements and that the Agreements become effective as of August 3, 2000.

Illinois Power has served a copy of this filing upon the Illinois Commerce Commission and Archer-Daniels-Midland Company.

Comment date: September 26, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Virginia Electric and Power Company

[Docket No. ER00–3593–000]

Take notice that on September 5, 2000, Virginia Electric and Power Company (Virginia Power) filed revisions to its open access transmission tariff, FERC Electric Tariff, Second Revised Volume No. 5 (Tariff) to make it consistent with the uniform business practices that the FERC directed all transmission providers to adopt pursuant to Order No. 638.

The filing has been served on Virginia Power's customers under the Tariff, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: September 26, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. American Transmission Systems, Inc.

[Docket No. ER00–3594–000]

Take notice that on September 5, 2000, American Transmission Systems, Inc. tendered for filing a new attachment to its Open Access Transmission Tariff (FERC Electric Tariff, Original Volume No. 1). The new attachment provides for a waiver of transmission charges in defined circumstances.

Copies of the filing were served upon the company's jurisdictional customers and affected state commissions.

Comment date: September 26, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Oklahoma Gas and Electric Company

[Docket No. ER00–3595–000]

Take notice that on September 5, 2000, Oklahoma Gas and Electric Company (OG&E), tendered for filing, an Interconnection Agreement with Duke Energy McClain, LLC (Duke Energy). The Interconnection Agreement provides for interconnection of the Duke Energy facility to the OG&E transmission system at the rates, terms, charges, and conditions set forth therein. OG&E is requesting that the Interconnection Agreement becomes effective as of August 28, 2000 and is also requesting waiver of the Commission's Notice requirements.

Copies of this filing have been served upon the Oklahoma Corporation Commission, the Arkansas Public Service Commission and on Duke Energy .

Comment date: September 26, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. American Electric Power Service Corporation

[Docket No. ER00–3596–000]

Take notice that on September 5, 2000, the American Electric Power Service Corporation (AEPSC) tendered for filing blanket service agreements by the AEP Companies under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff).

AEPSC respectfully requests waiver of notice to permit the service agreements to be made effective as of August 7, 2000.

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: September 26, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Duke Power, a division of Duke Energy Corporation

[Docket No. ER00–3597–000]

Take notice that on September 5, 2000, Duke Power (Duke), a division of Duke Energy Corporation, tendered for filing a Service Agreement with Alcoa Power Generating, Inc. for power sales at market-based rates.

Duke requests that the proposed Service Agreement be permitted to become effective on August 29, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: September 26, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. PacifiCorp

[Docket No. ER00–3599–000]

Take notice that PacifiCorp on September 7, 2000, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Revision to Exhibit C to the General Transfer Agreement between PacifiCorp and the Bonneville Power Administration (Bonneville).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Arizona Public Service Company

[Docket No. ER00–3600–000]

Take notice that on September 7, 2000, Arizona Public Service Company tendered for filing Service Agreements under the Western Systems Power Pool Agreement for service to Bonneville Power Administration, Enron Power Marketing, Inc., and TransAlta Energy Marketing.

A copy of this filing has been served on the Arizona Corporation Commission Bonneville Power Administration, Enron Power Marketing, Inc., and TransAlta Energy Marketing.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. The Dayton Power and Light Company

[Docket No. ER00–3601–000]

Take notice that on September 7, 2000 The Dayton Power and Light Company (Dayton) submitted service agreements establishing The Legacy Energy Group, LLC, MidAmerican Energy Company, Tennessee Valley Authority as customers under the terms of Dayton's Open Access Transmission Tariff.

Copies of this filing were served upon establishing The Legacy Energy Group, LLC, MidAmerican Energy Company, Tennessee Valley Authority and the Public Utilities Commission of Ohio.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. The Dayton Power and Light Company

[Docket No. ER00–3602–000]

Take notice that on September 7, 2000 The Dayton Power and Light Company (Dayton) submitted service agreements establishing with The Legacy Energy Group, LLC, MidAmerican Energy Company, Tennessee Valley Authority as customers under the terms of Dayton's Open Access Transmission Tariff.

Copies of this filing were served upon with The Legacy Energy Group, LLC, MidAmerican Energy Company, Tennessee Valley Authority and the Public Utilities Commission of Ohio.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Public Service Corporation

[Docket No. ER00–3603–000]

Take notice that on September 7, 2000, Wisconsin Public Service Corporation (WPSC) tendered for filing an executed service agreement with New Energy Ventures, Inc. under its Market-Based Rate Tariff, FERC Electric Tariff Volume No. 10.

WPSC requests that the service agreement become effective on August 29, 2000.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Georgia-Pacific Corporation

[Docket No. ER00–3604–000]

Take notice that on September 7, 2000, Georgia-Pacific Corporation (G–P) tendered for filing G–P Rate Schedule FERC No. 1, under which G–P proposes to engage in wholesale electric power and energy transactions as a marketer, including the making of sales of electric energy, capacity, and certain ancillary services at market-based rates. G–P further requested that the Commission grant waivers of certain of its regulations and blanket authorizations as set forth more fully therein.

G–P further requested that the Commission waive its sixty-day notice requirement to permit G–P Rate Schedule FERC No. 1 to become effective by October 18, 2000.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Arizona Public Service Company

[Docket No. ER00–3605–000]

Take notice that on September 7, 2000, Arizona Public Service Company (APS) tendered for filing umbrella Service Agreements to provide Short-Term Firm and Non-Firm Point-to-Point Transmission Service to FPL Energy Power Marketing, Inc. under APS' Open Access Transmission Tariff.

A copy of this filing has been served on FPL Energy Power Marketing, Inc., and the Arizona Corporation Commission.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Carolina Power & Light Company

[Docket No. ER00–3606–000]

Take notice that on September 7, 2000, Carolina Power & Light Company (CP&L) tendered for filing a Service Agreement for Short-Term Firm Point-to-Point Transmission Service and a Service Agreement for Non-Firm Point-to-Point Transmission Service with Louisville Gas and Electric Company/Kentucky Utilities Company. Service to this Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

CP&L is requesting an effective date of August 15, 2000 for each Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Carolina Power & Light Company

[Docket No. ER00–3607–000]

Take notice that on September 7, 2000, Carolina Power & Light Company (CP&L) tendered for filing a Service Agreement for Short-Term Firm Point-to-Point Transmission Service with Dayton Power and Light Company. Service to this Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

CP&L is requesting an effective date of August 15, 2000 for this Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. BP Energy Company

[Docket No. ER00–3614–000]

Take notice that on September 7, 2000, BP Energy Company (BP) submitted a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations, 18 CFR 35.16. As a result of a name change, BP is succeeding to the FERC Electric Rate Schedule No. 1 of Amoco Energy Trading Corporation, effective August 22, 2000.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–23841 Filed 9–15–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

September 12, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Subsequent License.

b. *Project No.:* 2652–007.

c. *Date filed:* August 30, 2000.

d. *Applicant:* PacifiCorp.

e. *Name of Project:* Bigfork Hydroelectric Project.

f. *Location:* Swan River/Flathead Lake, Flathead County, Montana. The project does not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC § 791(a)–825(r).

h. *Applicant Contact:* Michael B. Burke, Project Manager, PacifiCorp, 825 NE. Multnomah, Suite 1500, Portland, OR 97232.

i. *FERC Contact:* Any questions on this notice should be addressed to Steve Hocking, e-mail address *steve.hocking@ferc.fed.us.* or telephone (202) 219–2656.

j. *Deadline for filing additional study requests:* October 29, 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.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor 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 agency.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:* The project consists of (1) a 12-foot-high, 300-foot-long concrete diversion dam with a 235-foot-long spillway; (2) a reservoir with 73 surface acres; (3) a water intake structure and 1-mile-long flowline; (4) a forebay structure that directs water into three steel penstocks; (5) a brick powerhouse with three turbine/generator units with a total installed capacity of 4,150 kilowatts; (6) a fish ladder on the right abutment (north end of the dam) and; (7) appurtenant facilities.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at *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.

n. With this notice, we are initiating consultation with the State Historic Preservation Officer as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.3.

o. Procedural schedule and final amendments: The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice that the application has been accepted for filing
Notice of National Environmental Policy Act (NEPA) scoping
Notice that the application is ready for environmental analysis
Notice of the availability of the draft NEPA document
Notice of the availability of the final NEPA document
Order issuing the Commission's decision on the application.

Final amendments to the application must be filed with the Commission within 30 days of the notice that the application is ready for environmental analysis.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–23869 Filed 9–15–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6870–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Information Requirements for Importation of Nonconforming Nonroad Compression Ignition (CI) and Small Spark Ignition (SI) Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Information Requirements for Nonconforming Nonroad Compression Ignition (CI) and Small Spark Ignition (SI) Engines, OMB Control Number 2060–0294, expiration date November 30, 2000. The ICR describes the nature of the information collection and expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 18, 2000.

ADDRESSES: Send comments, referencing EPA ICR No. 1673.03 and OMB Control No. 2060–0294, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1673.03. For technical questions about the ICR, contact Leonard Lazarus at 202–564–9281.

SUPPLEMENTARY INFORMATION: *Affected entities:* Entities potentially affected by this action include individuals and businesses (including Independent Commercial Importers) importing nonroad engines, including nonroad engines incorporated into nonroad equipment or nonroad vehicles.

Title: Information Requirements for Nonconforming Nonroad Compression Ignition (CI) and Small Spark Ignition (SI) Engines, OMB #2060–0294, expiration date November 30, 2000. This is a request for extension of a currently approved collection.

Abstract: Individuals and businesses importing nonroad engines, including nonroad engines incorporated into nonroad equipment or nonroad vehicles report and keep records of vehicle importations, request prior approval for vehicle importations, or request final admission for vehicles conditionally imported into the U.S. The collection of this information is mandatory in order to ensure compliance of nonconforming vehicles with Federal emissions requirements. Joint EPA and Customs regulations at 40 U.S.C. 89.601 *et seq.*, 90.601 *et seq.*, and 19 CFR 12.73 and 12.74 promulgated under the authority of Clean Air Act sections 203 and 208 give authority for the collection of information. This authority was extended to nonroad engines under section 213(d). The information is used by program personnel to ensure that all Federal emission requirements concerning imported nonconforming motor vehicles and nonroad engines are met. Any information submitted to the Agency for which a claim of confidentiality is made is safeguarded according to policies set forth in Title 40, Chapter 1, part 2, subpart B—Confidentiality of Business Information (see CFR part 2), and the public is not permitted access to information containing personal or organizational identifiers.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on May 1, 2000 (65 FR 25324); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the

existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected entities: Importers of compression-ignition nonroad engines and small spark-ignition nonroad engines, including those incorporated into nonroad equipment or vehicles.

Estimated Number of Respondents: 1500.

Frequency of Response: Upon importation of item.

Estimated Total Annual Hour Burden: 75,393.

Estimated Total Annualized Capital, O&M Cost Burden: $4,686,450.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1673.03 and OMB Control No. 2060–0294 in any correspondence.

Dated: September 5, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–23943 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34180B; FRL–6744–7]

Pesticides; Chlorine Gas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On February 22, 1999, the Agency issued a Reregistration Eligibility Decision (RED) on the pesticide chlorine gas. The RED included a requirement for the chlorine gas registrants to submit revised labeling to the Agency by October 23, 1999. The RED also included specific guidance on the content of these label revisions. In response to this RED, several trade groups, state governments, universities, and individuals submitted comments to the Agency. This notice responds to these comments and provides additional and revised guidance to registrants concerning specific label requirements for all chlorine gas registrations. This notice also extends the due date for revised labeling and opens an additional 60–day public comment period.

DATES: Comments, identified by docket control number OPP–34180, were received on or before May 1, 1999. Comments, identified by docket control number OPP–34180B must be received no later than November 15, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34180B in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Patrick Dobak (7508C), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (703) 308–8180; fax number: (703) 308–7042; e-mail address: Dobak.pat@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to the registrants of chlorine gas and members of the municipal water treatment and residential pool treatment industries. 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 person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' 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 chlorine gas, go directly to the website for the Office of Pesticides' Reregistration Eligibility Decisions at http://www.epa.gov/oppsrrd1/REDs/ and select documents listed under Chlorine Gas. You will need to have an Acrobat reader or equivalent installed in your computer in order to download the documents.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34180B. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34180B in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic

submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34180B. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. Summary of EPA position that Solicited Comments

EPA issued a RED for chlorine gas on February 22, 1999. The notice of availability of the RED for chlorine gas published in the **Federal Register** of March 10, 1999 (64 FR 11869) (FRL–6068–2). The RED required label amendments for all currently registered products. The majority of uses were classified for restricted use. Only residential pool treatment and water and sewage treatment were not classified. Registrants of products bearing both restricted and unclassified uses were expected to ''split'' their product registrations according to classification.

In response to the RED, 11 comments were submitted to the Agency from states, trade groups, utility companies, a university and the public. Based on comments and meetings with registrant groups, EPA recognized that several critical issues exist with regard to the training requirements and the 8–month response requirement for the submission of revised labels. The Agency has reconsidered its earlier decision to not require restricted use classification for some uses and has extended the 8–month response due date to December 15, 2000.

B. The Agency's Response to Comments for the Chlorine Gas RED.

The comments received in response to the RED are grouped together based on content as follows:

1. *Comment*: If registrants must have two products (and two labels) to accommodate restricted and unclassified uses, they could be compelled to ship rail tank cars back to the chlorine gas producers for re-labeling. This scenario is a concern because orders may and often do change before delivery. Substantial additional costs could be incurred by the registrant.

Response: The Agency is proposing to reclassify the remaining uses, consisting of drinking and sewage water treatment and residential swimming pool treatment, as restricted uses. As a result, manufacturers will not need to have both restricted and unclassified product labels.

2. *Comment*: Some registrants, for example, those with both on-site water treatment plants and cooling towers, would have personnel that would be subject to inconsistent training requirements. These personnel, in their role as cooling tower operators, would need to be certified applicators, whereas in their role as water treatment system operators, they would not need to be. EPA's treatment of these chlorine use categories is inconsistent. These uses should be treated similarly.

Response: This inconsistency is one of the chief reasons that the Agency is revising the Chlorine Gas RED labeling and training requirements to classify all chlorine gas uses as restricted use. Chlorine is acutely toxic through all routes and meets the triggers for restricted use classification in 40 CFR 152.170 for all uses.

3. *Comment*: The prevention of accidental releases is already subject to Clean Air Act (CAA) and Occupational Safety and Health Administration (OSHA) requirements. CAA Risk Management Program (RMP) can include many specific training, procedural, and recordkeeping requirements. OSHA Process Safety Management (PSM) training ensures adequate training for chlorine applicators.

Response: These programs are intended to address accidental releases, and certified applicator training also addresses proper application. Chlorine gas is a highly toxic gas for which specialized equipment and procedures exist. Certified applicator training should be integrated in each facility's response to PSM training and RMP requirements. Every worker will not need to receive certified applicator training; one certified applicator needs to be present for all operations, though.

The Agency is aware that by making all chlorine gas uses restricted, the other stakeholders (municipal water treatment operators and residential pool treatment applicators) may have a similar viewpoint. Since, for these stakeholders, the decision to classify these uses as restricted is a significant change, the Agency is opening up a comment period specifically to allow the stakeholders the opportunity to respond to the Agency's revised position on this one issue.

4. *Comment*: The reclassification of chlorine gas as a Restricted Use Product will result in a significant burden to state extension services.

Response: The Agency acknowledges the additional burden to state extension services as a result of reclassification; however, the Agency considers this training to be necessary based on the acutely hazardous nature of chlorine gas, and based on review of the available incident data. The Agency relied primarily on case reports from the California Pesticide Illness Surveillance Program. A lack of proper training was the most common listed cause (when one was listed) in these reports. From Florida, several fatal incidents were also reported, including two fatalities at water treatment plants and eight from a train derailment.

As part of proposing to restrict the municipal water and sewage treatment and residential pool treatment uses, it

was also necessary for the Agency to examine how the states and industry would need to respond to these training requirements. State regulatory agencies, extension agents, and their regulatory partners, will need to determine if it is possible and beneficial to rely on existing training programs like water treatment certification. Some states have existing water treatment certification programs that could be considered equivalent for certified applicator training. In those cases, it would be possible for those states to modify existing categories and training programs to include the other uses of chlorine. The Agency is aware that this option may not be available to some states. The Agency will be working with the states and chlorine industry in developing new training and certification programs or modify relevant existing programs for the chlorine restricted uses categories.

The EPA is aware that the training and certification burden on states and industry will vary from state to state. Pennsylvania already regulates chlorine gas as a restricted use pesticide under state law. In some states, the water treatment operators may not be able to be exempted from the core pesticide training requirements, which are directed more to agricultural pesticides. The Agency does not consider the burden of training to be unreasonable given the acutely hazardous nature of chlorine gas, and the severity of some of the reported incidents. Chlorine is one of the few pesticides with reported deaths that is not currently restricted use. Many of the most severe non-fatal incidents reviewed and two of the three fatal incidents from the use of chlorine gas were associated with water treatment.

Since implementing the restricted use labeling will require legislative action on the part of many states, the Agency has extended the period in which the registrants may distribute and sell chlorine gas products bearing the existing unclassified labels/labeling until December 15, 2002, or 2 years after the publication of this notice. Persons other than the registrants may distribute or sell such products for an additional year or until December 15, 2003. After that date, all chlorine products must bear new labels.

The RED also stated that residential pool treatments would be an unclassified use. That decision was based on the lack of reported incidents for this use. EPA Region 9, however, stated that they were aware of several unreported incidents and suspected that incidents were under-reported for this use. The Agency is reclassifying this use as restricted based on the issues raised in Comment 1.

5. *Comment*: The RED does not specify whether repackaging of chlorine into 20 lb. cylinders will require a basic or supplemental registration.

Response: Supplemental registrations for residential pool treatment will be allowed.

6. *Comment*: Chlorine gas is highly toxic and some of the byproducts of water treatment are persistent and bioaccumulative. Alternative disinfectants are available and economically viable. EPA should do more to encourage chlorination alternatives to drinking water treatment, particularly ozonation.

Response: The Agency considers drinking water chlorination to be a critical public health use. The Agency will be requiring label improvements and handler training for all registered chlorine uses, including drinking water treatment. The Agency also required industry to provide data on several disinfection byproducts of drinking water chlorination. These data are intended to help further characterize potential risks associated with drinking water consumption. Should particular risks from chlorination be identified in the future, the Agency would take action at that time.

C. What Guidance Does this Notice Provide?

1. *Time extensions*. The Agency is granting a time extension for the submission of revised labeling. The revised labels are due to the Agency by December 15, 2000, and must be mailed to Wanda Mitchell, 7510C, USEPA, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Chlorine gas registrants should already have submitted all other requirements for the 8–month response. Because of the time needed for the states to develop training materials, programs and test materials, and establish the training categories, the Agency is extending until December 15, 2002, the date when the registrants sell and distribute only products bearing new labeling.

2. *Amended labeling requirements*. The Agency is revising the labeling requirements that were included in the Chlorine Gas RED. All labeling requirements originally included in the RED that have not been addressed in this notice remain in force. For the residential pool treatment use only, the amended label requirements are: You must add the following directions for use to product labels registered for swimming pool water treatment:

Do not use pool until the free active chlorine residual has dropped to 4 ppm as determined by a test kit. Pool owners must be made aware of the requirement not to enter the pool until the free active chlorine drops to 4 ppm. Trained personnel must instruct pool owners on how to use a test kit for this purpose.

3. *Training requirements*. Based on the comments received and an examination of the available regulatory responses, the Agency is now proposing to classify products which allow for water and sewage treatment and use in residential swimming pools as restricted use pesticides. All pesticidal uses of chlorine gas will become restricted use. Although water and sewage applicator certification exists in most states, it is not classified as a restricted use. It would only be possible to allow states the option of relying on this existing training program to satisfy the certified applicator training requirements for chlorine uses if water and sewage treatment is also classified as a restricted use. The Agency considers the additional regulatory burden on the states and industry to be reasonable based on chlorine's high acute toxicity and review of the available incident information.

D. What is the Agency's Authority for Taking this Action?

Pusuant to 40 CFR 152.170, EPA has the authority to reclassify uses and chemicals to restricted use. Reclassifying unclassified uses as restricted uses is one of the methods available to the Agency to address the risks associated with acutely hazardous pesticides. Chlorine gas is acutely toxic through all routes of exposure. This action will bring the remaining unclassified uses of chlorine gas up to parity with the other uses of chlorine and other acutely hazardous pesticides in general.

List of Subjects

Environmental protection, Administrative practice and procedure, Pesticides and pests.

Dated: September 11, 2000.

Lois A. Rossi,

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

[FR Doc. 00–23940 Filed 9–15–00 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6871–8]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Anne Arundel County Landfill Project XL Draft Final Project Agreement.

SUMMARY: EPA is today requesting comments on a draft Project XL Final Project Agreement (FPA) for Anne Arundel County, Severn, Maryland.

DATES: The period for submission of comments on the draft EPA ends on September 29, 2000.

ADDRESSES: All comments on the draft Final Project Agreement should be sent to: Ms. Sherri Walker, U.S. EPA, 1200 Pennsylvania Avenue, NW (1802), Washington, DC 20460. Comments may also be faxed to Sherri Walker at (202) 260–3125. Comments will also be received via electronic mail sent to walker.sherri@epa.gov.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the draft Final Project Agreement, contact: Charles Howland, US EPA, Region 3 (3RC41), 1650 Arch Street, Philadelphia, Pennsylvania 19103, or Sherri Walker, US EPA, Mail Code 1802, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. The FPA and related documents are also available via the Internet at the following location: ''http://www.epa.gov/ProjectXL''. In addition, project documents are located at EPA Region 3, at 1650 Arch Street, Philadelphia, Pennsylvania 19103. Questions to EPA regarding the documents can be directed to Charles Howland at (215) 744–2331 or Sherri Walker at (202) 260–4295. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, application information, and descriptions of existing XL projects and proposals, is available via the Internet at ''http://www.epa.gov/ProjectXL''.

SUPPLEMENTARY INFORMATION: The FPA is a voluntary agreement developed by Anne Arundel County, the State of Maryland, and EPA. Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated entities the opportunity to develop alternative strategies that will replace or modify specific regulatory requirements on the condition that they produce greater environmental benefits. If implemented, some of the superior environmental benefits that Anne Arundel County expects to achieve with this project include: rapid waste biodegradation and stabilization; improved leachate quality; increased gas yield and capture; reduction in the potential for uncontrolled releases of leachate to contaminate the groundwater, or gas to contaminate the air during the post-closure phase (should a containment system failure occur); increased lifespan of the landfill resulting in less need for construction of additional landfills; and reduced post-closure costs.

The terms and conditions pertaining to this XL pilot project are contained in the draft Final Project Agreement (FPA), on which EPA is requesting comment today. The draft FPA sets forth the intentions of EPA, Anne Arundel County, and the State of Maryland with regard to the implementation of the project and the expected benefits. After review of the comments received during the public comment period and revision of the FPA, as appropriate, the FPA will be signed by representatives from the EPA, the State of Maryland, and Anne Arundel County.

The legal implementing mechanism for this project will be a site-specific rule. The draft rule is scheduled for publication in the **Federal Register** for public review and comment in November 2000. The proposed rule would be ''conditional'' and would depend on implementation of the alternative design proposed today. Upon completion of the rulemaking, this design would be enforceable in the same way that current RCRA standards for landfills are enforceable to ensure that management of nonhazardous solid waste is performed in a manner that is protective of human health and the environment. The Final Project Agreement and the site-specific rule will not in any way affect the provisions or applicability of any other existing or future regulations.

Dated: September 13, 2000.

Elizabeth A. Shaw,

Director, Office of Environmental Policy Innovation.

[FR Doc. 00–24013 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6871–5]

Notice of Availability of Recommendations From the Task Force on Agricultural Air Quality Regarding Agricultural Burning and Voluntary Measures; Solicitation of Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The purpose of this notice is to provide the public with an opportunity to comment on the Agricultural Air Quality Task Force (AAQTF) recommendations regarding an air quality policy on agricultural burning and on a voluntary (incentive based) control measures policy to address RACM/BACM requirements for particulate matter (PM) nonattainment areas. Section 391 of the 1996 Federal Agriculture Improvement and Reform Act (FAIR) directs the Chief of the Natural Resource Conservation Service (NRCS) of the United States Department of Agriculture (USDA) to establish a task force to address agricultural air quality issues. The AAQTF includes representation from agricultural producers, air quality researchers, agricultural industry representatives, medical researchers and State air quality and USDA staff. On November 10, 1999, the AAQTF forwarded a series of recommendations to the USDA in response to implementing provisions of the Clean Air Act and the concerns of agricultural producers to retain the valid use of fire as a management tool in support of agricultural production. In February 2000, Secretary Glickman forwarded these recommendations to EPA Administrator Browner as written for consideration in the development of future policies impacting agricultural burning. The recommendations provide guidance on reducing air pollution impacts caused by burning in support of agricultural production. It identifies a two-tier approach to the regulation of agricultural burning by Agricultural Burning Managers. Along with these recommendations the AAQTF also submitted recommendations to the Administrator related to a voluntary (incentive based) control measures policy to address RACM/BACM requirements for agricultural operations in PM nonattainment areas.

The EPA is seeking public comment on both sets of AAQTF recommendations as it prepares to begin developing policies to address the air quality impacts of agricultural burning

and the use of USDA's incentive based programs/practices in meeting RACM/BACM requirements. Since the voluntary measures recommendations are relatively brief they have been included in this notice. The agricultural burning recommendations however are too lengthy to include here. To obtain copies of the agricultural burning recommendations via the Internet, use the following Internet address: http://www.nhq.nrcs.usda.gov/faca/aaqtf.html. This document can also be found at http://www.nhq.nrcs.usda.gov/faca/. To obtain hard copies call Robin Dunkins at 919–541–5335, or Elvis Graves at 919–541–5436.

DATES: Written comments, identified by Docket No. A–2000-22, must be received by EPA on or before November 17, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Gary Blais or Robin Dunkins, Integrated Policy and Strategies Group, Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711; telephone numbers: 919–541–3223 or 919–541–5335; e-mail addresses: *blais.gary@epa.gov* or *dunkins.robin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. How can I get additional information or copies of *this* document or other related documents?

1. *Electronically.* You may obtain electronic copies of this document and other related documents from the EPA internet home page at http://www.epa.gov/. To access this document, on the home page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In Person.* The Agency has established an official record for this action under docket control number A–2000-22. 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 EPA's Air and Radiation Docket and Information Center; 401 M Street SW; Room M–1500 (Mail Code 6102); Washington, DC 20460. The docket is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

II. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number A–2000–22 in the subject line on the first page of your response.

1. *By U.S. Postal Service.* Submit comments to: EPA Air and Radiation Docket and Information Center (Mail Code 6102), Attention: Docket No. A–2000–22, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, telephone (202) 260–7548.

2. *In Person or by Courier.* Deliver comments to: EPA Air and Radiation Docket and Information Center; 401 M Street SW; Room M–1500 (Mail Code 6102); Washington, DC 20460; Attention: Docket No. A–2000–22.

3. *Electronically.* Submit electronic comments by e-mail to: A–and–R–Docket@epamail.epa.gov. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by the docket control number A–2000–22. Electronic comments may also be filed online at many Federal Depository Libraries.

III. How Should I Handle CBI Information That I Want To Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

IV. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve this notice.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

V. Voluntary Compliance Program Recommendations—Introduction

Agricultural field operations are perceived to be significant sources of PM–10. In areas that are classified as nonattainment, states are required to bring the areas into attainment in a time frame specified by the Clean Air Act (CAA). If a time line is not met, the state is subject to penalties such as withholding of federal highway funds, offsets, and Federal Implementation Plans (FIPs).

In ''moderate'' and ''serious'' nonattainment areas, all area source agricultural operations that are perceived to contribute to the ambient concentration of PM–10 will be required to implement ''Reasonably Available Control Measures (RACM)'' and ''Best Available Control Measures (BACM),'' respectively. No current guidance exists on RACM and BACM for agricultural operations. The difficulties with

specifying control measures for area sources of PM–10 are the lack of good scientific data on the quantity of the PM-10 reductions associated with specific ''RACM/BACM.'' In order to appropriately develop guidance for agricultural operations, the following research is needed:

- Define appropriate and effective PM–10 control measures (potential RACM/BACMs) for agricultural operations that are economically and technologically feasible;
- Quantify PM–10 reductions resulting from the utilization of each proposed RACM/BACM; and
- Develop accurate emissions inventories for agricultural operations.

In the interim, States must include in their State Implementation Plans (SIPs) actions that will bring nonattainment areas into attainment within the time frame specified by the CAA. The Agricultural Air Quality Task Force (AAQTF) recommends that the available control measures (potential candidates for RACM/BACM) be based on the Conservation Management Practices (CMP) compiled by USDA.

VI. Voluntary Compliance Program Recommendations

The AAQTF considers that voluntary compliance programs are the appropriate strategy for agriculture. The AAQTF is proposing that voluntary compliance programs be used by air pollution regulatory agencies for reductions of PM–10 from agricultural operations in areas classified as nonattainment. The goal of these voluntary, incentive-based programs is to provide significant reductions of PM–10 emissions from agricultural operations while sustaining long-term agricultural production. In order for EPA to utilize this policy, the USDA incentive-based programs must include ''accountability'' and ''backstop provisions.'' ''Accountability'' would encompass verification of participation in the program by NRCS or ''appropriate agency.'' (''Farmers will self certify and NRCS will provide verification of percent application every third year or as appropriate.) Accountability would also include adequate recordkeeping of plans and participation by USDA. ''Backstop'' would be a failure to achieve participation credited in the SIP which would result in a ''SIP Call'' and could result in a regulatory approach by the state which could regulate individual agricultural operations.

Although the motivation for this program is to address PM–10 regulatory procedures, it is anticipated that this voluntary compliance program could also be used for other regulated pollutants attributed to agricultural operations.

As part of this program, the AAQTF proposes the following:

- A guidance document for agriculture production be developed that would include proposed RACM/BACMs and estimated reductions of PM–10 associated with implementation of each abatement strategy. It is anticipated that RACM/BACM will need to be determined on a site specific basis. (A RACM/BACM may be appropriate for one location and not appropriate for another.) Provisions will be made to facilitate the incorporation of current research findings into this guidance document.
- Local elected officials from the soil and water conservation districts as agreed to in the USDA/EPA Memorandum of Understanding (MOU) may administer the voluntary compliance program with technical assistance, education and training provided by the Natural Resources Conservation Service (NRCS), Cooperative State Research, Education, and Extension Service (CSREES), land grant universities, and the Agricultural Research Service (ARS).
- Appropriate resources should be provided to the local soil and water conservation districts and NRCS personnel.
- SIP credits should be allowed based on the rate of participation (percentage of land mass and/or percentage of cooperators participating) and should be based on certification by officials of the conservation district on an annual basis.
- There should be no additional record keeping and reporting requirements on the cooperators beyond that required by the USDA programs.
- The success of this policy will depend upon the states ability to comply with the SIP.
- If agricultural operations are utilizing economically and technologically feasible control measures, the intent of this policy is not to place demands that will result in adverse impacts on those cooperators.

Dated: September 6, 2000.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 00–23948 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[MT–001–0021 and SD–001–0009; FRL–6871–6]

Availability of Reports on Progress Made Toward the National Visibility Goal in Montana and South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Federal regulations require states to develop a long-term strategy for achieving the National goal of preventing any future and remedying any existing manmade visibility impairment in mandatory Class I Federal areas. The long-term strategy must be periodically reviewed, and revised as appropriate, and a report must be provided to the public and the EPA Administrator. Since Montana and South Dakota never adopted long-term strategies, EPA incorporated a federal long-term strategy into their State Implementation Plans (SIPs) which commits EPA to periodically review the strategies and report its findings to the public. EPA has conducted the required reviews and is announcing the availability of the reports.

In Montana, visibility data were available for about half of the 12 mandatory Class I Federal areas. There were no clear visibility improvement or degradation trends at any of the areas for which data were available. Although optical data for Glacier National Park showed no trend through 1996, there was an apparent decline in visibility in 1997. Additional data are required to determine if 1997 marks the beginning of a trend or represents an anomaly.

In South Dakota, visibility data were available for the two mandatory Class I Federal areas. Long-term trends for Badlands National Park are difficult to determine due to inconsistencies in the data, however, some data indicate a slight degradation on the most-impaired days. Although the results of this review are inconclusive, there is a particular need to monitor trends closely in this park.

New visibility monitoring sites are planned for installation at several Montana mandatory Class I Federal areas in the near future and other new visibility monitoring sites already have been installed in the region of the South Dakota Class I areas. Data from these and other existing monitoring sites will be useful in evaluating visibility impairment in future long-term strategy reviews.

EFFECTIVE DATE: September 18, 2000.

ADDRESSES: The reports are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202–2405. Interested persons should contact the person listed below to arrange a time to view these documents.

FOR FURTHER INFORMATION CONTACT: Amy Platt, Environmental Protection Agency, Region VIII, (303) 312–6449.

SUPPLEMENTARY INFORMATION: Section 169A of the Clean Air Act requires visibility protection for mandatory Class I Federal areas where visibility has been determined to be an important value. The National visibility goal set forth in Section 169A(a)(1) is to prevent any future and remedy any existing manmade visibility impairment in these mandatory Class I Federal areas.

The U.S. Environmental Protection Agency (EPA) promulgated regulations governing visibility on December 2, 1980 (codified in 40 CFR 51.300–51.307). These regulations include, among other things, requirements for states to revise their State Implementation Plans (SIPs) to ensure reasonable progress toward achieving the National visibility goal through the implementation of visibility monitoring, visibility new source review, and a long-term strategy (a 10–15 year plan for achieving the National visibility goal).

Neither Montana nor South Dakota adopted a visibility long-term strategy to meet the requirements of 40 CFR 51.306.

Therefore, on November 24, 1987 (see 52 FR 45132) EPA promulgated a new § 52.29 which incorporated a federal long-term strategy into the SIPs for Montana and South Dakota. This new section commits EPA to periodic reviews of the long-term strategy and reporting required by 40 CFR 51.306(c).

Under 40 CFR 52.29, EPA must conduct a periodic review, and revision if appropriate, of the long-term strategy. The resulting report on progress made toward the National visibility goal must be made available to the public. EPA has completed the review for Montana and South Dakota and is fulfilling the reporting requirements.

This notice today informs the public and identifies the appropriate

EPA regional office from which the public may gain further information and view the reports on progress made toward the National visibility goal in Montana and South Dakota.

Dated: September 12, 2000.

Carol M. Browner,

EPA Administrator.

[FR Doc. 00–23939 Filed 9–15–00; 8:45 am]

BILLING CODE 6560–50–U

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting

DATES AND TIME: Tuesday, September 26, 2000 at 1 p.m. (Eastern Time).

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, NW, Washington, DC 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED: *Open Session.*

1. Announcement of Notation Votes, and
2. EEOC's 35th Anniversary—Panel Discussions

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.) Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

This Notice Issued: September 14, 2000.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 00–24028 Filed 9–14–00; 2:11 pm]

BILLING CODE 6750–06–M

FEDERAL COMMUNICATIONS COMMISSION

[DA 00–2042]

800 MHz Specialized Mobile Radio (SMR) Service Frequencies in the Lower 80 Channels Pre-Auction Seminar Reminder; September 18, 2000

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces a free pre-auction seminar scheduled for Monday, September 18, 2000. This seminar will provide information about pre-auction procedures, service and auction rules, conduct of the auction, and the FCC remote bidding software.

DATES: September 18, 2000.

FOR FURTHER INFORMATION CONTACT: Linda Sanderson of the Auctions Operations Branch at (717) 338–2888, or for Press Inquiries, Meribeth McCarrick at (202) 418–0654.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released September 7, 2000. The complete text of the public notice, including the registration form, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800. It is also available on the Commission's web site at *http://www.fcc.gov*.

1. A free FCC pre-auction seminar for the 800 MHz Lower 80 Channels Auction (Auction No. 36) is scheduled for Monday, September 18, 2000. Interested parties must pre-register using the attached form or by calling the FCC. Registration will begin at 8:30 a.m. and the program will end by 2 p.m. The seminar will be held at the Federal Communications Commission, 445 12th Street SW, Washington, DC. Potential bidders in the auction are strongly encouraged to attend. This seminar provides an opportunity for hands-on demonstrations of the FCC filing and bidding software and access to the FCC staff responsible for the 800 MHz band licensing and auction conduct procedures.

The following is a timeline of the important events prior to the auction start date:

Deadline to register for Pre-Auction Seminar: September 15, 2000
Seminar Date: September 18, 2000
Short Form Application (FCC Form 175): September 29, 2000 6 p.m. EST
Upfront Payments (via wire transfer): October 16, 2000 6 p.m. EST
Orders for Remote Bidding Software: October 17, 2000 5:30 p.m. EST
Mock Auction: October 30, 2000
Auction Start Date: November 1, 2000

2. It is strongly advised that potential bidders review all public notices released for this auction prior to the seminar. To register for the seminar, please contact the FCC's Auctions Hotline at (888)–225–5322, Press Option #2, or directly at (717) 338–2888.

Federal Communications Commission.

Margaret Wiener,

Deputy Chief, Auctions and Industry Analysis Division.

[FR Doc. 00–23882 Filed 9–15–00; 8:45 am]

BILLING CODE 6712–02–U

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 October 12, 2000.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President), 33 Liberty Street, New York, New York 10045–0001:

1. Urban Financial Group, Inc., Bridgeport, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of The Community's Bank, Bridgeport, Connecticut.

B. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. PAB Bankshares, Inc., Valdosta, Georgia; to acquire 100 percent of the voting shares of Baxley Federal Savings Bank, Baxley, Georgia.

C. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer), 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Ogden BancShares, Inc., Ogden, Iowa; to acquire 100 percent of the voting shares of Ames Community Bank (in organization), Ames, Iowa.

2. Capitol Bankcorp, Ltd., Lansing, Michigan; Sun Community Bancorp Limited, Phoenix, Arizona; and Sunrise Capital Corporation, Albuquerque, New Mexico; all to acquire 51 percent of the voting shares of Sunrise Bank of San Diego (in organization), San Diego, California.

3. Capital Bancorp, Ltd., Lansing, Michigan, and Sun Community Bancorp Limited, Phoenix, Arizona; to acquire 51 percent of the voting shares of Yuma Community Bank (in organization), Yuma, Arizona.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–23829 Filed 9–15–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 2, 2000.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group), 101 Market Street, San Francisco, California 94105–1579:

1. Greater Bay Bancorp, Palo Alto, California; to acquire The Matsco Companies, Emeryville, California, and thereby engage in commercial lending and equipment lease financing, pursuant to § 225.28(b)(1), (2) and (3) of Regulation Y.

Board of Governors of the Federal Reserve System, September 12, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–23828 Filed 9–15–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), National Health Information Infrastructure Workgroup, Health Statistics for the 21st Century Workgroup.

Time and Date: October 30, 2000, 9 a.m.–5 p.m.

Place: The Canterbury Hotel, 750 Sutter Street, San Franscisco, CA 94109.

Status: Open.

Purpose: Two Workgroups of the NCVHS, the National Health Information Infrastructure Workgroup and the Health Statistics for the 21st Century Workgroup, are conducting a joint public hearing to solicit opinions from the public, including oral and written testimony, about the issues raised in two interim reports: ''Toward a National Health Information Infrastructure'' and ''Shaping a Vision for 21st Century Health Statistics.'' The interim reports may be downloaded from the NCVHS homepage at: *http://www.ncvhs.hhs.gov/* and all participants are encouraged to review them before the meeting.

The hearing will explore challenges to the development and implementation of a National Health Information Infrastructure (NHII). As envisioned in the interim report, the NHII is the set of technologies, standards, applications, systems, values, and laws that support all facets of individual health, health care, and public health. The broad goal of the NHII is to deliver information to individuals—consumers, patients, and professionals—when and where they need it, so they can use this information to make informed decisions about health and health care. Speakers invited by the NHII workgroup will discuss barriers to accomplishing the objectives described in the report, including financial and technical barriers to the NHII, along with recommendations for actions which could be taken by the Federal government and others to overcome constraints.

The hearing will also seek comments about major trends and issues in population health and their implications for future information needs described in the report, ''Shaping a Vision for 21st Century Health

Statistics.'' The report outlines themes that have emerged from national consultations involving health statistics users, public health providers, advocacy groups and health care providers at local, state, and Federal levels. Speakers invited by the 21st Century Workgroup will be asked to discuss specific local and state health statistics needs, specific means for generating private and public cooperation in defining health statistics needs and generating health statistics collaborations. Invited speakers will also be asked to provide specific comments and suggestions on the interim report, particularly as it relates to local and state health statistics needs and private and public cooperation.

The October hearing is the second of a series of joint public hearings to be conducted in several regions of the country through the fall of 2000 to solicit testimony on the reports. Information from the hearings will be incorporated in the final reports expected to be completed in early 2001.

Persons who would like to make a brief oral comment (3–5 minutes) during the October hearing will be placed on the agenda as time permits. To be included on the agenda, please submit testimony by October 13, 2000, to Patrice Upchurch at (301) 458–4540, by e-mail at pupchurch@cdc.gov, or postal address at NCHS, Presidential Building, Room 1100, 6525 Belcrest Road, Hyattsville, Maryland 20782. Persons wishing to submit written testimony only (no more than 2–3 typewritten pages) should also adhere to the due date of October 13, 2000. Testimony will also be accepted on-site as time permits. Please consult Ms. Upchurch for further information about these arrangements. Additional information about the meeting will be provided on the NCVHS homepage at: http//www.ncvhs.hhs.gov/ shortly before the meeting date.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS website: http://www.ncvhs.hhs.gov/.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 00–23913 Filed 9–15–00; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–00–50]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) is providing opportunity for public comment on proposed data collection projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Office at (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Questionnaire Design Research Laboratory (QDRL) 2001–2003, (OMB No. 0920–0222)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). The QDRL conducts pretesting activities related to the development of NCHS and other Federal survey questionnaires, such as the National Health Interview Survey (NHIS). These activities mainly involve use of the cognitive interview, in which volunteer respondents (''laboratory subjects'') are administered draft survey questions, and are asked to react to those questions. The cognitive interviewer notes sources of error in these questions, based on problems that subjects have in comprehending the questions and in attempting to recall the information requested. After several cycles of testing of small numbers of respondents (generally 10–12), and development of the questions between testing ''rounds,'' the questionnaires are improved to the point to which they are ready for field testing and household administration. QDRL staff are also engaged in the conduct of general questionnaire design research, in which survey questions are administered to laboratory subjects using different phrases, or under different administration modes (*e.g.,* face-to-face versus telephone), in order to determine the optimal means for presenting the questions. These investigative pretesting activities are now routinely used by NCHS and by other survey organizations for testing and development purposes, and result in high data quality at a minimal cost, especially in terms of respondent burden. We also support field testing on occasion to assure adequate pretesting of health survey instruments. There are no net cost to respondents because they receive remuneration.

Respondents	Number of respondents	Number of responses per respondent	Avg. burden response (in hours)	Response burden (hour)
2001 test volunteers	500	1	1.2	600
2002 test volunteers	500	1	1.2	600
2003 test volunteers	500	1	1.2	600
Total				600

Dated: September 12, 2000.

Nancy Cheal,

Acting Associate Director for Policy Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–23859 Filed 9–15–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1489]

Agency Information Collection Activities; Proposed Collection; Comment Request; Sterility Requirements for Aqueous-Based Drug Products for Oral Inhalation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting and recordkeeping requirements associated with sterility requirements for aqueous-based drug products for oral inhalation.

DATES: Submit written or electronic comments on the collection of information by November 17, 2000.

ADDRESSES: Submit electronic comments on the collection of information via the Internet at http://www.accessdata.fda.gov/scripts/oc/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Sterility Requirements for Aqueous-Based Drug Products for Oral Inhalation (formerly known and approved under Sterility Requirements for Inhalation Solution Products) (OMB Control No. 0910–0353)

Sections 314.70(b) and 314.97 (21 CFR 314.70(b) and 314.97) require that all aqueous-based drug products for oral inhalation, including those currently approved, be manufactured sterile. Respondents will be required to submit a supplemental application under § 314.70(b) or § 314.97, describing their new manufacturing process for achieving sterility of their aqueous-based drug products for oral inhalation. FDA needs this information to determine compliance with this new regulation and will use information collected to make decisions on approval of supplemental applications.

Based on new information collected by its contractor, ERG, FDA has revised its estimate of the number of respondents in the original proposal for reporting and recordkeeping burden. Because the respondents have changed, the estimate of the total hours have changed. In the proposed rule it was estimated that there were 5 manufacturers, while the final rule estimates there are 8 manufacturers with 11 nonsterile products based on new data collected by ERG. However, four of the manufacturers are projected to cease manufacturing, leaving four companies manufacturing seven products. These companies are projected to cease manufacturing because they may lack the in-house technical capability to convert their operations or might find the prospective investments in sterile production technologies to be unattractive. Because each nonsterile product will require an annual report (21 CFR 314.81(b)(2)(iv)), the number of annual responses for nonsterile products has increased to seven. Based on a review of FDA's past experience with applicants submitting supplemental applications under § 314.97, we estimate 160 hours to prepare a supplemental application. Therefore, due to the increased estimate of respondents, the total hours for the annual reporting burden for manufacturers of nonsterile products has increased from 800 hours in the proposed rule to 1,120 hours in the final rule. The agency's review of the estimated reporting burden for manufacturers of sterile products in the proposed rule and its experience with the annual reporting burden for manufacturers of sterile products supported the estimate provided in the proposed rule. Therefore, the estimated reporting burden for manufacturers of sterile products is the same as in the proposed rule.

Respondents to this information collection are businesses engaged in the manufacture of aqueous-based drug products for oral inhalation.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
314.97	7	1	7	160	1,120[2]
314.70	2	1	1	20	40[3]
Total					1,160

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Reporting burden for manufacturers of nonsterile products.
[3] Reporting burden for manufacturers of sterile products.

Because of the estimated increase from the proposed rule to the final rule in the number of respondents for nonsterile products, the number of recordkeepers in the recordkeeping burden of Table 2 has increased by two from the proposed rule. FDA estimated a total of seven recordkeepers in the proposed rule and now estimates a total of nine recordkeepers as a result of new data collected by ERG. The proposed rule estimated 2 hours per record, and FDA's review of that estimate and its experience with the control and validation of microbiological contamination supports this proposed estimate. Therefore, the total number of hours for the recordkeeping burden has increased from 14 hours to 18 hours.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
211.113(b)	9	1	9	2	18
Total					18

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 12, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–23890 Filed 9–15–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N 1246]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Food Safety Survey; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of August 18, 2000 (65 FR 50541). The document announced an opportunity for public comment on a proposed collection of information, concerning a food safety survey, that has been submitted to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1995. The notice published with an inadvertent error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In FR Doc. 00N–21007 appearing on page 50541 in the **Federal Register** of Friday, August 18, 2000, the following correction is made:

On page 50541, in the second column, under the heading ''Food Safety Survey (OMB Control Number 0910–0345)—Extension'', the phrase ''Under section 903(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(b)(2))'' is corrected to read ''Under section 903(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(d)(2))''.

Dated: September 12, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–23885 Filed 9–15–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91G–0253]

Procter & Gamble Co.; Withdrawal of GRAS Affirmation Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a petition (GRASP 1G0373) proposing to affirm that caprenin, a triglyceride derived from the esterification of glycerol with capric, caprylic, and behenic acids, is generally recognized as safe (GRAS) for use as a confectionery fat in soft candy and confectionery coatings.

FOR FURTHER INFORMATION CONTACT: Paulette M. Gaynor, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3079.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 8, 1991 (56 FR 37712) (correction published September 3, 1991 (56 FR 43648)), FDA announced that a

petition (GRASP 1G0373) had been filed by Procter & Gamble Co., 6300 Center Hill Rd., Cincinnati, OH 45224. This petition proposed that the use of caprenin, a triglyceride derived from the esterification of glycerol with capric, caprylic, and behenic acids, as a confectionery fat in soft candy and confectionery coatings be affirmed as GRAS. Procter & Gamble Co. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: August 30, 2000.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–23883 Filed 9–13–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of October 2000.

Name: Advisory Committee on Interdisciplinary, Community-Based Linkages.

Date and Time: October 10, 2000, 10 a.m.–5 p.m.; October 11, 2000, 10 a.m.–4 p.m.

Place: The Doubletree Hotel Park Terrace on Embassy Row, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

The meeting is open to the public.

The full Committee will meet beginning October 10 and adjourn on October 11, during the hours cited above. Agenda items will include, but not be limited to: Review and approval of the August 13–14, 2000, Committee meeting minutes; plenary discussion of programmatic challenges facing the seven federal programs to be reviewed by the Committee: Geriatrics Education and Training Programs, Allied Health Programs, the Quentin N. Burdick program for Rural Interdisciplinary Training, Area Health Education Centers, Health Education and Training Centers, Chiropractic, and Podiatric Medicine; introduction of Division of Interdisciplinary and Community-Based Program (DICP) staff supporting Committee activities and federal program management of the programs listed above; Committee team break-out meetings followed by plenary session outcomes reporting; discussion and planning of the Committee report due to the Secretary of Health and Human Services, the Committee on Health, Education, Labor and Pensions (formerly the Committee on Labor and Human Resources) of the Senate, and the Committee on Commerce of the House of Representatives by November 2001; and scheduling of the next Committee meeting, which shall include but not be limited to: the meeting date and location and discussion of topics to be addressed during the meeting.

Public comment will be permitted before lunch and at the end of the Committee meeting on October 11, 2000. Oral presentations will be limited to five minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, with a copy of their presentation to: Mr. Leo Wermers, Principal Staff Liaison, Division of Interdisciplinary, Community-Based Programs, Bureau of Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1648 or (301) 443–7121.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The Division of Interdisciplinary, Community-Based Programs will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file an advance request for a presentation, but wish to make an oral statement may register to do so at the Doubletree Hotel Park Terrace on October 10, 2000. These persons will be allocated time as the Committee meeting agenda permits.

Anyone requiring information regarding the Committee should contact Mr. Wermers, Division of Interdisciplinary, Community-Based Programs, Bureau of Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1648 or (301) 443–7121.

Proposed agenda items are subject to change as priorities dictate.

Dated: September 8, 2000.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–23818 Filed 9–15–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request: Evaluation of a Public Education Campaign on Drinking During Pregnancy

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, regarding the opportunity for public comment on proposed data collection projects, the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Evaluation of a Public Education Campaign on Drinking During Pregnancy. *Type of Information Collection Request:* New Collection. *Need and Use of Information Collection:* The evaluation is being conducted to determine whether the public education campaign on alcohol consumption during pregnancy raises awareness and attentiveness to the problems of drinking during pregnancy among the target audience of African American women ages 21–29 residing in Washington, DC. The public education campaign, funded by NIAAA, is in response to a need for increased awareness among African American women of childbearing age about the consequences of drinking during pregnancy, the most severe of which is Fetal Alcohol Syndrome (FAS). The two-year campaign will be launched during the spring of 2001, and will serve as a pilot program for possible replication in other communities across the country. The information from the evaluation of the public information campaign is to be used by NIAAA to inform policy and practice related to public education efforts targeted toward preventing drinking during pregnancy. The collection of information will take place at two points (pretest and posttest): (1) In the spring, 2001, prior to commencement of the public education campaign, to gather baseline data on knowledge of the effects of drinking during pregnancy; and (2) in the winter, 2003, immediately following the conclusion of the public education campaign, to determine whether the message to the target audience had its intended effect. The data collected will be analyzed to: (1) increase understanding about the extent of African American women's knowledge of the risks of drinking during pregnancy; (2) evaluate whether a public education campaign targeted towards African American women is effective in increasing awareness; and (3) assess the campaign's strengths and weaknesses in order to provide guidance to other similar public education campaigns.

The public education campaign and evaluation are new efforts that will continue for approximately two years. *Frequency of Response:* Once per respondent. Potential respondents will be screened to avoid including individuals in both the pre- and post-test intervals as well as including individuals multiple times in a single test interval. *Affected Public:*

Individuals. *Type of Respondents:* Adults.

The annual reporting burden is as follows: *Estimated Number of Respondents:* 400 at each of the two data collection points, for a total of 800 respondents. *Estimated Number of Responses per Respondent:* One response per respondent. *Average Burden Hours Per Response:* 5-minute response per individual, for a total respondent burden of 4045 minutes, including pilot test responses. *Estimated total Annual Burden Hours Requested:* 67.4 hours. There are no Costs to Respondents to report. There are no Capital Costs to report. There are no Operating or Maintenance costs to report.

Request for Comments: Written comments and suggestions from the public and affected agencies are invited on the following points: (1) Whether the data collection is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Ms Diane Miller, Scientific Communications Branch, Office of Scientific Affairs, NIAAA, NIH, Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD, 20892–7003 or e-mail your request, including your address to: dmiller@willco.niaaa.nih.gov. Ms. Miller can be contacted by telephone at 301–443–3860.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received on or before November 17, 2000.

Dated: September 10, 2000.

Stephen Long,

Executive Officer, NIAAA.

[FR Doc. 00–23844 Filed 9–15–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Advisory Board, September 11, 2000, 7 p.m. to September 13, 2000, 12:35 p.m., Bethesda Hyatt Regency, One Bethesda Metro, Bethesda, MD 20814 which was published in the **Federal Register** on August 22, 2000, 65 FR 51002.

The Subcommittee on Confidentiality scheduled for September 11, 2000 has been cancelled. The meeting is partially closed to the public.

Dated: September 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–23843 Filed 9–15–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Substance Abuse Prevention and Treatment Block Grant—45 CFR Part 96 (OMB No. 0930–0163; extension, no change)—This interim final rule provides guidance to States regarding the Substance Abuse Prevention and Treatment Block Grant legislation. The rule implements the reporting and recordkeeping requirements of 42 U.S.C. 300x21–35 and 51–64 by specifying the content of the States' annual report on and application for block grant funds. The reporting burden hours will be counted towards the total burden for the Substance Abuse Prevention and Treatment Block Grant Application Format (OMB No. 0930–0080) for which separate approval is obtained. The total annual reporting and recordkeeping burden estimate is shown below:

45 CFR Citation	Number of respondents	Responses/ respondent	Hours/ response	Total hour burden
Reporting Burden				
Annual Report:				
96.122(d)[1] due date	60	1	1	60
96.122(d)[2] extension request	60	1	1	60
96.122(f)	60	1	152	9,120
96.134(d)	60	1	16	960
State Plan:				
96.122(g)	60	1	162	9,720
96.124(c)(1)	60	1	40	2,400
96.127(b)	60	1	8	480
96.131(f)	60	1	8	480
96.133(a)	60	1	80	4,800

45 CFR Citation	Number of respondents	Responses respondent	Hours response	Total hour burden
Waivers:[2]				
96.132(d)	60	1	16	960
96.134(b)	60	1	40	2,400
96.135(d)	60	1	8	480
Total Reporting Burden	60	1		31,920
Recordkeeping Burden				
96.129(a)(13)	60	1	16	960

[1] This is a one-time burden associated with change of the due date for the annual report effective with the FY 2001 application.
[2] For the purpose of burden calculation, it is assumed that all States would apply for the extension requests associated with the Maintenance of Effort (MOE) and Synar requirements and for each waiver. In reality it is expected that only a small number will apply for most waivers.

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: September 12, 2000.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 00–23858 Filed 9–15–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

State Prevention Needs Assessments: Alcohol and Other Drugs—(OMB No. 0930–0185, Extension)—SAMHSA's Center for Substance Abuse Prevention (CSAP) has awarded contracts to eight States in cohorts III and IV of the State Prevention Needs Assessment Program to collect data to assess the nature and extent of substance abuse prevention services needs. The family of prevention needs assessment studies applies a core set of measures, instruments, and methodologies developed and standardized under prior State needs assessment state contracts. These needs assessment studies will permit cross-State comparison of risk and protection variables to assist State services planning and allocation of State Block Grant funds, and will assist Federal response to the Government Performance and Results Act (GPRA).

CSAP will seek an 8-month extension of OMB approval for the Virginia student survey to allow the second administration of the student survey and for completion of the Hawaii Community Resource Assessment survey. The annual response burden for this extension is as follows:

Respondent	Number of respondents	Average number of responses/ respondent	Average burden response (hours)	Total burden hours
Currently approved:				
Student Survey	27,120	1	.75	20,340
Young Adult Surveys	5,870	1	.50	2,935
Community Resource Assessment Studies	851	1	10	851
Special Population Studies	1,800	1	.50	900
Current Total	35,641			25,026
Virginia Student Survey Continuation	3,400	1	.75	2,550
Hawaii Community Resource Assessment	190	1	1.00	190
New Total	3,590			2,740

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

September 12, 2000.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 00–23864 Filed 9–15–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

Tobacco Regulation for Substance Abuse Prevention and Treatment—45 CFR Part 96 (OMB No. 0930–0165; extension, no change)—This final rule provides guidance to States regarding compliance with section 1926 of the Public Health Service Act related to sale and distribution of tobacco to minors. The final rule implements section 1926 by specifying the content of the State's annual report on the provisions of the rule and application for block grant funds. The reporting burden shown below represents the average total hours to assemble, format and produce the information for the block grant provision on minors' access to tobacco, in accordance with the requirements of 45 CFR Part 96. These burden hours will be counted towards the total burden for the annual Substance Abuse Prevention and Treatment Block Grant Application Format (OMB No. 0930–0080) for which separate approval is obtained.

45 CFR citation	Number of respondents	Responses/ respondent	Hours/ response	Total hour burden
Annual report:				
96.122(f)	59	1	0	[1]0
96.130(e)(1–3)	59	1	15	885
State Plan:				
96.122(g)(21)	0	0	0	[2]0
96.130(e)(4–5)	59	1	14	826
96.130(g)	59	1	5	295
Total			34	2,006

[1] This section describes requirements for the first applicable, which has passed for all States. Therefore, no burden is associated with this section.

[2] This section duplicates the information collection language in section 96.130(e). The burden is shown for 96.130(e).

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: September 12, 2000.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 00–23866 Filed 9–15–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10 (a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Permit No. TE–031898

Applicant: Sean Lema, Davis, California

The applicant requests a permit to take (capture and remove from the wild) Ash meadows pupfish *(Cyprinodon nevadensis mionectes)* in conjunction with research on the environmental influences on reproductive behavior and genetic variation throughout the species' range in California for the purpose of enhancing its survival.

Permit No. TE–031850

Applicant: Gretchen Morse, San Diego, California

The applicant requests a permit to take (harass by survey, collect and sacrifice) the Conservancy fairy shrimp *(Branchinecta conservatio)*, longhorn fairy shrimp *(Branchinecta longiantenna)*, vernal pool tadpole shrimp *(Lepidurus packardi)*, San Diego fairy shrimp *(Brachinecta sandiegonensis)*, and the Riverside fairy shrimp *(Streptocephalus woottoni)* in conjunction with surveys throughout each species' range in California for the purpose of enhancing their survival.

Permit No. TE–031841

Applicant: Laura Cholodenko, Oakland, California

The applicant requests a permit to take (harass by survey, collect and sacrifice) the Conservancy fairy shrimp *(Branchinecta conservatio)*, longhorn fairy shrimp *(Branchinecta longiantenna)*, vernal pool tadpole shrimp *(Lepidurus packardi)*, San Diego fairy shrimp *(Brachinecta sandiegonensis)*, and the Riverside fairy shrimp *(Streptocephalus woottoni)* in conjunction with surveys throughout

each species' range in California for the purpose of enhancing their survival.

Permit No. TE–031848

Applicant: Henry Ryan, Laguna Niguel, California

The applicant requests a permit to take (harass by survey, collect and sacrifice) the Conservancy fairy shrimp *(Branchinecta conservatio)*, longhorn fairy shrimp *(Branchinecta longiantenna)*, vernal pool tadpole shrimp *(Lepidurus packardi)*, San Diego fairy shrimp *(Brachinecta sandiegonensis)*, and the Riverside fairy shrimp *(Streptocephalus woottoni)* in conjunction with surveys throughout each species' range in California for the purpose of enhancing their survival.

Permit No. TE–006559

Applicant: Dale Allen Powell, Riverside, California

The applicant requests a permit to take (harass by survey, collect and sacrifice) the Conservancy fairy shrimp *(Branchinecta conservatio)*, longhorn fairy shrimp *(Branchinecta longiantenna)*, vernal pool tadpole shrimp *(Lepidurus packardi)*, San Diego fairy shrimp *(Brachinecta sandiegonensis)*, and the Riverside fairy shrimp *(Streptocephalus woottoni)* in conjunction with surveys throughout each species' range in California for the purpose of enhancing their survival.

Permit No. TE–032535

Applicant: Thomas Edell, San Luis Obispo, California

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher *(Empidonax traillii extrimus)* in conjunction with surveys throughout the species' range in California for the purpose of enhancing its survival.

Permit No. TE–814216

Applicant: Mark A. Holmgren, Santa Barbara, California

The permittee requests an amendment to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with surveys and monitoring activities throughout the species' range in California for the purpose of enhancing its survival.

Permit No. TE–031913

Applicant: Morgan Ball, Santa Barbara, California

The applicant requests a permit to take (harass by survey, locate and monitor nests, capture, mark, band, and release) the southwestern willow flycatcher (*Empidonax traillii extimus*) and take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with surveys and scientific research through out each species range in California for the purpose of enhancing their survival.

Permit No. TE–781377

Applicant: Jonathan N. Baskin, San Marino, California

The permittee requests an amendment to take (harass by survey, capture and handle) the Mohave tui chub (*Gila bicolor mohavensis*), Owens tui chub (*Gila bicolor snyderi*), desert pupfish (*Cyprinodon macularius*), arroyo toad (*Bufo microscaphus californicus*), and desert slender salamander (*Batrachoseps aridus*) in conjunction with presence or absence surveys for the purpose of enhancing their survival throughout each species' range. The permittee would also like to take (capture and handle; collect tissue samples) the California tiger salamander (*Ambystoma californiense*) in conjunction with presence or absence surveys and genetic research in Santa Barbara County, California for the purpose of enhancing its survival.

DATES: October 18, 2000.

ADDRESSES: Written data or comments should be submitted to the Chief—Endangered Species, Ecological Services, Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: September 8, 2000.

Rowan W. Gould,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 00–23857 Filed 9–15–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Redding Rancheria Liquor Licensing Ordinance

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice.

SUMMARY: This Notice publishes the Redding Rancheria Liquor Licensing Ordinance. The ordinance regulates the control of, the possession of, and the sale of liquor on the Redding Rancheria trust lands, and is in conformity with the laws of the State of California, where applicable and necessary. Although the ordinance was adopted on August 12, 1999, and amended on January 11, 2000, it does not become effective until published in the **Federal Register** because the failure to comply with the ordinance may result in criminal charges.

DATES: This ordinance is effective as of September 18, 2000.

FOR FURTHER INFORMATION CONTACT: Kaye Armstrong, Branch of Judicial Services, Division of Tribal Government Services, 1849 C Street NW, MS 4631–MIB, Washington, DC 20240–4001; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transaction in Indian country. The Redding Rancheria Licensing Ordinance, Resolution No. 08–12–99, was duly adopted by the Redding Rancheria Tribal Council on August 12, 1999. The Redding Rancheria, in furtherance of its economic and social goals, has taken positive steps to regulate retail sales of alcohol and use revenues to combat alcohol abuse and its debilitating effects among individuals and family members within the Redding Rancheria Reservation.

This notice is being published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.

I certify that by Resolution No. 08–12–99, the Redding Rancheria Liquor Licensing Ordinance, was duly adopted by the Redding Rancheria Tribal Council on August 12, 1999.

Dated: September 6, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

The Redding Rancheria Liquor Licensing Ordinance, Resolution No. 08–12–99, reads as follows:

Redding Rancheria Liquor Licensing Ordinance

The Redding Rancheria Indian Tribe (Tribe), a federally recognized Indian tribe hereby enacts the following ordinance to regulate and promulgate rules for issuing licenses for the sale, distribution and consumption of alcoholic beverages on the Redding Rancheria. This ordinance shall be known as the ''Liquor Licensing Ordinance.'' This ordinance and any regulations promulgated thereunder shall constitute the entire liquor licensing regulations for the Tribe.

Findings and Policy

The Tribe finds that:

1. Under the Constitution of the Tribe, the Council is charged with the duty of protecting the health, education, and general welfare of the Tribe.
2. The introduction, possession and sale of alcoholic beverages on the Redding Rancheria are a matter of special concern to the Tribe.
3. Federal law leaves to tribes the decision regarding when and to what extent alcoholic beverage transactions shall be permitted on Indian reservations.
4. Present day circumstances make a complete ban on alcoholic beverages within the Redding Rancheria ineffective and unrealistic. At the same time, a need still exists for strict tribal regulation and control over alcoholic beverage distribution.
5. The enactment of a tribal ordinance governing alcoholic beverage sales on the reservation and providing for the purchase and sale of alcoholic beverages through tribally licensed outlets will increase the ability of the tribal government to control the distribution, sale and possession of liquor on the reservation, and at the same time will provide an important and urgently needed source of revenue for the continued operation of the tribal government and delivery of tribal governmental services.

The Council hereby declares that the policy of the Tribe is to eliminate the evils of unlicensed and unlawful manufacture, distribution, and sale of alcoholic beverages on the reservation and to promote reasonable use and consumption of alcoholic beverages by increasing tribal control over the possession and distribution of alcoholic beverages on the reservation.

Now, Therefore, Tribal Council of the Redding Rancheria hereby ordains as follows:

Chapters

1. Purpose
2. General Provisions
3. Definitions
4. Prohibition of the Unlicensed Sale of Liquor
6. Applications for Licenses
8. Issuance, Renewal and Transfer of Licenses
10. Revocation of Licenses
12. Enforcement
14. Severability
15. *Rice* v. *Rehner*
16. Effective Date

Chapter 1. Purpose

The purpose of this ordinance is to establish rules and regulations regarding the reasonable use and consumption of alcoholic beverages on the Redding Rancheria.

Chapter 2. General Provisions

Section 2000. *Short title.* This ordinance shall be known and cited as the ''Redding Rancheria Liquor Licensing Ordinance.''

Section 2100. *Purpose.* The purpose of this ordinance is to prohibit the importation, manufacture, distribution and sale of alcoholic beverages on the reservation except pursuant to a license issued by the Council under the provisions of this ordinance.

Section 2200. *Sovereign immunity preserved.* Nothing in this ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Tribe. No officer or employee of the Redding Rancheria is authorized nor shall he/she attempt to waive the immunity of the Tribe under the provisions of this ordinance unless such officer or employee has an expressed and explicitly written authorization from the Council.

Section 2300. *Applicability within the reservation.* This ordinance shall apply to all persons within the boundaries of the reservation consistent with the applicable federal Indian liquor laws.

Section 2400. *Interpretation and findings.* The Redding Rancheria Tribal Council may interpret any ambiguities contained in this ordinance.

Section 2500. *Conflicting provisions.* Whenever any conflict occurs between the provisions of this ordinance or the provisions of any other ordinance of the Tribe, the stricter of such provisions shall apply.

Section 2600. *Application of 18 U.S.C. 1161.* The importation, manufacture, distribution and sale of alcoholic beverages on the reservation shall be in conformity with this ordinance and in conformity with the laws of the State of California as that phrase or term is used in 18.U.S.C. 1161.

Chapter 3. Definitions

In construing the provisions of this ordinance, the following words or phrases shall have the meaning designated unless a different meaning is expressly provided or the context clearly indicates otherwise.

Section 3000. *Alcohol* means ethyl alcohol, hydrated oxide of ethyl or spirits of wine, from whatever source or by whatever process produced.

Section 3050. *Alcoholic beverage* includes all alcohol, spirits, liquor, wine, beer, and any liquid or solid containing alcohol, spirits wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes whether alone or when diluted, mixed, or combined with other substances. It shall be interchangeable in this ordinance with the term ''liquor.''

Section 3100. *Beer* shall mean any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof in water, and includes ale, porter, brown, stout, lager beer, small beer, and strong beer, and also includes sake, otherwise known as Japanese rice wine.

Section 3150. *Wine* shall mean the product obtained from the normal alcoholic fermentation of the juice of the grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made, and other rectified wine products.

Section 3200. *Distilled spirits* shall mean any alcoholic beverage obtained by the distillation of fermented agricultural products, and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof.

Section 3250. *Importer* means any person who introduces alcohol or alcoholic beverages into the Redding Rancheria from outside the exterior boundaries of the reservation for the purpose of sale or distribution within the reservation; provided, however, the term importer as used herein shall not include a wholesaler licensed by any state or tribal government selling alcoholic beverages to seller licensed by a state or tribal government to sell at retail.

Section 3300. *Liquor license* shall mean a license issued by the Redding Rancheria Tribal Council under the provisions of this ordinance authorizing the sale, manufacture, or importation of alcoholic beverages on or within the reservation consistent with federal law.

Section 3350. *Manufacturer* shall mean any person engaged in the manufacture of alcohol or alcoholic beverages.

Section 3400. *Person* shall mean any individual, whether Indian or non-Indian, receiver, assignees, trustee in bankruptcy, trust, estate, firm, partnership, joint corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise, and any other Indian tribe, band or group, whether recognized by the United States Government or otherwise. The term shall also include the businesses of the Tribe. It shall be interchangeable in this ordinance with the term ''seller'' or ''licensee.''

Section 3450. *Reservation* shall mean all lands within the boundaries of the Redding Rancheria and such other lands as may hereafter be acquired by the Tribe, whether within or without said boundaries, under any grant, transfer, purchase, gift, adjudication, executive order, Act of Congress, or other means of acquisition.

Section 3500. *Sale* shall mean the exchange of property and/or any transfer of the ownership of, title to, or possession of property for a valuable consideration, exchange or barter, in any manner or by any means whatsoever. It includes conditional sales contracts, leases with options to purchase, and any other contract under which possession of property is given to the purchaser, buyer, or consumer but title is retained by the vendor, retailer, manufacturer, or wholesaler, as security for the payment of the purchase price. Specifically, it shall include any transaction whereby, for any consideration, title to alcoholic beverages is transferred from one person to another, and includes the delivery of alcoholic beverages, or soliciting or receiving such beverages, distilled spirits, beer, or wine.

Section 3550. *Seller* shall mean any person whom, while within the boundaries of the reservation, sells, solicits or receives an order for any alcohol, alcoholic beverages, distilled spirits, beer, or wine.

Section 3600. *Tribal Council* or *Council* shall mean the Redding Rancheria Tribal Council.

Chapter 4. Prohibition of the Unlicensed Sale of Liquor

Section 4000. *Prohibition of the Unlicensed Sale of Liquor.* No person shall import for sale, manufacture, distribute or sell any alcoholic beverages within the reservation without first applying for and obtaining a written license from the Council issued in accordance with the provisions of this ordinance.

Section 4100. *Authorization to Sell Liquor.* Any person applying for and obtaining a liquor license under the provisions of this ordinance shall have the right to engage only in those liquor transactions expressly authorized by such license and only at those specific places or areas designated in said license.

Section 4200. *Types of Licenses.* The Council shall have the authority to issue the following types of liquor licenses within the reservation:

(a) *Retail on-sale general license.* A license authorizing the applicant to sell alcoholic beverages at retail to be consumed by the buyer only on the premises or at the location designated in the license;

(b) *Retail on-sale beer and wine license.* A license authorizing the applicant to sell beer and wine at retail to be consumed by the buyer only on the premises or at the location designated in the license;

(c) *Retail off-sale general license.* A license authorizing the applicant to sell alcoholic beverages at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license;

(d) *Retail off-sale beer and wine license.* A license authorizing the applicant to sell beer and wine at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license; and (e) *Manufacturers license.* A license authorizing the applicant to manufacture alcoholic beverages for the purpose of sale on the reservation.

Chapter 6. Application for Licenses

Section 6000. *Application form and content.* An application for a license shall be made to the Council and shall contain the following information:

(a) The name and address of the applicant. In the case of a corporation, the names and addresses of all of the principal officers, directors and stockholders of the corporation. In the case of a partnership, the name and address of each partner;

(b) The specific area, location and/or premises for which the license is applied for;

(c) The type of liquor transaction applied for (i.e., retail on-sale general license, etc.);

(d) Whether the applicant has a state liquor license;

(e) A statement by the applicant to the effect that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this ordinance or any of the provisions of the California Alcoholic Beverage Control Act;

(f) The signature and fingerprint of the applicant. In the case of a partnership, the signature and fingerprint of each partner. In the case of a corporation, the signature and fingerprint of each of the officers of the corporation under the seal of the corporation; and

(g) The application shall be verified under oath, notarized and accompanied by the license fee required by this ordinance.

Section 6100. *Fee accompanying application.* The Council shall by resolution establish a fee schedule for the issuance, renewal and transfer of the following types of licenses:

(a) Retail on-sale general license;

(b) Retail on-sale beer and wine license;

(c) Retail off-sale general license;

(d) Retail off-sale beer and wine liquor; and

(e) Manufacturers license.

Section 6200. *Investigation; denial of application.* Upon receipt of an application for the issuance, transfer or renewal of a license and the application fee required herein, the Council shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied for qualify, whether the provisions of this ordinance have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The Council shall deny an application for issuance, renewal or transfer of a license if either the applicant or the premises for which a license is applied for does not qualify for a license under this ordinance, or if the applicant has misrepresented any facts in the application or given any false information to the Council in order to obtain a license.

The Council further may deny any application for issuance, renewal or transfer of a license if the Council cannot make the findings required by Section 8100 of this ordinance or the Council finds that the issuance of such a license would tend to create a law enforcement problem, or if issuance of said license would be a detriment to the

health, safety and welfare of the Tribe or its members.

Chapter 8. Issuance, Renewal and Transfer of Licenses

Section 8000. *Public hearing.* Upon receipt of an application for issuance, renewal or transfer of a license, and the payment of all fees required under this ordinance, the Secretary of the Council shall set the matter for a public hearing. Notice of the time and place of the hearing shall be given to the applicant and the public at least ten (10) calendar days before the hearing. Notice shall be given to the applicant by prepaid U.S. mail at the address listed in the application. Notice shall be given to the public by publication in a newspaper of general circulation sold on the reservation. The notice published in the newspaper shall include the name of the applicant and the type of license applied for and a general description of the area where liquor will be sold. At the hearing, the Council shall hear from any person who wishes to speak for or against the application. The Council shall have the authority to place time limits on each speaker and limit or prohibit repetitive testimony.

Section 8100. *Council action on the application.* Within thirty (30) days of the conclusion of the public hearing, the Council shall act on the matter. The Council shall have the authority to deny, approve or approve with conditions the application. Before approving the application, the Council shall find: (1) that the site for the proposed premises has adequate parking, lighting, security and ingress and egress so as not to adversely affect adjoining properties or businesses, and (2) that the sale of alcoholic beverages at the proposed premises is consistent with the Tribe's Zoning Ordinance.

Upon approval of an application, the Council shall issue a license to the applicant in a form to be approved from time-to-time by the Council by resolution. All businesses shall post their tribal liquor licenses issued under this ordinance in a conspicuous place upon the premises where alcoholic beverages are sold, manufactured or offered for sale.

Section 8200. *Multiple locations.* Each license shall be issued to a specific person. Separate licenses shall be issued for each of the premises of any business establishment having more than one location. In the case of the sale of alcoholic beverages on boats, a separate license shall be issued for each boat regardless of the fact that the boats are moored at one location or owned by one person.

Section 8300. *Term of license. Temporary licenses.* All licenses issued by the Council shall be issued on a calendar year basis and shall be renewed annually; provided, however, that the Council may issue special licenses for the sale of alcoholic beverage on a temporary basis for premises temporarily occupied by the licensee for a picnic, social gathering or similar occasion at a fee to be established by the Council by resolution.

Section 8400. *Transfer of licenses.* Each license issued or renewed under this ordinance is separate and distinct and is transferable from the licensee to another person and/or from one premises to another premises only with the approval of the Council. The Council shall have the authority to approve, deny or approve with conditions any application for the transfer of any license. In the case of a transfer to a new person, the application for transfer shall contain all of the information required of an original applicant under Section 6000 of this ordinance. In the case of a transfer to a new location, the application shall contain an exact description of the location where the alcoholic beverages are proposed to be sold.

Section 10. Revocation of Licenses

Section 10000. *Revocation of license.* The Council shall revoke a license upon any of the following grounds:

(a) The misrepresentation of a material fact by an applicant in obtaining a license or a renewal thereof;

(b) The violation of any condition imposed by the Council on the issuance, transfer or renewal of license;

(c) A plea, verdict, or judgment of guilty, or the plea of nolo contendere to any public offense involving moral turpitude under any federal or state law prohibiting or regulating the sale, use, possession, or giving away of alcoholic beverages or intoxicating liquors;

(d) The violation of any tribal ordinance; and

(e) The failure to take reasonable steps to correct objectionable conditions on the licensed premises or any immediate adjacent area leased, assigned or rented by the licensee constituting a nuisance within a reasonable time after receipt of a notice to make such corrections has been received from the Council or its authorized representative.

Section 10100. *Accusations.* The Council on its own motion through the adoption of an appropriate resolution meeting the requirements of this section or any person may initiate revocation proceedings by filing an accusation with the Secretary of the Council.

(a) The accusation shall be in writing and signed by the maker, and shall state facts showing that there are specific grounds under this ordinance which would authorize the Council to revoke the license or licenses of the licensee against whom the accusation is made.

(b) Upon receipt of an accusation, the Secretary of the Council shall cause the matter to be set for a hearing before the council.

(c) Thirty (30) days prior to the date set for the hearing, the Secretary shall mail a copy of the accusation along with a notice of the day and time of the hearing before the Council. The notice shall command the licensee to appear and show cause why the licensee's license should not be revoked. The notice shall state that the licensee has the right to file a written response to the accusation, verified under oath and signed by the licensee 10 days prior to the hearing date.

Section 10200. *Hearing.* Any hearing held on any accusation shall be held before a majority of the Council under such rules of procedure as it may adopt. Both the licensee and the person filing the accusation, including the Tribe, shall have the right to present witnesses to testify and to present written documents in support of their positions to the Council. The Council shall render its decision within sixty (60) days after the date of the hearing. The decision of the Council shall be final and non-appealable.

Chapter 12. Enforcement

Section 12000. *General Penalties.* Any person adjudged to be in violation of this ordinance shall be subject to a civil penalty of not more than Five Hundred Dollars ($500) for each such violation. The Council may adopt by resolution a separate schedule of fines for each type of violation, taking into account its seriousness and the threat it may pose to the general health and welfare of tribal members. Such schedule may also provide, in the case of repeated violations, for imposition of monetary penalties greater than the Five Hundred Dollars ($500) limitation set forth above. The penalties provided for herein shall be in addition to any criminal penalties which may hereafter be imposed under a separate ordinance adopted by the Council.

The penalties provided for herein shall be in addition to any criminal penalties which may hereafter be imposed in conformity with federal law by separate chapter of provision of this ordinance or by a separate ordinance of the Redding Rancheria Code.

Section 12100. *Initiation of action.* Any violation of this ordinance shall

constitute a public nuisance. The Council may initiate and maintain an action in tribal court or any court of competent jurisdiction to abate and permanently enjoin any nuisance declared under this ordinance. Any action taken under this section shall be in addition to any other penalties provided for this ordinance.

Chapter 14. Severability

If any part or provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to persons or circumstances, shall not be affected thereby and shall continue in full force and affect. To this end, the provisions of this ordinance are severable.

Chapter 15. Rice v. Rehner

All provisions of this ordinance shall comply with the ruling of the United States Supreme Court Case, *Rice* v. *Rehner* (463 U.S. 713 1983).

Chapter 16. Effective Date

This ordinance shall be effective on such date as the Secretary of the Interior certifies this ordinance and publishes the same in the **Federal Register**.

[FR Doc. 00–23915 Filed 9–15–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–020–1020–DE; G 0–0365]

Meeting Notice for the Southeast Oregon Resource Advisory Council

AGENCY: Bureau of Land Management (BLM), Burns District.

SUMMARY: The Southeast Oregon Resource Advisory Council (SEORAC) will meet at the Bureau of Land Management (BLM), Lakeview Interagency Office, HC 10 Box 337, 1300 South ''G'' Street, Lakeview, Oregon, 97630, 8 a.m. to 5 p.m., Pacific Daylight Time (PDT), on Thursday, October 19, 2000, and conduct a resource-related field tour from 8 a.m. to 4 p.m., PDT, on Friday, October 20, 2000. Topics to be discussed by the Council include the Lakeview Resource Management Plan update, the Steens Mountain Designation update, Wild Horse and Burro funding/priorities, Fremont National Forest road maintenance, set dates for SEORAC 2001 meetings, and such other matters as may reasonably come before the Council. The entire meeting is open to the public. Public comment is scheduled for 11 a.m. to 11:30 a.m., PDT, on Thursday, October 19, 2000.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the SEORAC may be obtained from Holly LaChapelle, Resource Assistant, Burns District Office, HC 74–12533 Hwy 20 West, Hines, Oregon, 97738, (541) 573–4501, or *Holly_LaChapelle@or.blm.gov* or from the following web site <*http://www.or.blm.gov/SEOR-RAC*>.

Dated: September 11, 2000.

Thomas H. Dyer,

Burns District Manager.

[FR Doc. 00–23878 Filed 9–15–00; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intent To Renew Request for Clearance of Information Collection, Backcountry Use Permit, Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3507) the National Park Service (NPS) invites public comment on a request for renewal of the information collection requirements of NPS Standard Form 10–404, Backcountry Use Permit. The Permit was initially authorized under OMB Control No. 1024–0022. The Backcountry Use Permit is the primary form used to provide access into NPS backcountry areas including those areas that require a reservation to enter or where use limits are imposed in accordance with other NPS regulations. Such permitting enhances hazard warnings, search and rescue efforts and resource protection.

DATES: Public comments will be accepted until November 17, 2000.

ADDRESSES: Send comments to Kym Hall, National Park Service, Ranger Activities Division, 1849 C Street NW, Room 7413, Washington, D.C. 20240. Fax: (202) 208–6756. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval.

FOR FURTHER INFORMATION: Or to receive a copy, free of charge, of the proposed information collection document (Backcountry Use Permit) contact Kym Hall, Regulations Program Manager, at (202) 208–4206 or email Kym_Hall@nps.gov.

SUPPLEMENTARY INFORMATION: In 1976, the NPS initiated a backcountry registration system in accordance with the regulations found at 36 CFR 1.5, 1.6 and 2.10. The objective of the backcountry use permit system is to provide campers access to backcountry areas of national parks with continuing opportunities for solitude, while enhancing resource protection and providing a means of disseminating public safety messages regarding backcountry travel.

NPS backcountry program managers, by designating access routes and overnight camping locations, can redistribute campers in response to user impact, high fire danger, flood or wind hazard, bear activity or other situations that may temporarily close a portion of the backcountry. The NPS may also use the permit system as a means of ensuring that each backcountry user receives up-to-date information on backcountry sanitation procedures, food storage, wildlife activity, trail conditions and weather projections so that concerns for visitor safety are met.

The Backcountry Use Permit is an extension of the NPS statutory authority responsibility to protect the park areas it administers and to manage the public use thereof (16 U.S.C., Sections 1 and 3). NPS regulations codified in 36 CFR Parts 1 through 7, 12, and 13, are designed to implement statutory mandates that provide for resource protection and public enjoyment.

Estimated annual number of respondents: 295,339.

Estimated annual number of responses: 295,339.

Estimated average burden hours per response: 5 minutes.

Estimated frequency of response: The collection information must be provided each time a visitor or group wants to enter into the park's backcountry overnight. Frequency of response will depend on number of visits to a park annually.

Estimated annual reporting burden: 24,612 hours per year.

The NPS specifically invites public comments as to:

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

b. The accuracy of the Service's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

c. The quality, utility, and clarity of the information to be collected; and

d. How to minimize the burden of the collection of information on those who are to respond, including the use of

appropriate automated, electronic, mechanical, or other forms of information technology.

Dated: September 8, 2000.

Betsey Chittenden,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 00–23875 Filed 9–15–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Notice of Cancellation and Notice of Change of Meeting Date

Notice is hereby given in accordance with the Federal Advisory Committee Act that the meetings of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission previously scheduled for Tuesday, October 24, 2000 and Tuesday, December 26, 2000 at Building 201, Fort Mason, Bay and Franklin Streets, San Francisco, California are cancelled. The Advisory Commission, however, will meet on Tuesday, October 17, 2000 at Building 201, Fort Mason, Bay and Franklin Streets, San Francisco, California.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties. Current members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Amy Meyer, Vice Chair
Ms. Lennie Roberts
Dr. Edgar Wayburn
Mr. Michael Alexander
Mr. Gordon Bennett
Ms. Anna-Marie Booth
Ms. Yvonne Lee
Ms. Susan Giacomini Allan
Mr. Trent Orr
Mr. Redmond Kernan
Mr. Doug Nadeau
Ms. Betsey Cutler
Mr. Trent Orr
Mr. Dennis Rodoni
Mr. John J. Spring
Mr. Mel Lane
Mr. Fred Rodriguez

Information confirming the time and location of all Advisory Commission meetings or further cancellations of any meetings can be received by calling the Office of the Staff Assistant at (415) 561–4733.

These meetings will contain a Superintendent's Report and a Presidio Trust Director's Report.

Specific final agendas for these meetings will be made available to the public at least 15 days prior to each meeting and can be received by contacting the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123 or by calling (415) 561–4733.

These meetings are open to the public. They will be recorded for documentation and transcribed for dissemination. Minutes of the meetings will be available to the public after approval of the full Advisory Commission. A verbatim transcript will be available three weeks after each meeting. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: September 7, 2000.

Brian O'Neill,

General Superintendent, Golden Gate National Recreation Area.

[FR Doc. 00–23870 Filed 9–15–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

SUMMARY: The Superintendent of Lake Clark National Park and Preserve and the Chair of the Lake Clark Subsistence Resource Commission announce a forthcoming meeting of the Subsistence Resource Commission for Lake Clark National Park. The following agenda items will be discussed:

(1) Call to order.
(2) Roll call—Confirm Quorum.
(3) Introductions.
(4) Superintendent's Welcome.
(5) Additions, corrections and agenda approval.
(6) Approval of SRC meeting minutes—February 29, 2000.
(7) SRC Purpose and Role.
(8) Status of Membership.
(9) Park Subsistence Coordinator's Report.
(10) Report on Federal Subsistence Board.
  (a) Actions taken on proposals.
  (b) Rural Status for Kenai.
  (c) Call For Proposals.
(11) Old Business.
  (a) Approval of Lake Clark Subsistence management plan.
  (b) Call for Proposals.
(12) Federal Subsistence Fisheries Management Report.
(13) Agency Reports and Public Comments.
(14) SRC Work Session—Prepare correspondence/recommendations.
(15) Set time and place of next meeting.
(16) Adjournment.

DATES: The meeting will begin at 10 a.m. on Thursday, October 5, 2000 and conclude around 4:30 p.m.

LOCATION: The meeting will be held at the Iliamna Community Hall, Iliamna, Alaska 99606 Phone (907) 571–1246.

FOR FURTHER INFORMATION CONTACT: Lee Fink, Chief of Operations, 4230 University Drive, Suite 311, Anchorage, Alaska 99508, Phone (907) 271–3751 or Karen Stickman, Subsistence Coordinator, 1 Park Place, Port Alsworth, Alaska 99653, Phone (907) 781–2218.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act. Note that under the Freedom of Information Act (FOIA), transcripts of any person giving public comments may be made available under a FOIA request.

Kevin Apgar,

Acting Regional Director.

[FR Doc. 00–23877 Filed 9–15–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 9, 2000.

Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC

20240. Written comments should be submitted by October 3, 2000.

Beth Savage,

Acting, Keeper of the National Register.

CALIFORNIA

Los Angeles County

Atchinson, Topeka, and Santa Fe Railway Steam Locomotive No. 3751, 2435 E. Washington Blvd., Los Angeles, 00001178

San Diego County

Temple Beth Israel, 2504–2512 Third Ave., San Diego, 00001179

Sonoma County

Sonoma State Home—Main Building, 15000 Arnold Dr., Eldridge, 00001180

KANSAS

Franklin County

Ottawa High School and Junior High School, 526 and 506 S. Main St., Ottawa, 00001188

NEW YORK

Richmond County

Church of St. Andrew, Arthur Kill and Old Mill Rds., Staten Island, 00001187

NORTH CAROLINA

Avery County

Banner Elk Hotel, 309 Banner St., Banner Elk, 00001182

Henderson County

Grey Hosiery Mill, 301 Fourth Ave. E, Hendersonville, 00001189

Moore County

Phillips, John Evander, House, NC 24/27, 0.3 mi outside Cameron, Cameron, 00001184

New Hanover County

Tinga Nursery, US 117, 0.62 mi. N of jct. with NC 132, Wrightsboro, 00001185

Pitt County

Cox—Ange House, 113 N. Church St., Winterville, 00001181

Wake County

Walnut Hill Historic District, (Wake County MPS) Along Mial Plantation Rd., jct with Major Slade Rd. and Smithfield Rd., Knightdale, 00001183

Warren County

Skinner, Dr. Charles and Susan, House and Outbuildings, NC 1528, 0.25 mi. SW of NC 158, Littleton, 00001186

WISCONSIN

St. Croix County

Kinnickinnic Church, WI J, jct. with WI JJ, Kinnickinnic, 00001190

WYOMING

Laramie County

Federal Office Building—Cheyenne, 308 W. 21st St., Cheyenne, 00001191

A Request for *Removal* has been made for the following resource:

ARIZONA

Maricopa County

Archeological Site No. AZ U:10:77 (ASM) (Hohokam and Euroamerican Land Use and Settlement Along the Northern Queen Creek Delta MPS), Address Restricted, Mesa 95000749

[FR Doc. 00–23874 Filed 9–15–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Haffenreffer Museum of Anthropology, Brown University, Bristol, RI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003(d), of the completion of an inventory of human remains and associated funerary objects in the possession of the Haffenreffer Museum of Anthropology, Brown University, Bristol, RI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the Haffenreffer Museum professional staff in consultation with representatives of the Penobscot Tribe of Maine, Aroostook Band of Micmac Indians of Maine, Houlton Band of Maliseet Indians of Maine, and the Passamaquoddy Tribe of Maine, collectively identified hereafter as the Wabenaki Tribes of Maine.

Before 1860, human remains representing one individual (HUM-111) were excavated by Alpheus S. Packard at a site of unknown location in Merepoint, Brunswick, ME. Around 1860, Brown University Department of Geology acquired human remains removed from this site. In 1957, these human remains were transferred to the Haffenreffer Museum, Brown University. No known individual was identified. No associated funerary objects are present.

Catalog records indicate that the site was a shell mound dating to the 16th-17th century. Based on the date and context of the site, this individual has been identified as Native American. Oral history submitted by the Wabenaki Tribes of Maine and historical records identify the Casco Bay, Merepoint, Brunswick area of Maine, where the site is located, as part of the traditional territory of the Penobscot Tribe of Maine. There is no evidence to indicate otherwise.

Based on the above-mentioned information, Haffenreffer Museum officials have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Haffenreffer Museum officials also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Penobscot Tribe of Maine.

This notice has been sent to officials of the Penobscot Tribe of Maine, Aroostook Band of Micmac Indians of Maine, Houlton Band of Maliseet Indians of Maine, and the Passamaquoddy Tribe of Maine. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Thierry Gentis, NAGPRA Coordinator, Haffenreffer Museum of Anthropology, Brown University, Mount Hope Grant, Bristol, RI 02809, telephone (401) 253–8388, before October 18, 2000. Repatriation of the human remains to the Penobscot Tribe of Maine may begin after that date if no additional claimants come forward.

Dated: September 8, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–23873 Filed 9–15–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Shiloh Museum of Ozark History, Springdale, AR

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human

remains and associated funerary objects in the possession of the Shiloh Museum of Ozark History, Springdale, AR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Shiloh Museum of Ozark History professional staff in consultation with representatives of the Caddo Indian Tribe of Oklahoma.

In 1966, human remains representing one individual were accessioned into the Shiloh Museum of Ozark History as part of a collection that the museum purchased from William Guy Howard. At an unknown date prior to acquisition by the museum, Howard purchased the remains from an unknown individual. The remains were removed from an unknown locality in southern Arkansas. No known individual was identified. No associated funerary objects are present.

On the basis of reshaping of the cranium, these human remains are determined to be Native American in origin. On the basis of the geographical origin of the remains, and relatively recent age as indicated by the degree of preservation, these human remains are determined to be affiliated with the Caddo Indian Tribe of Oklahoma.

Based on the above-mentioned information, officials of the Shiloh Museum of Ozark History have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Shiloh Museum of Ozark History also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Caddo Indian Tribe of Oklahoma.

This notice has been sent to officials of the Caddo Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Bob Besom, Director, Shiloh Museum of Ozark History, 118 West Johnson, Springdale, AR, telephone (501) 750-8165, before October 18, 2000. Repatriation of the human remains to the Caddo Indian Tribe of Oklahoma may begin after that date if no additional claimants come forward.

Dated: September 8, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–23872 Filed 9–15–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Lyon County, IA in the Possession of the Office of the State Archaeologist, University of Iowa, Iowa City, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Office of State Archaeologist, University of Iowa, Iowa City, IA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the Office of the State Archaeologist, University of Iowa, professional staff in consultation with representatives of the Iowa Tribe of Kansas and Nebraska; the Iowa Tribe of Oklahoma; the Otoe-Missouria Tribe of Indians, Oklahoma; the Omaha Tribe of Nebraska; the Ponca Tribe of Nebraska; and the Ponca Tribe of Indians of Oklahoma.

In 1989, human remains representing eight individuals were collected from the surface of site 13LO2, Blood Run National Historic Landmark, Lyon County, IA, by Bear Creek Archaeology, Inc., during an archeological survey. Also in 1989, human remains representing four individuals were collected from the site by unknown local residents. The remains subsequently were transferred to the Office of State Archaeologist, University of Iowa. No known individuals were identified. There are no associated funerary objects.

Blood Run National Historic Landmark site is a large Oneota village site located in Iowa and South Dakota, straddling the Big Sioux River southeast of Sioux Falls, SD. Archeological evidence, including radiocarbon dates and trade artifacts, suggests that the site was most intensively occupied from A.D. 1500-1700. Tribal histories, supported by French historical maps and documents, strongly suggest that the Omaha (possibly including the Ponca at this time), Iowa, and Oto tribes were present in this area at that time and were the probable residents of the site.

Based on the above-mentioned information, officials of the Office of State Archaeologist, University of Iowa, have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 12 individuals of Native American ancestry. Also, officials of the Office of State Archaeologist, University of Iowa, have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Iowa Tribe of Kansas and Nebraska; the Iowa Tribe of Oklahoma; the Otoe-Missouria Tribe of Indians, Oklahoma; the Omaha Tribe of Nebraska; the Ponca Tribe of Nebraska; and the Ponca Tribe of Indians of Oklahoma.

This notice has been sent to officials of the Iowa Tribe of Kansas and Nebraska; the Iowa Tribe of Oklahoma; the Otoe-Missouria Tribe of Indians, Oklahoma; the Omaha Tribe of Nebraska; the Ponca Tribe of Nebraska; and the Ponca Tribe of Indians of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Shirley Schermer, Burials Program Director, Office of the State Archaeologist, 700 Clinton Street Building, University of Iowa, Iowa City, IA 52242, telephone (319) 384–0740, before October 18, 2000. Repatriation of the human remains to the Iowa Tribe of Kansas and Nebraska; the Iowa Tribe of Oklahoma; the Otoe-Missouria Tribe of Indians, Oklahoma; the Omaha Tribe of Nebraska; the Ponca Tribe of Nebraska; and the Ponca Tribe of Indians of Oklahoma may begin after that date if no additional claimants come forward.

Dated: September 5, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–23871 Filed 9–15–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Telecommunications Facilities; Construction and Operation: Lake Mead National Recreation Area, Clark County, NV

AGENCY: Lake Mead National Recreation Area, NPS, DOI.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that Lake Mead National Recreation Area has determined that an application by Pacific Bell Wireless of Nevada to co-locate on an existing communications tower in the River Mountains near the Southern Nevada Water Treatment Plant Surge Tanks is categorically excluded from the requirements of NEPA.

EFFECTIVE DATE: Comments on the proposal will be accepted on or before October 18, 2000.

ADDRESSES: Interested parties should contact Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005. Further information may be obtained by contacting Nancy Hendricks (702) 293–8949.

SUPPLEMENTARY NOTICE: The initial application made by Pacific Bell Wireless of Nevada requests permission to Co-locate on the existing tower in the River Mountains. The Superintendent will consider and evaluate all comments received before authorizing Pacific Bell Wireless to proceed with the permitting process.

Dated: September 8, 2000.

Kent Turner,

Acting Superintendent, Lake Mead National Recreation Area.

[FR Doc. 00–23876 Filed 9–15–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council's Ecosystem Roundtable Meeting and Ecosystem Roundtable Amendments Subcommittee Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meetings.

SUMMARY: The Bay-Delta Advisory Council's (BDAC) Ecosystem Roundtable will meet on October 2, 2000 to discuss an initial recommendation for funding under the 2001 Ecosystem Restoration Program project selection process. The Amendments Subcommittee will also meet on October 2, 2000 to discuss proposed contract modifications for several ongoing ecosystem restoration projects. These meetings are open to the public. Interested persons may make oral statements to the Ecosystem Roundtable and Amendments Subcommittee or may file written statements for consideration.

DATES: The BDAC's Ecosystem Roundtable meeting will be held from 9:30 a.m. to 3:00 p.m. on Monday, October 2, 2000. The Ecosystem Roundtable Amendments Subcommittee meeting will be held from 3:00 p.m. to 5:00 p.m. on Monday, October 2, 2000.

ADDRESSES: The Ecosystem Roundtable and Amendments Subcommittee will meet at the Resources Building, Room XXXX, 1416 Ninth Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Rebecca Fawver, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fist and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan the addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA). The BDAC provides advice CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: September 12, 2000.

Kirk C. Rodgers,

Duty Regional Director, Mid-Pacific Region.

[FR Doc. 00–23848 Filed 9–15–00; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA #201P]

Controlled Substances: 2000 Aggregate Production Quota

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Notice of a proposed revision to the 2000 aggregate production quota for marihuana.

SUMMARY: This notice proposes a revised 2000 aggregate production quota for marihuana, a Schedule I controlled substance in the Controlled Substances Act (CSA).

DATES: Comments or objections should be received on or before October 3, 2000.

ADDRESSES: Send comments or objections to the Deputy Administrator,

Drug Enforcement Administration, Washington, D.C. 20537, Attn: DEA Federal Register Representative (CCR).

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substances listed in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator of the DEA pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations.

Until recently, there have been no DEA registrants with status as a bulk manufacturer of marihuana plant material. Therefore, the DEA had not previously established an aggregate production quota for marihuana greater than zero. However, on November 4, 1999, DEA granted a bulk manufacturing registration to an applicant who will cultivate marihuana for scientific, research, and development purposes. The nature of the cultivation process necessitates the sowing of seeds immediately in order to manufacture the controlled substance in calendar year 2000.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA (21 U.S.C. 826), delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations, the Deputy Administrator hereby proposes the following revision to the 2000 aggregate production quota for the listed controlled substance, expressed in grams of manicured material (*i.e.* leaves, flowering tops, and seeds):

Basic class	Proposed revised 2000 aggregate production quota
Marihuana	350,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. If a person believes this issue warrants a hearing, the individual should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Deputy Administrator finds warrant a hearing, the Deputy Administrator shall order a public hearing by notice in the **Federal Register** in accordance with Section 1303.32 of 21 CFR, summarizing the issues to be heard and setting the time for the hearing.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. Aggregate production quotas apply to approximately 200 DEA registered bulk and dosage form manufacturers of Schedules I and II controlled substances. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Furthermore, this action involves only one basic class of controlled substance. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Dated: September 6, 2000.

Julio F. Mercado,

Deputy Administrator.

[FR Doc. 00–23901 Filed 9–15–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

AGENCY: Federal Bureau of Investigation, Justice.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce a meeting of the Compact Council created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact). Thus, far, the Federal government and eight states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, and similar purposes. The Compact also provides a legal framework for the establishment of a cooperative Federal-state system to exchange such records.

Matters for discussions are expected to include: (1) Discussion of rules and procedures to gain compliance with Compact record screening requirements, (2) State audit/sanctions criteria, (3) Compact Council Sanctions Committee report, (4) Interpretations of the Compact requirement for fingerprints to accompany record requests for noncriminal justice purposes, (5) The Compact Council's authority over Public Law 92–544, and (6) Proposed amendments to the National Crime Protection Act.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement with the Compact Council or wishing to address this session of the Compact Council should notify Mr. Emmet A. Rathbun at (304) 625–2720, at least 24 hours prior to the start of the session. The notification should contain the requestor's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed, and the time needed for the presentation. Requestors will ordinarily be allowed up to 15 minutes to present a topic.

DATES AND TIMES: The Compact Council will meet in open session from 9 a.m. until 5 p.m. on October 10–11, 2000.

ADDRESSES: The meeting will take place at the Omni Shoreham Hotel, 2500 Calvert Street, NW, Washington, DC, telephone (202) 234–0700.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Mr. Emmet A. Rathbun, Unit Chief, Programs Development Section, CJIS Division, FBI, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0147, telephone (304) 625–2720, facsimile (304) 625–5388.

Dated: September 7, 2000.

Thomas E. Bush, III,

Section Chief, Programs Development Section, Federal Bureau of Investigation.

[FR Doc. 00–23865 Filed 9–15–00; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request.

ACTION: Request OMB emergency approval; Immigrant petition for alien workers.

The Department of Justice, Immigration and Naturalization Service (INS) is submitting this information collection request utilizing emergency review procedures to the Office of Management and Budget (OMB) for review and clearance with section 1320.13(a)(1)(ii) and (a)(2)(iii) of the paperwork Reduction Act of 1995. If granted, the emergency approval is only valid for 180 days.

Emergency OMB review and approval is requested on the proposed revision of the collection to ensure that the application conforms with current regulations and INS policy regarding the necessary documentation to be submitted with the application.

All comments and/or questions pertaining to this pending request for emergency approval should be received prior to September 22, 2000 and must be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Lauren Wittenberg, Department of Justice Desk Office, 725 17th Street, NW., Suite 10235, Washington, DC 20503, 202–395–4718. Comments regarding the emergency submission of this information collection may also be submitted via facsimile to Ms. Wittenberg at 202–395–6974.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the INS requests written comments and suggestions from the public and affected agencies concerning this information collection. Comments are encouraged and will be accepted for ''sixty days'' until November 17, 2000. During the 60-day regular review, all comments and suggestions or questions regarding additional information, to include instructions, should be directed to Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following 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 agency's 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:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Immigrant Petition for Alien Workers.

(3) *Agency form number, if any, and the applicable component sponsoring the collection:* Form I–140. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as brief abstract:* Primary: Individuals or households. This form is used to petition to classify a person under section 203(b)(1), 203(b)(2), or 203(b)(3) of the Immigration and Nationality Act. The data collected on this form will be used by the INS to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount to time estimated for an average respondent to respond:* 56,260 responses at 60 minutes or one hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 56,260 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, Department of Justice, Information Management and Security Staff, Justice Management Division, 1331 Pennsylvania Avenue, Suite 1220, NW., National Place Building, Washington, DC 20530.

Dated: September 9, 2000

Richard A. Sloan,

Department Clearances Office, Immimgration and Naturalization Service, United States Department of Justice.

[FR Doc. 00–23849 Filed 9–15–00; 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 waiver of grounds of excludability.

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 November 17, 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 a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Waiver of Grounds of Excludability.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–690. 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. This information on the application will be used by the Service

in considering eligibility for legalization under sections 210 and 245A of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 85 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 21 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, Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: September 11, 2000.

Richard A. Sloan,

Department Clearance Officer, Immigration and Naturalization Service, Department of Justice.

[FR Doc. 00–23850 Filed 9–15–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 11, 2000.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202) 693–4127 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OSHA, and VETS contact Darrin King ({202} 693–4129 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment and Training Administration.

Title: Program Monitoring Report and Job Service Complaint Form.

OMB Number: 1205–0039.

Affected Public: State, Local, or Tribal Government.

Form	Total respondents	Frequency	Average time per response (in minutes)	Estimated total burden
Complaint Log Recordkeeping)	168	15 Times	25	1,059
ETA 8429	2,520	One Time	8	327
Outreach Log (Recordkeeping)	150	130 Times	12	3,900
ETA 5148	52	Quarterly	70	244
Totals				5,530

Total annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The Job Service forms are necessary as part of Federal Regulations at 20 CFR Parts 651, 653 and 658 published as a result of NACP vs. Brock. The forms allow the U.S. Employment Service to track regulatory compliance of services provided to Migrant and Seasonal Farm Workers (MSFWs) by the State Employment Service Agencies.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 00–23925 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 12, 2000.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of the ICR, with applicable supporting documentation, may be obtained by

calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz (202–693–4127 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OSHA, and VETS contact Darrin King (202–693–4129 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316), on or before October 18, 2000.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Annual Refiling Survey.

OMB Number: 1220–0032.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; Federal government; State, Local or Tribal Government.

Frequency: Once.

Form No.	Respondents	Total responses	Average time (in hrs)	Total hours
BLS 3023–NVS	1,573,500	1,573,500	.083	130,601
BLS 3023–NVM	15,650	15,650	.25	3,913
BLS 3023–NCA	111,000	111,000	.167	18,537
BLS 3023–NAX	0	0	.083	0
Total Hours				153,051

Total annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services: $0.

Description: Accurate industrial coding based on the 1987 Standard Industrial Classification Manual and the 1997 North American Industry Classification System Manual is needed by many Federal, state, and local government officials and private researchers. This revision will permit the use of previously approved forms to obtain this information.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 00–23937 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

September 5, 2000.

The Department of Labor has submitted the following (see below) emergency processing public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by October 18, 2000. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Departmental Clearance Officer, Ira Mills (202) 219–5095, x113. Comments and questions about the ICR listed below should be forwarded to Office Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316. Written comments must be submitted to OIRA on or before October 13, 2000.

The Office of Management and Budget 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 response.

Agency: Employment and Training Administration.

Title: One-Stop Occupational Employment Statistics Survey Grant Reporting.

OMB Number: 1205–ONEW.

Affected Public: States.

Form	No. of respondents	Responses per year	Total responses	Hours per response	Total burden hours
Annual Plan	54	1	54	36	1,944
Progress Report	54	2	108	6	648

Form	No. of respondents	Responses per year	Total responses	Hours per response	Total burden hours
Totals	54	3	162	42	2,592

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Description: ETA seeks approval of an annual plan narrative and two progress reports as requirements for One Stop Occupational Employment Statistics Survey Information grants. This information will be used by the Department of Labor and its managing State partners to assure that a employment statistics system required by Wagner-Peyser as amended by the Workforce Investment Act meets the needs of its customers. States seeking grants are requested to provide an annual grant narrative that provides specific information on how the grant funds will accomplish any of the objectives for collecting occupational employment statistics consistent with the plan developed under the existing arrangement with the Bureau of Labor Statistics (BLS), through the BLS Cooperative Agreement with the States. This will be the only request for data collection for this grant. Next year the activity will be administered by the BLS. In addition the States are requested to provide a brief progress report twice during the grant period which explains the progress of the grantee in accomplishing the plan.

Karin G. Kurz,

Acting Departmental Clearance Officer.

[FR Doc. 00–23938 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,866]

Assembly Services, Incorporated, El Paso, Texas; Notice of Termination of Certification

This notice terminates the Certification Regarding Eligibility to Apply For Workers Adjustment Assistance issued by the Department on July 25, 2000, for all workers of Assembly Services, Incorporated, El Paso, Texas. The notice was published in the **Federal Register** on August 25, 2000 (65 FR 51848).

At the request of the State agency, the Department reviewed the worker certification. Workers at the subject firm produce wet mops, dust mops, brooms, and provide distribution services.

Findings on review show that on December 16, 1998, the Department issued a certification of eligibility applicable to all workers of Quickie Manufacturing Corporation, including Assembly Services, Inc., El Paso, Texas, engaged in employment related to the production of dust mops, wet mops, and plastic brooms, petition number TA–W–35,158. Workers separated from employment with the subject firm on or after October 21, 1997 through December 16, 2000, are eligible to apply for worker adjustment assistance.

Since all workers of Assembly Services, Incorporated, El Paso, Texas, are covered by petition number TA–W–35,158 through December 16, 2000, the Department is terminating the certification for petition number TA–W–37,866. Further coverage for workers under this certification would serve no purpose, and the certification has been terminated.

Signed in Washington, DC, on this 5th day of September 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–23929 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,018]

Durango Apparel Manufacturing, Inc., (Formerly Henry I. Siegel Co., Inc.) New York, NY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 28, 2000 in response to a worker petition which was filed on behalf of workers at Durango Apparel Manufacturing, Inc., (formerly, Henry I. Siegel Co., Inc.) New York, New York.

An active certification covering the petitioning group of workers is already in effect (TA–W–37,697A, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 31st day of August, 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–23930 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,834]

Dynegy Midstream Services, Eunice, NM; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 3, 2000, in response to a petition filed by a company official on behalf of workers at Dynegy Midstream Services, Eunice, New Mexico.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 31st day of August, 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–23933 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,923]

GE Industrial Systems, Erie, PA, Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 31, 2000 in response to a worker petition which was filed on behalf of workers at GE Industrial Systems, Erie, Pennsylvania.

The investigation revealed that an active certification covering the petitioning group of workers remains in effect until October 28, 2000 (TA–W–35,079). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Petitioners may reapply for eligibility when layoffs occurring after the expiration date of the active certification referenced above are imminent.

Signed at Washington, DC, this 31st day of August, 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–23932 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,607 and TA–W–37,607A]

Henry I. Siegel Co., Inc., Now Known as Durango Apparel Manufacturing, Inc., Bruceton, TN, and New York, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 16, 2000, applicable to workers of Henry I. Siegel Co., Inc., Bruceton, Tennessee. The notice was published in the **Federal Register** on June 8, 2000 (65 FR 36469).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of men's and women's jeans, slacks and shorts. The company reports that in April, 2000, Henry I. Siegel Co., Inc. ''became know as Durango Apparel Manufacturing, Inc.''. Information also shows that worker separations occurred at the New York, New York location of Henry I. Siegel Co., Inc. The New York, New York workers provide administrative support functions for the subject firms' production facilities including Bruceton, Tennessee which closed in June, 2000.

Accordingly, the Department is amending the certification determination to correctly identify the new title name to read ''Henry I. Siegel Co., Inc., now known as Durango Apparel Manufacturing, Inc.'', Bruceton, Tennessee and to cover the workers at the subject firms' New York, New York location.

The intent of the Department's certification is to include all workers of Henry I. Siegel Co., Inc., now known as Durango Apparel Manufacturing, Inc. who were adversely affected by increased imports.

The amended notice applicable to TA–W–37,607 is hereby issued as follows:

All workers of Henry I. Siegel Co., Inc., now known as Durango Apparel Manufacturing, Inc., Bruceton, Tennessee (TA–W–37,607) and New York, New York (TA–W–37,607A) who became totally or partially separated from employment on or after April 30, 2000 through May 16, 2002 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 7th day of September, 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–23931 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,898]

Onix Process Analysis, Inc., Angleton, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 24, 2000, in response to a petition filed by a company official on behalf of workers at Onix Process Analysis, Inc., Angleton, Texas.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 30th day of August, 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–23934 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,702]

Spencer's Inc., Mt. Airy, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on June 9, 2000, applicable to all workers of Spencer's Inc., Mt. Airy, North Carolina. The notice was published in the **Federal Register** on June 29, 2000 (65 FR 40136).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Findings on review show that the Department incorrectly set the impact date at April 27, 1999. The workers at the subject firm were covered under an earlier certification, TA–W–34,023B, which expired December 21, 1999. In order to avoid an overlap in coverage, the Department is amending this certification to set the impact date at December 22, 1999.

The amended notice applicable to TA–W–37,702 is hereby issued as follows:

All workers of Spencer's Inc., Mt. Airy, North Carolina, engaged in employment related to the production of infant's and children's wear who became totally or partially separated from employment on or after December 22, 1999, through June 9, 2002, are eligible to apply for adjustment assistance under Section 223 of the Trade act of 1974.

Signed in Washington, DC, this 6th day of September 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–23928 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–3–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,113]

Twin Ridge Corporation, Acton, Maine; Notice of Termination of Certification

This notice terminates the Certification Regarding Eligibility to Apply For Worker Adjustment Assistance issued by the Department on July 6, 1999, for all workers of Twin Ridge Corporation, Acton, Maine, engaged in employment related to the production of apples. The notice was published in the **Federal Register** on August 11, 1999 (64 FR 43724).

On its own motion, the Department reviewed the certification issued for workers of the subject firm. The petition filed April 26, 1999, was filed on behalf of apple packers at Twin Ridge Corporation, Acton, Maine. Review of the duties performed by the worker group reveals that the workers provided a service and did not produce an article within the meaning of Section 222 of the Trade Act.

Since there are no adversely affected workers of the subject firm, the continuation of the certification would serve no purpose and the certification has been terminated.

Signed at Washington, DC, this 28th day of August 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–23935 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,713]

Vinson Timber Products, Inc., A/K/A Trout Creek Lumber Products, Trout Creek, MT; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 21, 2000, applicable to workers of Vinson Timber Products, Inc., Trout Creek, Montana. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of dimension lumber (studs and 5/4 lumber). Findings show that workers separated from employment at Vinson Timber Products, Inc. had their wages reported under a separate unemployment insurance (UI) tax account for Trout Creek Lumber Products, Trout Creek Montana.

The intent of the Department's certification is to include all workers of Vinson Timber Products, Inc. who were adversely affected by increased imports. Accordingly, the Department is amending the certification to reflect this matter.

The amended notice applicable to TA–W–37,713 is hereby issued as follows:

All workers of Vinson Timber Products, Inc., also known as Trout Creek Lumber Products, Trout Creek, Montana who became totally or partially separated from employment on or after May 12, 1999 through July 21, 2002 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 23rd day of August, 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–23936 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(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 Employment Standards Administration is soliciting comments concerning the proposed extension collection of the following information collection: Application for Farm Labor Contractor and Farm Labor Contractor Employee Certificate of Registration (WH–530). Copies of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this Notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before November 17, 2000.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451.

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(a) of the Migrant and Seasonal Workers Protection Act (MSPA) provides that no person shall engage in any farm labor contracting activity unless such person has a certificate of registration from the Secretary of Labor specifying which farm labor contracting activities such person is authorized to perform. Further, Section 102(b) of MSPA provides that a farm labor contractor shall not hire, employ or use any individual to perform farm labor contracting activities unless such individual has a certificate of registration as a farm labor contractor, or a certificate of registration as an employee of a farm labor contractor employer, which authorizes the activity for which the individual is hired, employed or used.

II. Review Focus

The Department of Labor 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.

III. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to provide the means for a farm labor contractor or a farm labor contractor employee to obtain a certificate authorizing farm labor employment under the Act.

Review: Extension.

Agency: Employment Standards Administration.

Title: Application for Farm Labor Contractor and Farm Labor Contractor Employee Certificate of Registration.

OMB Number: 1215–0037.

Agency Number: WH–530.

Affected Public: Individuals or households; Business or other for-profit; Farms.

Total Respondents: 9,200.

Frequency: On occasion; Biennially.

Total Responses: 9,200.

Time per Response: 30 minutes.

Estimated Total Burden Hours: 4,600.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $2,153.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 12, 2000.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 00–23927 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies 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)(2)(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. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the Multiple Worksite Report and the Report of Federal Employment and Wages. A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before November 17, 2000.

ADDRESSES: Send comments to Sytrina D. Toon, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Sytrina D. Toon, BLS Clearance Officer, telephone number 202–691–7628. (See Addresses section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Covered Employment and Wages (ES–202) Program is a Federal/State cooperative effort which compiles monthly employment data, quarterly wage data, and business identification information from employers subject to State Unemployment Insurance (UI) laws. These data are collected from State Quarterly Contribution Reports submitted to State Employment Security Agencies (SESAs). The States send micro-level employment and wages data, supplemented with the names, addresses, and business identification information of these employers, to the BLS. These States' data are used to create the BLS business establishment sampling frame, known as the Business Establishment List. This file represents the best source of detailed industrial and geographical data on employers and is used as the sampling frame for most BLS surveys. The Business Establishment List includes individual employers' employment and wages data along with associated business identification information that is maintained by each State to administer the UI program as well as the Unemployment Compensation for Federal Employees (UCFE) program.

The ES–202 Report, produced for each calendar quarter, is a summary of these employer (micro-level) data by industry at the county level. Similar data for Federal Government employees covered by the UCFE Program also are included in each State report. These data are submitted by all 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands to the BLS which then summarizes these macro-level data to produce totals for the States and the Nation. The ES–202 Report provides a virtual census of nonagricultural employees and their wages, with about 47 percent of the workers in agriculture covered as well.

For employers having only a single physical location (worksite) in the State and, thus, operating under a single assigned industrial and geographical code, the data from the States' UI accounting files are sufficient for statistical purposes. Such data, however, are not sufficient for statistical purposes for those employers having multiple establishments or engaged in different industrial activities within the State. In such cases, the employer's Quarterly Contributions Report reflects only Statewide employment and wages and is not disaggregated by establishment or worksite. Although data at this level are sufficient for many purposes of the UI Program, more detailed information is required to create a sampling frame and to meet the needs of several ongoing Federal/State statistical programs. As a result of the Multiple Worksite Report, improved establishment identification data elements have been incorporated into and maintained on the Business Establishment List. Establishment identification data elements that are included in the Business Establishment List are a physical location address, secondary name (trade name, division, subsidiary, *etc.*), and reporting unit description (store number, plant name or number, *etc.*) for each worksite of multi-establishment employers.

Employers with more than one establishment reporting under the same UI account number within a State are requested to complete the Multiple Worksite Report if the sum of the employment in all of their secondary establishments is ten or greater. The primary worksite is defined as the establishment with the greatest number of employees. Upon receipt of the first Multiple Worksite Report form, each employer is requested to supply business location identification information. Thereafter, this reported information is computer printed on the Multiple Worksite Report each quarter. The employer is requested to verify the accuracy of this business location identification information and to provide only the employment and wages for each worksite for that quarter. By using a standardized form, the reporting burden on many large employers, especially those engaged in multiple economic activities at various locations across numerous States, has been reduced.

Comparable to the Multiple Worksite Report, the function of the Report of Federal Employment and Wages is to collect employment and wage data for each installation of federal agencies. The Report of Federal Employment and Wages aids in the development and maintenance of business identification information by installation. The Report of Federal Employment and Wages was modeled after the Multiple Worksite Report and is used only to collect data from Federal agencies covered by the UCFE program.

No other standardized report is available to collect current establishment-level employment and wages data by SESAs each quarter from the private sector nor from State and local governments. Also, no other standardized report currently is available to collect installation-level federal employment and wages data each quarter by SESAs.

II. Desired Focus of Comments

The Bureau of Labor Statistics 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.

III. Current Action

The BLS has taken steps to reduce employer reporting burden by developing a standardized format for employers to use to send these data to the States in an electronic medium. The BLS also established an Electronic Data Interchange (EDI) Collection Center to improve and expedite the Multiple Worksite Report collection process. Employers who complete the Multiple Worksite Report for multi-location businesses now can submit employment and wages information on any electronic medium (tape, cartridge, diskette, or computer-to-computer) directly to the data collection center, rather than to each State separately. The data collection center then distributes the appropriate data to the respective States. The BLS also has been working very closely with firms providing payroll and tax filing services for employers as well as developers of payroll and tax filing software to include this electronic reporting as either a service for their clients or a new feature of their system. In addition, the BLS is developing a web-based system to collect these data from businesses of small to medium size.

The confidentiality statement used on the MWR survey form is as follows:

The information collected on this form by the BLS and the State agencies cooperating in its statistical programs will be used for statistical and Unemployment Insurance program purposes, and other purposes in accordance with law.

Type of Review: Revision.

Agency: Bureau of Labor Statistics.

Title: Multiple Worksite Report (MWR) and the Report of Federal Employment and Wages (RFEW).

OMB Number: 1220–0134.

Frequency: Quarterly.

Affected Public: Business or other for-profit institutions, not for-profit institutions, Federal Government, and State, local or tribal government.

Number of Respondents: 114,767.

Estimated Time Per Response: 22.2 Minutes.

Total Burden Hours: 169,855 Hours.

Form No.	Total respondents	Respondent	Total responses	Average time per response (in minutes)	Total burden (hours)
BLS 3020 (MWR)	112,783	Non-Federal	451,132	22.2	166,919
BLS 3021 (RFEW)	1,984	Federal	7,936	22.2	2,936
Totals	114,767		459,068		169,855

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they also will become a matter of public record.

Signed at Washington, DC, this 12th day of September 2000.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 00–23926 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2000–46; Exemption Application No. D–10590, et al.]

Grant of Individual Exemptions; Bank of Oklahoma (the Bank)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Bank of Oklahoma (the Bank), Located in Tulsa, OK

[Prohibited Transaction Exemption 2000–46; Exemption Application No. D–10590]

Exemption

Section I. Covered Transactions

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the purchase or redemption of shares by an employee benefit plan (the Plan), in certain mutual funds that are either affiliated with the Bank (the Affiliated Funds) or are unaffiliated with the Bank (the Third Party Funds),[1] in connection with the participation by the Plan in the Bank-sponsored Foundations Program (the Foundations Program).

In addition, the restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) and (F) of the Code, shall not apply to the provision, by the Bank, of asset allocation services to an independent fiduciary of a participating Plan (the Primary Independent Fiduciary) or to a participant (the Directing Independent Fiduciary) of a Plan that provides for participant investment direction (the Participant-Directed Plan), which may result in the selection of portfolios in the Foundations Program for the investment of Plan assets, by the Primary Independent Fiduciary or the Directing Independent Fiduciary, and the receipt of fees by the Bank and/or its affiliates.

This exemption is subject to the conditions set forth below in Section II.

Section II. General Conditions

(a) The participation by a Plan in the Foundations Program is approved by a Primary Independent Fiduciary or a Directing Independent Fiduciary, in the case of a Participant-Directed Plan, and, no Plan covering employees of the Bank or any of its affiliates is eligible to participate in the Foundations Program.

(b) As to each Plan, the total fees that are paid to the Bank and its affiliates constitute no more than reasonable compensation for the services provided.

(c) With the exception of distribution-related fees that are paid to the Bank pursuant to Rule 12b–1 (the Rule 12b–1 Fees) of the Investment Company Act of 1940 (the Investment Company Act) which are offset, no Plan pays a fee or commission by reason of the acquisition or redemption of shares in the Funds.

(d) The terms of each purchase or redemption of shares in the Funds remain at least as favorable to an investing Plan as those obtainable in an arm's length transaction with an unrelated party.

(e) The Bank provides written documentation to each Plan's Primary Independent Fiduciary or Directing Independent Fiduciary of its recommendations, as well as on the design and parameters with respect to an asset allocation model (the Asset Allocation Model) based upon objective criteria that are uniformly applied.

(f) Any recommendation or evaluation made by the Bank to a Primary Independent Fiduciary or a Directing Independent Fiduciary is implemented only at the express direction of such fiduciary.

(g) The Bank retains an independent financial analyst (the Independent Financial Analyst) to—

(1) Review the investments of Plan assets in a Third Party Fund for purposes of satisfying Representation 13 of the notice of proposed exemption (65 FR 42248, 42255 and 42256, July 7, 2000);

(2) Review determinations by the Bank to add a Third Party Fund or replace an Affiliated Fund with a Third Party Fund; and

(3) Ensure that only one Fund fits an asset segment (the Asset Segment) such that there is no overlap between a Third Party Fund and an Affiliated Fund.

Further, such Independent Financial Analyst may not derive more than 5 percent of its total annual revenues from the Bank and/or its affiliates.

(h) The quarterly fee that is paid by a Plan to the Bank and its affiliates for asset allocation and related services (the Wrap Fee) rendered to such Plan under the Foundations Program is offset by—

(1) All investment management fees (the Advisory Fees) that are paid to it and/or its affiliates by the Affiliated Funds;

(2) All non-advisory fees, including custodial fees, Rule 12b–1 Fees or subadministration fees (collectively, the Administrative Fees) that are paid to the Bank and/or its affiliates by the Affiliated Funds; and

(3) All Administrative Fees which include, but are not limited to, Rule 12b–1 Fees and sub-transfer agency fees, that are paid to the Bank and/or its affiliates by the Third Party Funds, such that the sum of the offset and the net Wrap Fee will always equal the aggregate Wrap Fee, thereby making the Bank's selection of Affiliated Funds or Third Party Funds for the Asset Allocation Models a ''fee-neutral'' decision.

(i) The Plan is automatically rebalanced on a quarterly basis (using net asset values of the affected Funds as of the close of business) on a pre-established date to the Asset Allocation Model previously prescribed by such fiduciary if authorized in writing by the Primary Independent Fiduciary, and if one or more Fund allocations deviates from the Asset Allocation Model prescribed by such fiduciary because—

(1) At least one transaction required to rebalance the Plan among the Funds involves a purchase or redemption of securities valued at $100 or more; and

(2) The net asset value of the Fund affected would be more than 5 percent of the Plan's investment in such Fund.

(j) The Bank may make adjustments to the composition of the Asset Allocation Model (the Model Adjustments) unilaterally only within certain authorized parameters approved by the Primary Independent Fiduciary, or upon the consent of the Primary Independent Fiduciary, if the Bank proposes to exceed the parameters.

(1) If the Model Adjustment is made unilaterally pursuant to Section II(j) above, the Bank may only deviate from the Normal Position of a given Asset Allocation Model within a specified range, not to exceed 15 percent (above and below) the Normal Position under Section III(l), which is applied to the Asset Allocation Model's entire allocation.

(2) With respect to a Model Adjustment requiring independent fiduciary consent, the Bank may not change the asset mix outside the limits authorized by the Primary Independent Fiduciary unless it provides the Primary Independent Fiduciary and the Directing Independent Fiduciary, upon the request of the Primary Independent Fiduciary, 30 days' advance written notice of the impending change.

(k) The notice referred to above in Section II(j) includes a termination

[1] The Affiliated Funds and the Third Party Funds are collectively referred to herein as the Funds.

advisory form (the Termination Advisory) which—

(1) Advises the Primary Independent Fiduciary of the right to withdraw from the Foundations Program or, in the case of the Directing Independent Fiduciary, of the right to transfer to a different Asset Allocation Model without penalty; and

(2) States that absent any affirmative action by the Primary Independent Fiduciary or the Directing Independent Fiduciary, the Plan will be reallocated within the revised Normal Positions for the Asset Allocation Model, effective as of a given date.

(l) The Bank provides the Termination Advisory to the Primary Independent Fiduciary and, if applicable, the Directing Independent Fiduciary, at least annually; and provides the Termination Advisory in all cases whenever the Bank —

(1) Makes a Model Adjustment where fiduciary consent is needed;

(2) Adds a new Fund to an Allocation Model;

(3) Removes an existing Fund within an Allocation Model; or

(4) Increases its Wrap Fee.

Under such circumstances, the notice and Termination Advisory are provided at least 30 days prior to the implementation of the change.[2]

(m) With respect to its participation in the Foundations Program, prior to purchasing shares in the Affiliated Funds and the Third Party Funds, each Primary Independent Fiduciary, and, if applicable, each Directing Independent Fiduciary, receives the following written or oral disclosures from the Bank:

(1) A brochure describing the Foundations Program;

(2) A Foundations Program Asset Allocation Account Application;

(3) A Foundations Program Asset Allocation Account Purchase Order;

(4) A Foundations Program Account Agreement (the Account Agreement) providing detailed information on the Foundations Program; the fee structure of the Foundations Program; procedures and limitations imposed on the Bank with respect to Model Adjustments; rebalancing of a participating Plan investor's account; and the Bank's affiliation or non-affiliation with the Funds, including a copy of the executed Account Agreement between the Plan and the Bank, to the Primary Independent Fiduciary rather than to the Directing Independent Fiduciary;

(5) The Bank's Form ADV—Part II which contains a description of the Bank's affiliation, if any, with the sponsors, distributors, administrators, investment advisers, sub-advisers, custodians and transfer agents of each Affiliated Fund and Third Party Fund; and

(6) Copies of the proposed and final exemptions with respect to the exemptive relief described herein. (In the case of a Participant-Directed Plan, this information may be provided directly by the Bank to the Primary Independent Fiduciary for distribution to the Directing Independent Fiduciaries.)

(n) Having acknowledged receipt of the documents described in paragraph (m) of Section II, the Primary Independent Fiduciary submits a completed Account Agreement to the Bank and represents in writing to the Bank that such fiduciary is—

(1) Independent of the Bank and its affiliates;

(2) Knowledgeable with respect to the Plan in administrative matters;

(3) Able to make an informed decision concerning the Plan's participation in the Foundations Program; and

(4) Knowledgeable with respect to funding matters related to the Plan.

(o) In addition to the initial disclosures described above in paragraph (m) of this Section II, prior to investment in an Asset Allocation Model, the Primary Independent Fiduciary or, if applicable, the Directing Independent Fiduciary—

(1) Receives a written analysis from the Bank based on the fiduciary's Investor Profile as well as a description of the Asset Allocation Model recommended by a Bank's investment counselor which includes a description of the actual fee structure and the actual basis points to be rebated to such Plan fiduciary;

(2) Receives a prospectus for each Affiliated Fund and Third Party Fund in which the Plan may be invested and, upon such fiduciary's request, is provided a Statement of Additional Information which supplements the prospectus; and

(3) Acknowledges receipt of the foregoing documents in writing to the Bank.

(p) With respect to their ongoing participation in the Foundations Program, each Primary Independent Fiduciary and/or Directing Independent Fiduciary receives the following continuing disclosures from the Bank:

(1) Copies of applicable prospectuses;

(2) Written confirmations of each purchase or redemption of shares of an Affiliated Fund or a Third Party Fund, including transactions implemented as a result of a realignment of the Asset Allocation Model's investment mix or from the rebalancing of a Plan's investments in conformity with the selected Asset Allocation Model;

(3) Telephone quotations of such Plan's balance (or if relevant, individual account balances of Directing Independent Fiduciaries) under the Foundations Program;

(4) Periodic, but at least quarterly, account statements showing the Plan's value (or if relevant, individual account balances of Directing Independent Fiduciaries), a summary of purchase, sale and exchange activity and dividends received or reinvested and a summary of cumulative realized gain and/or loss;

(5) Semiannual or annual reports that include financial statements for the Funds as well as a description of the fees paid to the Bank and its affiliates;

(6) At least annually, a written or oral inquiry from the Bank to ascertain whether the information provided on the Investor Profile is still accurate and to determine if such information should be updated;

(7) A Termination Advisory provided on an annual basis as well as at other times noted in paragraph (l) of this Section II; and

(8) The Bank's investment advisory and other agreements with any Affiliated Fund as well as its distribution agreement pertaining to the Third Party Funds, upon request of the Primary Independent Fiduciary. (Communications received from the Funds (*e.g.*, prospectuses, annual reports, quarterly reports, notices regarding changes in Fund managers, proxy mailings, etc.) will be distributed to the Primary Independent Fiduciary, who may elect to pass them through to the Directing Independent Fiduciaries.)

(q) The Bank maintains, for a period of six years, the records necessary to enable the persons described in paragraph (r) of this Section II to determine whether the conditions of this exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Bank and/or its affiliates, the records are lost or destroyed prior to the end of the six year period; and

[2] For an annual mailing of the Termination Advisory or in the event the Bank makes a Model Adjustment that is outside of current parameters or a Fund is added or substituted, the Termination Advisory will include language similar to that contained in Section II(k)(1) and (2). In the event the Bank proposes an increase in its Wrap Fee, the Termination Advisory will also include language similar to that contained in Section II(k)(1). However, under such circumstances, Section II(k)(2) will be modified state that absent any affirmative action by the Primary Independent Fiduciary or the Directing Independent Fiduciary, the revised Wrap Fee will be effective as of a specified date.

(2) No party in interest other than the Bank shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (r) of this Section II below.

(r)(1) Except as provided in section (r)(2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (q) of this Section II are unconditionally available at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission;

(B) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(D) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(r)(2) None of the persons described above in paragraphs (r)(1)(B)–(r)(1)(D) of this paragraph (r) are authorized to examine the trade secrets of the Bank or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this exemption:

(a) The term ''Bank'' means the Bank of Oklahoma, N.A., a subsidiary of BOK Financial Corporation and any affiliate of the Bank, as defined in paragraph (b) of this Section III.

(b) An ''affiliate'' of the Bank includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the Bank.

(2) Any individual who is an officer, director or partner in the Bank or a person described in subparagraph (b)(1) of this Section III, and

(3) Any corporation or partnership of which the Bank or an affiliate or person described in subparagraphs (b)(1) or (b)(2) of this Section III, is a 10 percent or more partner or owner.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''officer'' means a president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), or any other officer who performs a policy-making function for the entity.

(e) The term ''Plan'' refers to an employee benefit plan which is eligible to participate under the Foundations Program. Such Plans are qualified under sections 401(a) and 501(a) of the Code and include Keogh plans; individual retirement accounts; simplified employee pension plans; Salary Reduction Simplified Employee Pensions (SARSEPs), provided that the SARSEP was established prior to January 1, 1996, the date as of which the Code provision authorizing such plans was repealed); and savings incentive match plans for employees; and, in the case of a Participant-Directed Plan, the individual account of a Directing Independent Fiduciary.

(f) The term ''Directing Independent Fiduciary'' means, as to a participating Plan, a participant in a Participant-Directed Plan that is authorized to direct the investment of his or her account balance.

(g) The ''Administrative Fees'' refer to custodial, Rule 12b–1 Fees, and sub-administration fees that are paid to the Bank or its affiliates from or on behalf of the Affiliated Funds on account of the Bank's services to the Affiliated Funds, as well as Rule 12b–1 Fees, sub-transfer agency fees and other fees that may be paid to the Bank or its affiliates on account of the investment of participating Plans in the Third Party Funds.

(h) The ''Advisory Fees'' refer to investment advisory fees that are paid by the Affiliated Funds to the Bank and its affiliates.

(i) The term ''Affiliated Fund'' means a portfolio of an investment company registered under the Investment Company Act for which the Bank or an affiliate of the Bank acts as the investment adviser, and may also serve as custodian or sub-administrator.

(j) The term ''Asset Segment'' refers to a subdivision of each asset class (the Asset Class) into which the Asset Allocation Model is divided (*e.g.*, international equities is an Asset Segment under the Asset Class ''stocks''). Asset Segments are determined by the Bank with reference to recognized investment objectives and styles established by independent mutual fund analysts such as Morningstar, Inc. and Lipper Analytical Services, Inc.

(k) The ''Investment Management Group'' refers to a committee comprised of the Bank's senior investment professionals.

(l) The term ''Model Adjustment'' means an adjustment to the Normal Position of an Asset Allocation Model (*i.e.*, a change in the Asset Allocation Model among the three Asset Classes, the division of the Asset Class into Asset Segments, and the identity of the Funds which represent the various Asset Segments).

(m) The ''Normal Position'' refers to the initial allocation of each Asset Allocation Model among the various Asset Classes, Asset Segments and Funds.

(n) The ''Offset Fees'' refer to the Advisory Fees and Administrative Fees that are paid by, or on behalf of, the Funds to the Bank and/or its affiliates and which are offset against the Wrap Fee.

(o) The term ''Participant-Directed Plan'' refers to a qualified Plan under which participants direct the investments of their individual accounts.

(p) The term ''Primary Independent Fiduciary'' refers to a plan fiduciary within the meaning of section 3(21)(A) of the Act who has (1) investment discretion and authority over the Plan's assets and (2) is not an affiliate of the Bank. Typically, the Primary Independent Fiduciary will be the plan administrator, the employer which sponsors the Plan, an investment committee appointed under the Plan document or an IRA account holder.

(q) The term ''Termination Advisory'' refers to the notice advising the Primary Independent Fiduciary or the Directing Independent Fiduciary of the right to withdraw from the Foundations Program without penalty. The Termination Advisory, which will contain instructions on its use, will be provided to such participants on an annual basis, or whenever the Bank makes a Model Adjustment that is outside of a current Allocation Model, in the event a new Fund is added to an Allocation Model or an existing Fund is removed from an Allocation Model, or the Bank's Wrap Fee is increased. Depending on the circumstances precipitating its distribution, the Termination Advisory will include a provision advising the Primary Independent Fiduciary or the Directing Independent Fiduciary that absent any affirmative action by the Primary Independent Fiduciary or the Directing Independent Fiduciary, the authorization of the Plan's participation in the Foundations Program will continue, or the participating Plan will be reallocated in accordance with the revised Normal Position for the Asset Allocation Model in which the Plan's assets are invested, or the Bank's Wrap

Fee will be increased. The Bank will provide the Termination Advisory to the Primary Independent Fiduciary and/or the Directing Independent Fiduciary at least 30 days prior to the implementation of the proposed change.

(r) A ''Third Party Fund'' is a portfolio of an investment company that is registered under the Investment Company Act for which neither the Bank nor any affiliate of the Bank acts as investment adviser, custodian and/or sub-administrator.

(s) The term ''Wrap Fee'' refers to the Plan or account-level fee the Bank, BOSC, Inc. (BOSC) and/or their affiliates charge each Plan for the asset allocation, custodial and related services under the Foundations Program.

(t) The term ''Independent Financial Analyst'' means an independent third party which has entered into a written contract with the Bank to (1) review the investment of Plan assets in a Third Party Fund, (2) review the Funds each time the Bank determines to add a Third Party Fund or replace an Affiliated Fund with a Third Party Fund, and (3) determine that only one Fund fits an Asset Segment such that there is no overlap between a Third Party Fund and an Affiliated Fund. The Independent Financial Analyst may not derive more than 5 percent of its total annual revenues from the Bank or its affiliates, including its fee for serving as the Independent Financial Analyst.

As for minimum credentials, the Independent Financial Analyst will be a Chartered Financial Analyst and will be employed by a firm which has at least a regional presence in the investment products and services industry. In addition, the individual assigned the duties of the Independent Financial Analyst must alone, or with his or her employer, have a certain minimum number of years experience in the investment products and services industry and must not be affiliated with the Bank, BOSC or BISYS Fund Services, Inc. Should the Bank replace the Independent Financial Analyst, that entity must meet the same requirements applicable to the current Independent Financial Analyst. In addition, the Bank will be required to provide the Department with advance written notification of the change in Independent Financial Analysts and the qualifications of the successor. Unless the Department objects to the change, the Foundations Program will operate with the new Independent Financial Analyst.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the proposed exemption published on July 7, 2000 at 65 FR 42248.

Written Comments

The Department received two written comments with respect to the proposed exemption and no requests for a public hearing. The first comment was submitted by the Bank. The second comment was submitted by the Securities Industry Association (the SIA). Following is a discussion of each comment and the responses made by either the Department or the Bank.

The Bank's Comment

In its comment, the Bank requested modification of Section II(g)(1) of the proposed exemption in order to track the role of the Independent Financial Analyst to Representation 13 of the Summary of Facts and Representations. Section II(g)(1) of the proposed exemption states that the Independent Financial Analyst will review the investments of Plan assets in a Third Party Fund for purposes of ''performance and suitability.'' However, the Bank suggested that Section II(g)(1) be revised to read as follows:

(1) Review the investments of Plan assets in a Third Party Fund for purposes of satisfying Representation 13 of the notice of proposed exemption (65 FR 42248, 42255 and 42256, July 7, 2000);

In response to the Bank's comment, the Department has made the requested change to the operative language of the proposed exemption.

The SIA's Comment

In its comment, the SIA requested that the Department reconsider a number of conditions contained in the notice of proposed exemption. In response to the SIA's comment letter, the Bank indicated that it was not interested in any of the recommendations expressed therein. Accordingly, the Bank urged the Department to grant the requested exemption as proposed, subject to the modification discussed above.

For further information regarding the comments and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10590) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Accordingly, after giving full consideration to the entire record, including the comment letters, the Department has decided to grant the exemption subject to the modification described above.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Goldman, Sachs & Co., Located in New York, New York

[Prohibited Transaction Exemption 2000–47; Exemption Application No. D–10758]

Exemption

Section I—Transactions

A. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective April 15, 1999, to any purchase or sale of securities between certain affiliates of Goldman, Sachs & Co. (Goldman) which are foreign broker-dealers or banks (the Foreign Affiliates, as defined below) and employee benefit plans (the Plans) with respect to which the Foreign Affiliates are parties in interest, including options written by a Plan, Goldman, or a Foreign Affiliate, provided that the following conditions, and the General Conditions of Section II, are satisfied:

(1) The Foreign Affiliate customarily purchases and sells securities for its own account in the ordinary course of its business as a broker-dealer or bank;

(2) The terms of any transaction are at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party; and

(3) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, and the Foreign Affiliate is a party in interest or disqualified person with respect to the Plan assets involved in the transaction solely by reason of section 3(14)(B) of the Act or section 4975(e)(2)(B) of the Code, or by reason of a relationship to a person described in such sections. For purposes of this paragraph, the Foreign Affiliate shall not be deemed to be a fiduciary with respect to a Plan solely by reason of providing securities custodial services for the Plan.

B. The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(2)

of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective April 15, 1999, to any extension of credit to the Plans by the Foreign Affiliates to permit the settlement of securities transactions, regardless of whether they are effected on an agency or a principal basis, or in connection with the writing of options contracts, provided that the following conditions, and the General Conditions of Section II, are satisfied:

(1) The Foreign Affiliate is not a fiduciary with respect to the Plan assets involved in the transaction, unless no interest or other consideration is received by the Foreign Affiliate or an affiliate thereof, in connection with such extension of credit; and

(2) Any extension of credit would be lawful under the Securities Exchange Act of 1934 (the 1934 Act) and any rules or regulations thereunder, if the 1934 Act, rules, or regulations were applicable.

C. The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective April 15, 1999, to the lending of securities to the Foreign Affiliates by the Plans, provided that the following conditions, and the General Conditions of Section II, are satisfied:

(1) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(2) The Plan receives from the Foreign Affiliate (by physical delivery, by book entry in a securities depository, wire transfer, or similar means) by the close of business on the day the loaned securities are delivered to the Foreign Affiliate, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, irrevocable U.S. bank letters of credit issued by persons other than the Foreign Affiliate or an affiliate of the Foreign Affiliate, or any combination thereof. All collateral shall be in U.S. dollars, or dollar-denominated securities or bank letters of credit, and shall be held in the United States;

(3) The collateral has, as of the close of business on the preceding business day, a market value equal to at least 100 percent of the then market value of the loaned securities (or, in the case of letters of credit, a stated amount equal to same);

(4) The loan is made pursuant to a written loan agreement (the Loan Agreement), which may be in the form of a master agreement covering a series of securities lending transactions, and which contains terms at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party;

(5) In return for lending securities, the Plan either (a) receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan, or (b) has the opportunity to derive compensation through the investment of cash collateral. In the latter case, the Plan may pay a loan rebate or similar fee to the Foreign Affiliate, if such fee is not greater than what the Plan would pay in a comparable arm's length transaction with an unrelated party;

(6) The Plan receives at least the equivalent of all distributions on the borrowed securities made during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits, and rights to purchase additional securities, that the Plan would have received (net of applicable tax withholdings) [3] had it remained the record owner of such securities;

(7) If the market value of the collateral as of the close of trading on a business day falls below 100 percent of the market value of the borrowed securities as of the close of trading on that day, the Foreign Affiliate delivers additional collateral, by the close of business on the following business day, to bring the level of the collateral back to at least 100 percent. However, if the market value of the collateral exceeds 100 percent of the market value of the borrowed securities, the Foreign Affiliate may require the Plan to return part of the collateral to reduce the level of the collateral to 100 percent;

(8) Before entering into a Loan Agreement, the Foreign Affiliate furnishes to the independent Plan fiduciary (a) the most recent available audited statement of the Foreign Affiliate's financial condition, (b) the most recent available unaudited statement of its financial condition (if more recent than the audited statement), and (c) a representation that, at the time the loan is negotiated, there has been no material adverse change in its financial condition that has not been disclosed since the date of the most recent financial statement furnished to the independent Plan fiduciary. Such representation may be made by the Foreign Affiliate's agreeing that each loan of securities shall constitute a representation that there has been no such material adverse change;

(9) The Loan Agreement and/or any securities loan outstanding may be terminated by the Plan at any time, whereupon the Foreign Affiliate shall deliver certificates for securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization, or merger of the issuer of the borrowed securities) to the Plan within (a) the customary delivery period for such securities, (b) five business days, or (c) the time negotiated for such delivery by the Plan and the Foreign Affiliate, whichever is least, or, alternatively, such period as permitted by Prohibited Transaction Class Exemption (PTE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987), as it may be amended or superseded; [4]

(10) In the event that the loan is terminated and the Foreign Affiliate fails to return the borrowed securities, or the equivalent thereof, within the time described in paragraph 9, the Plan may purchase securities identical to the borrowed securities (or their equivalent as described above) and may apply the collateral to the payment of the purchase price, any other obligations of the Foreign Affiliate under the Loan Agreement, and any expenses associated with the sale and/or purchase. The Foreign Affiliate is obligated to pay, under the terms of the Loan Agreement, and does pay, to the Plan the amount of any remaining obligations and expenses not covered by the collateral, plus interest at a reasonable rate. Notwithstanding the foregoing, the Foreign Affiliate may, in the event it fails to return borrowed securities as described above, replace non-cash collateral with an amount of cash not less than the then current market value of the collateral, provided that such replacement is approved by the independent Plan fiduciary; and

[3] The Department notes the applicant's representation that dividends and other distributions on foreign securities payable to a lending Plan may be subject to foreign tax withholdings and that the Foreign Affiliate will always put the Plan back in at least as good a position as it would have been in had it not loaned the securities.

[4] PTE 81–6 provides an exemption under certain conditions from section 406(a)(1)(A) through (D) of the Act and the corresponding provisions of section 4975(c) of the Code for the lending of securities that are assets of an employee benefit plan to a U.S. broker-dealer registered under the 1934 Act (or exempted from registration under the 1934 Act as a dealer in exempt Government securities, as defined therein) or to a U.S. bank, that is a party in interest with respect to such plan.

(11) The independent Plan fiduciary maintains the situs of the Loan Agreement in accordance with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)–1. However, in the event that the independent Plan fiduciary does not maintain the situs of the Loan Agreement in accordance with the indicia of ownership requirements of Section 404(b) of the Act, the Foreign Affiliate shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or the taxes imposed by section 4975(a) and (b) of the Code.

If the Foreign Affiliate fails to comply with any condition of the exemption in the course of engaging in a securities lending transaction, the Plan fiduciary who caused the Plan to engage in such transaction shall not be deemed to have caused the Plan to engage in a transaction prohibited by section 406(a)(1) (A) through (D) of the Act solely by reason of the Foreign Affiliate's failure to comply with the conditions of the exemption.

Section II—General Conditions

A. The Foreign Affiliate is a registered broker-dealer or bank subject to regulation by a governmental agency, as described in Section III.B, and is in compliance with all applicable rules and regulations thereof in connection with any transactions covered by this exemption;

B. The Foreign Affiliate, in connection with any transactions covered by this exemption, is in compliance with the requirements of Rule 15a–6 (17 CFR 240.15a–6) of the 1934 Act, and Securities and Exchange Commission (SEC) interpretations thereof, providing for foreign affiliates a limited exemption from U.S. broker-dealer registration requirements;

C. Prior to any transaction, the Foreign Affiliate enters into a written agreement with the Plan in which the Foreign Affiliate consents to the jurisdiction of the courts of the United States for any civil action or proceeding brought in respect of the subject transactions;

D. The Foreign Affiliate maintains, or causes to be maintained, within the United States for a period of six years from the date of any transaction such records as are necessary to enable the persons described in paragraph E. to determine whether the conditions of the exemption have been met, except that—

(1) a party in interest with respect to a Plan, other than the Foreign Affiliate, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or not available for examination, as required by paragraph E; and

(2) a prohibited transaction shall not be deemed to have occurred if, due to circumstances beyond the Foreign Affiliate's control, such records are lost or destroyed prior to the end of the six year period; and

E. Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the Foreign Affiliate makes the records referred to in paragraph D. unconditionally available during normal business hours at their customary location to the following persons or a duly authorized representative thereof: (1) the Department, the Internal Revenue Service, or the SEC; (2) any fiduciary of a Plan; (3) any contributing employer to a Plan; (4) any employee organization any of whose members are covered by a Plan; and (5) any participant or beneficiary of a Plan. However, none of the persons described in (2) through (5) of this subsection are authorized to examine the trade secrets of the Foreign Affiliate or commercial or financial information which is privileged or confidential.

Section III—Definitions

A. The term ''affiliate'' of another person shall include: (1) any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person; (2) any officer, director, or partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and (3) any corporation or partnership of which such other person is an officer, director or partner. For purposes of this definition, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual;

B. The term ''Foreign Affiliate'' shall mean an affiliate of Goldman, Sachs & Co. that is subject to regulation as a broker-dealer or bank by (1) the Ontario Securities Commission and the Investment Dealers Association in Canada; (2) the Securities and Futures Authority in the United Kingdom; (3) the Deutsche Bundesbank and the Federal Banking Supervisory Authority, *i.e.*, der Bundesaufsichtsamt fuer das Kreditwesen (the BAK) in Germany; (4) the Ministry of Finance and the Tokyo Stock Exchange in Japan; (5) the Australian Securities & Investments Commission (the ASIC) in Australia; or (6) the Swiss Federal Banking Commission in Switzerland.

C. The term ''security'' shall include equities, fixed income securities, options on equity and on fixed income securities, government obligations, and any other instrument that constitutes a security under U.S. securities laws. The term ''security'' does not include swap agreements or other notional principal contracts.

EFFECTIVE DATE: This exemption is effective as of April 15, 1999.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 13, 2000 at 65 FR 37175.

Written Comments

The Department received one written comment with respect to the notice of proposed exemption (the Notice). The comment was submitted by the applicant. The applicant requested certain clarifying modifications and additions to the proposed operative language and to the Summary of Facts and Representations (the Summary) contained in the Notice (see 65 FR 37175). These modifications and additions, discussed below, are consistent with other recent similar exemptions granted by the Department.[5]

1. First, the applicant requested that the following footnote be added to the end of the first paragraph under the heading ''Proposed Exemption'' (65 FR at 37176, column 1):

> For purposes of this proposed exemption, reference to provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

2. Second, the applicant requested that, because the settlement period for securities transactions in the various jurisdictions covered by the exemption may be more than three days, the first sentence in Item 7 of the Summary (65 FR 37180, center column) be revised to read as follows:

> Goldman represents that a normal part of the execution of securities transactions by broker-dealers on behalf of clients, including employee benefit plans, is the extension of credit to clients so as to permit the settlement of transactions in the customary [delete ''three-day''] settlement period.

3. Finally, the applicant requested that Footnote 6 of the Summary (65 FR

[5] See *e.g.*, Prohibited Transaction Exemption (PTE) 97–08 (62 FR 4811, January 31, 1997) for Morgan Stanley & Co.; PTE 97–57 (62 FR 56203, October 29, 1997) for NatWest Securities Corp.; PTE 98–62 (63 FR 71307, December 24, 1998) for Barclays Bank PLC; PTE 99–4 (64 FR 4127, January 27, 1999) for Salomon Smith Barney Inc.; and PTE 99–45 (64 FR 61138, November 9, 1999) for Donaldson, Lufkin & Jenrette Securities Corporation.

at 37180, center column) be revised by adding the following italicized language:

Goldman represents that *currently* all such requirements *under Rule 15a–6* relating to record-keeping of principal transactions would be applicable [delete ''to''] in respect of any Foreign Affiliate in a *principal* transaction that would be covered by this proposed exemption.

The applicant noted that the revisions, above, are consistent with the language of PTE 99–4 (64 FR 4127, January 27, 1999) for Salomon Smith Barney Inc., in Footnote 4 of the notice of proposed exemption relating thereto (see 63 FR 53703, 53707).

The Department acknowledges the applicant's requested modifications to the language of the Notice and concurs in these changes. Accordingly, based upon the information contained in the entire record, the Department has determined to grant the proposed exemption as modified herein.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 11th day of September, 2000.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 00–23823 Filed 9–15–00; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before November 2, 2000. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301)713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records.

Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records

proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Air Force, Agency-wide (N1–AFU–00–8, 2 items, 2 temporary items). Project case files relating to asbestos abatement activities. Records relate to such matters as asbestos location and type within facilities, abatement personnel, and potential health effects. Also included are electronic copies of documents created using electronic mail and word processing.

2. Department of the Air Force, United States Air Force Europe (N1–AFU–00–9, 2 items, 2 temporary items). Ration control accountability files, which include records relating to the management of ration control programs, ration cards, coupons, and control registers. Also included are electronic copies of documents created using electronic mail and word processing.

3. Department of the Army, Agency-wide (N1–AU–00–23, 2 items, 2 temporary items). Electronic copies of documents created using electronic mail and word processing that are associated with nonappropriated fund official personnel folders. This schedule also increases the retention period for recordkeeping copies of these files, which were previously approved for disposal.

4. Department of the Army, U.S. Army Europe (N1–AU–00–26, 1 item, 1 temporary item). Master file of the Automated Abbreviated Ground Reporting System, an electronic information system used to capture information about ground accidents involving Army personnel. This system includes personal identifying data, injury type, time, date, and location of accident, and the Army operation and equipment involved.

5. Department of Commerce, National Telecommunications and Information Administration (N1–417–00–1, 16 items, 11 temporary items). Records of the Public Interest Obligations of Digital Television Broadcasters Advisory Committee. Included are such records as audio recordings of committee meetings, **Federal Register** notices, copy editor correspondence, meeting arrangement files, requests for information, video recordings submitted by speakers and the public, graphics pertaining to the Committee's final report, electronic copies of documents created using electronic mail and word processing, and electronic copies of documents located on the Committee's web site. Records proposed for permanent retention include recordkeeping copies of transcripts of the Committee's meetings, meeting files, the Committee's final report, and Committee member and charter files.

6. Department of Defense, Office of the Secretary of Defense (N1–330–00–3, 2 items, 1 temporary item). Electronic copies of business policy files created by the Business Policy Directorate using electronic mail and word processing. Included are electronic copies of records relating to accounting and finance systems, reports to Congress on financial matters, implementation of laws and regulations on financial management, and improvements in financial management processes. Reordkeeping copies of these files are proposed for permanent retention.

7. Department of Defense, Office of the Secretary of Defense (N1–330–00–4, 4 items, 4 temporary items). Records relating to the Combined Federal Campaign, savings bond campaigns, and blood donor programs. Included are such records as plans, statistical reports, directives, and minutes of meetings. Also included are electronic copies of documents created using electronic mail and word processing.

8. Department of Health and Human Services, Office of Inspector General (N1–468–00–1, 33 items, 30 temporary items). Investigative, audit, litigation, administrative hearing, and legal advice case files accumulated by the Office of Inspector General, including its Office of Counsel. Also included are such records as draft legislation files, congressional testimony, regulations, correspondence with Members of Congress, schedules of daily activities, and electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of legal opinion precedent files, speeches, and records that relate to the organizational structure and policies of the office.

9. Department of Justice, Bureau of Prisons (N1–129–99–15, 12 items, 9 temporary items). Files of the Management and Specialty Training Center consisting of curriculum packages, job task analyses and validations, student training records, reference files, minutes of internal committees, and electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of supplements to directives and videotapes and related production files are proposed for permanent retention. This schedule was published in the **Federal Register** on March 15, 1999. It is being published again because curriculum packages and job task analyses and validations, which were previously proposed for permanent retention, are now proposed for disposal.

10. Department of Justice, United States Marshals Service (N1–527–00–2, 4 items, 4 temporary items). Records relating to threats made against Federal judges and other officials that do not warrant investigation, including electronic copies of documents created using electronic mail and word processing. Selected records relating to threats that result in investigations are proposed for permanent retention in a separate records disposition schedule that is pending.

11. Department of the Navy, Agency-wide (N1–NU–00–2, 5 items, 5 temporary items). Ship and ship system safety records accumulated below the Naval Sea Systems Command level that pertain to submarine safety. This schedule increases the retention period for these records, which were previously approved for disposal. Also included are electronic copies of documents created using electronic mail and word processing that relate to ship and ship system safety. Recordkeeping copies of safety records accumulated at the Naval Sea Systems Command level were previously approved for permanent retention.

12. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (N1–436–00–2, 6 items, 6 temporary items). Records relating to training. Included are course instructions, texts, lesson plans, training requests, course evaluations, schedules, and rosters. Also included are electronic copies of documents created using electronic mail and word processing.

13. Advisory Commission on Electronic Commerce, Agency-wide (N1–220–00–4, 7 items, 7 temporary items). Records relating to the Commission's web site. Included are periodic printouts of web pages, change control records including electronic mail and word processing documents, migration records, feedback and statistical reports, electronic code, and web design records.

14. Federal Labor Relations Authority, Member Offices (N1–480–00–1, 2 items, 2 temporary items). Working case files for cases dealing with arbitration, negotiability, representation, and unfair labor practices that are assigned for

merits review by Member Offices. Included are such documents as copies of pleadings filed by parties in a case, copies of documents created by other Federal Labor Relations Authority offices, routing documents, internal memorandums, and drafts of decisions. The recordkeeping copies of case files dealing with these matters that are accumulated by the Office of Case Control have previously been scheduled for disposition, with significant files selected for permanent retention on a case-by-case basis by the agency.

15. General Accounting Office, Office of General Counsel (N1–411–00–1, 5 items, 1 temporary item). Electronic copies of documents created using electronic mail and word processing that are associated with records relating to the review of presidential proposals to withhold funds from obligation or expenditure in accordance with the Impoundment Act of 1974. Proposed for permanent retention are recordkeeping copies of impoundment case files and a related card index, statistical reports and analyses, and congressional testimony files.

Dated: September 11, 2000.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 00–23819 Filed 9–15–00; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Environmental Research and Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Environmental Research and Education (9487).

Dates: October 11, 2000; 8:30 a.m.–5:30 p.m.; October 12, 2000; 8:30 a.m.–3:30 p.m.

Place: Room 1235, National Science Foundation, 4201 Wilson Blvd, Arlington, VA.

Type of Meeting: Open.

Contact Person: Dr. Margaret Cavanaugh, Office of the Director, National Science Foundation, Suite 1205, 4201 Wilson Blvd, Arlington, Virginia 22230. Phone 703–292–8002.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for environmental research and education.

Agenda:

October 11

Orientation for Advisory Committee members; procedures and responsibilities

Overview of present activities followed by discussion of future plans in environmental research and education

Discussion: Effective means of communication with the scientific community about NSF's environmental portfolio

October 12

Discussion: Continued discussion from October 11

Discussion: Effective means of communication with Federal agencies about NSF's environmental portfolio

Dated: September 13, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–23897 Filed 9–15–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Oversight Council for the International Arctic Research Center; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Oversight Council for the International Arctic Research Center (9535).

Date/Time: October 11, 2000, 9 a.m. to 5 p.m.

Place: International Arctic Research Center, Room 401, 930 Koyukuk Drive, University of Alaska Fairbanks, Fairbanks, AK 99775–7340.

Type of Meeting: Closed.

Contact Person: Charles Myers, National Science Foundation, 4201 Wilson Blvd., Suite 755. Telephone: (703) 292–7434.

Purpose of Meeting: To provide advice and recommendations concerning further support for the International Arctic Research Center (IARC).

Agenda: To review and evaluate the current and proposed activities of the IARC.

Reason for Closing: The information being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the IARC. These matters are exempt under 5 U.S.C. 552b(c), (4), and (6) of the Government in the Sunshine Act.

Dated: September 13, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–23895 Filed 9–15–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Materials Research (1203).

Dates & Times: November 9, 2000; 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 320, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Alfons Weber, Program Director, Condensed Matter Physics, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4930.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Review and evaluate proposals as part of the selection process to determine finalists considered for support for the FY 2001 Faculty Early Career Development (CAREER) proposals submitted for the Condensed Matter Physics Program.

Reason for Closing: The proposals being evaluated include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 13, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–23891 Filed 9–15–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Materials Research (1203).

Dates & Times: October 18–20, 2000; 8 a.m.–5 p.m.

Place: NIST Center for Neutron Research, Gaithersburg, MD.

Type of Meeting: Closed.

Contact Person: Dr. Guebre X. Tessema, Program Director, National Facilities and Instrumentation, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4943.

Purpose of Meeting: To provide advice and recommendations concerning progress of

NIST Center for Neutron Research, for determination of future funding.

Agenda: Review and evaluate progress of NIST Center for Neutron Research, for determination of future funding.

Reason for Closing: The Center being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 13, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–23892 Filed 9–15–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Materials Research (1203).

Dates & Times: October 27, 2000; 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1060, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Bruce A. MacDonald, Program Director, Metals Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4935.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Review and evaluate proposals as part of the selection process to determine finalists considered for support for the FY 2001 Faculty Early Career Development (CAREER) proposals submitted for the Metals Program.

Reason for Closing: The proposals being evaluated include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (40 and (6) of the Government in the Sunshine Act.

Dated: September 13, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–23893 Filed 9–15–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research (1203).

Time: 8 a.m.–5 p.m.

Date/Place:

October 5–6, 2000—Massachusetts Institute of Technology, Cambridge, MA

October 17–18, 2000—University of Minnesota, Minneapolis, MN

October 26–27, 2000—University of Chicago, Chicago, IL

December 6–7, 2000—University of Massachusetts, Amherst, MA

December 11–12, 2000—Columbia University, New York, NY

January 16–17, 2001—Stanford University, Palo Alto, CA

January 24–25, 2001—University of Alabama, Tuscaloosa, AL

February 7–8, 2001—University of Kentucky, Lexington, KY

February 22–23, 2001—Harvard University, Cambridge, MA

March 7–8, 2001—University of Colorado, Boulder

March 22–23, 2001—Princeton University, Princeton, NJ

April 3–4, 2001—Michigan State University, East Lansing, MI

Type of Meetings: Closed.

Contact Person: Dr. Carmen Huber, tel (703) 292–4939, or Dr. Ulrich Strom, tel (703) 292–4938, Program Directors, Materials Research Science and Engineering Centers, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning progress of Materials Research Science and Engineering Centers.

Agenda: Review and evaluate progress of Materials Research Science and Engineering Centers.

Reason For Closing: The Centers being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 13, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–23894 Filed 9–15–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings.

Name: Special Emphasis Panel in Materials Research (1203).

Dates & Times: October 17, 2000; 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1060, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. LaVerne D. Hess, Program Director, Electronic Materials Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4937.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Review and evaluate proposals as part of the selection process to determine finalists considered for support for the FY 2001 Faculty Early Career Development (CAREER) proposals submitted for the Electronic Materials Program.

Reason for Closing: The proposals being evaluated include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 13, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–23896 Filed 9–15–00; 8:45 am]

BILLING CODE 7555–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24639; File No. 812–11874]

Hartford Life Insurance Company, et al.

September 11, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order pursuant to section 6(c) of the Investment Company Act of 1940 (''1940 Act'' or ''Act'') granting exemptions from sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder.

Applicants

Hartford Life Insurance Company (''Hartford Life''), Hartford Life and Annuity Insurance Company (''Hartford L&A''), Hartford Life Insurance

Company Separate Account Two (''HLA Account Two''), Hartford Life Insurance Company Separate Account Seven (''HL Account Seven'') Putnam Capital Manager Trust Separate Account (''Putnam Account''), Hartford Life and Annuity Insurance Company Separate Account One (''HLA Account One''), Hartford Life and Annuity Insurance Company Separate Account Seven (''HL Account Seven''), Putnam Capital Manager Trust Separate Account Two (''Putnam Account Two'') and Hartford Securities Distribution Company, Inc. (''HSDCI'').

Summary of Application

Applicants seek an order of the Commission, pursuant to section 6(c) of the Act, exempting them from sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit the recapture of certain credits applied to premium payments made in consideration of: (1) Certain deferred variable annuity contracts, described herein, that Hartford Life or Hartford L&A plans to issue (the ''Contracts''), or (2) variable annuity contracts that are substantially similar to the Contracts in all material respects that either may issue in the future (''Future Contracts''). Applicants also seek an order exempting (1) variable annuity separate accounts, other than HL Account Two, HL Account Seven, HLA Account One, HLA Account Seven, Putnam Account and Putnam Account Two (together, the ''Accounts''), that Hartford Life or Hartford L&A has established or may establish in the future (''Future Accounts''), and (2) principal underwriters for such Future Accounts that are currently under common control with Hartford Life or Hartford L&A (''Future Underwriters''), and principal underwriters for such Future Accounts (whether currently in existence or created in the future) that in the future may come under common control with Hartford Life and Hartford L&A (also, ''Future Underwriters''), from Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder, to the extent necessary to permit the recapture of certain credits applied to premium payments made in consideration of variable annvity contracts issued in the future by Hartford Life or Hartford L&A through a Future Account that are substantially similar in all material respects to the Contracts (also, ''Future Contracts'').

Filing Date

The application was filed on December 3, 1999, and amended and restated on February 15, 2000. A second amended and restated application was filed on May 4, 2000, and a third amended and restated application was filed on August 31, 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 by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 6, 2000, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, c/o Marianne O'Doherty, Esq., Hartford Life and Annuity Insurance Company, 200 Hopmeadow Street, Simsbury, CT 06089.

FOR FURTHER INFORMATION CONTACT: Jane Heinrichs, Senior Counsel, at (202) 942–0699, or Keith Carpenter, Branch Chief, at (202) 942–0679, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. Hartford Life is a stock life insurance company engaged in the business of writing life insurance and annuities, both individual and group, in all states and the District of Columbia. Hartford Life is ultimately controlled by Hartford Financial Services Group, Inc., a Delaware corporation whose stock is traded on the New York Stock Exchange. Hartford Life is the depositor and sponsor of HL Account Two, HL Account Seven and the Putnam Account.

2. Hartford L&A is a stock life insurance company engaged in the business of writing individual and group life insurance and annuity contracts in the District of Columbia and all states but New York. Hartford L&A is ultimately controlled by Hartford Financial Services Group, Inc., a Delaware corporation whose stock is traded on the New York Stock Exchange. Hartford L&A is the depositor and sponsor of HLA Account One, HLA Account Seven and Putnam Account Two.

3. Each Account was established either by Hartford Life or Hartford L&A as a separate account and is registered under the Act as a unit investment trust on Form N–4. Each Account is divided into a number of subaccounts that invest exclusively in shares representing an interest in a separate corresponding investment portfolio (each, a ''Portfolio'') of one of several series-type open-end management investment companies. The assets of each Account support several varieties of variable annuity contracts, including the Contracts.

4. HSDCI is a wholly-owned subsidiary of Hartford Life. It serves as the principal underwriter of a number of Hartford Life and Hartford L&A separate accounts registered as unit investment trusts under the Act, including the Accounts, and is the distributor of the variable life insurance contracts and variable annuity contracts issued through such separate accounts, including the Contracts. HSDCI is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. (the ''NASD''). In addition, each Future Underwriter will be registered as a broker-dealer under the Securities Exchange Act of 1934 and a member of the NASD.

5. The Contracts are flexible premium variable annuity contracts that Hartford Life or Hartford L&A may issue to individuals or groups on a ''non-qualified'' basis or in connection with employee benefit plans that receive favorable federal income tax treatment under Sections 401, 403(b), 408, 408A or 457 of the Internal Revenue Code of 1986, as amended (the ''Code''). The Contracts make available a number of subaccounts of an Account to which owners may allocate net premium payments and associated credits and to which owners may transfer contract value. The Contracts also offer fixed-interest allocation options under which Hartford Life or Hartford L&A credits guaranteed rates of interest for periods of one year or more. Transfers of contract value among and between the subaccounts and, subject to certain restrictions, among and between the subaccounts and the fixed-interest options, may be made at any time. The Contracts offer a variety of fixed and variable annuity payment options to owners. In the event of an owner's or annuitant's death prior to the annuity

commencement date, beneficiaries may elect to receive death benefits in the form of one of the annuity payment options instead of a lump sum.

6. The Contracts generally may only be purchased with a minimum initial premium of $10,000. Hartford Life or Hartford L&A may deduct a premium tax charge from premium payments in certain states, but otherwise deducts a charge for premium taxes upon surrender or annuitization of the Contract or upon the payment of a death benefit, depending upon the jurisdiction. The Contracts provide for an annual contract maintenance fee of $30 that Hartford Life or Hartford L&A deducts on each Contract Anniversary and upon a full surrender of a Contract, a daily administrative charge deducted from the assets of each Account at an annual rate of up to 0.15% of such Accounts' average daily net assets and a daily mortality and expense risk charge deducted from the assets of each Account at annual rates ranging from 1.45% to 1.60% of such Accounts' average daily net assets. The Contracts also provide for a charge of $25 for each transfer of contract value in excess of 12 per contract year. An optional death benefit rider is available with the Contracts. If purchased, the charge for the optional death benefit is 0.15% of the applicable Account's average daily net assets.

7. The Contracts have a surrender charge in the form of a contingent deferred sales charge (''CDSC''). The CDSC is equal to the percentage of each premium payment surrendered or withdrawn as specified in the table below. The CDSC is separately calculated and applied to each premium payment at any time that the payment (or part of the payment) is surrendered or withdrawn. The CDSC applicable to each premium payment diminishes as the payment ages beyond four years. No CDSC applies to contract value representing an annual withdrawal amount or to contract value in excess of aggregate premium payments (less prior withdrawals of premium payments) (''earnings'').

Number of years since payment of each premium	Charge (In percent)
1	8.0
2	8.0
3	8.0
4	8.0
5	7.0
6	6.0
7	5.0
8 and over	0.0

During the first seven contract years, the CDSC is calculated using the assumption that contract value is withdrawn in the following order: (1) The annual withdrawal amount for that contract year, (2) premium payments, (3) bonus credits (explained below), and (4) earnings. Starting in the eighth contract year, the CDSC is calculated using the assumption that contract value is withdrawn in the following order: (1) The annual withdrawal amount for that contract year, (2) earnings, (3) premium payments no longer subject to a CDSC, (4) bonus credits on premium payments no longer subject to a CDSC, (5) premium payments still subject to a CDSC, and (6) bonus credits on premium payments still subject to a CDSC. In all contract years, the CDSC is calculated using the assumption that premium payments are withdrawn on a first-in, first-out basis. The annual withdrawal amount is 10% of premium payments still subject to a CDSC measured at the time of withdrawal.

8. If an owner or annuitant dies before the annuity commencement date, the Contracts provide, under most circumstances, for a death benefit payable to a beneficiary. The death benefit is the greatest of (1), (2) or (3) (or (4), if the optional death benefit rider is purchased), computed as of the date that Hartford Life or Hartford L&A receives proof of death, where:

(1) Contract value reduced by the amount of any bonus credit applied during the twelve months prior to the date of computation;

(2) Total premiums payments reduced by the amount of all withdrawals of contact value;

(3) The maximum anniversary value (as defined in the Contract), reduced by the amount of any bonus credits applied during the twelve months prior to the date of computation; or

(4) Interest accumulation value (as defined in the Contract).

9. The Contracts include a bonus payment provision pursuant to which Hartford Life or Hartford L&A credits an owner's contract value with an additional amount when a net premium payment is applied. The amount of the bonus payment is a percentage of each premium payment made by the owner. The percentage is a function of premiums received under a Contract, as shown in the following table.

Aggregate premiums	Credit (in percent)
From $10,000 to $49,999	3.0
$50,000 or more	4.0

If a premium payment raises the amount of aggregate payments above $49,999, then Hartford Life or Hartford L&A will add another bonus credit to the owner's contract value in an amount equal to 1% of the prior premium payments.

10. Hartford Life or Hartford L&A recaptures or retains the credited amount in the event that the owner exercises his or her cancellation right during the right to examine period. In addition the owner elects to annuitize the Contract, the amount applied to purchase any annuity payment option is the contract value less bonus credits applied during the twenty-four months prior to annuitization. Also, as indicated above, in computing death benefits, Hartford Life or Hartford L&A may ''recapture'' bonus credits applied within twelve months prior to the date as of which the death benefit is computed. Finally, in the event of a surrender or withdrawal of contract value where the surrender charge is waived due to the owner's or annuitant's confinement to a hospital, nursing home or other long-term care facility (as defined in the Contract), Hartford Life or Hartford L&A will ''recapture'' all bonus credits applied during the period of confinement (a ''confinement period'').

11. As a result of the recapture provisions, increases in the value of accumulation units representing bonus credits accrue to the owner immediately, but the initial value of such units only belongs to the owner when, or to the extent that, the recapture period for the bonus payment expires and the units vest. On the other hand, decreases in the value of accumulation units representing bonus credits do not diminish the dollar amount of contract value subject to recapture. Therefore, additional units must become subject to recapture as their value decreases and the proportionate share of any owner's variable contract value (or the owner's interest in an Account) that Hartford Life or Hartford L&A can ''recapture'' increases as variable contract value (or the owner's interest in an Account) decreases. This dilutes the owner's interest in the Account vis-a-vis Hartford Life or Hartford L&A and in his or her variable contract value vis-a-vis Hartford Life or Hartford L&A.

12. Because it is not administratively feasible to track the value of bonus credits in an Account that have not vested, Hartford Life or Hartford L&A deducts the daily mortality and expense risk charge and the daily administrative charge from the entire net asset value of the Accounts. As a result, the daily mortality and expense risk charge and the daily administrative charge paid by any owner is greater than that which he

or she would pay without the bonus credit.

13. Applicants request that the Commission issue an order pursuant to section 6(c) of the Act, exempting them as well as Future Accounts and Future Underwriters from the provisions of sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder, to the extent necessary to permit the recapture of certain credits applied to premium payments made in consideration of the Contracts and Future Contracts.

Applicants' Legal Analysis

1. Subsection (i) of section 27 provides that section 27 does not apply to any registered separate account supporting variable annuity contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of subsection (i). Paragraph (2) provides that it shall be unlawful for a registered separate account or sponsoring insurance company to sell a variable annuity contract supported by the separate account unless, among other things, the contract is a redeemable security. Section 2(a)(32) defines a ''redeemable security'' as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

2. Section 22(c) of the Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company. Rule 22c–1 thereunder imposes requirements with respect to both the amount payable on redemption of a redeemable security and the time as of which such amount is calculated. Specifically, Rule 22c–1, in pertinent part, prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security from selling, redeeming or repurchasing any such security, except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption, or of an order to purchase or sell such security.

3. Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction or any class of persons, securities, or transactions from any provision or provisions of the Act and/or any rule under it if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

5. Applicants assert that the recapture of bonus credits would not, at any time, deprive an owner of his or her proportionate share of the current net assets of an Account. Until the appropriate recapture period expires, Hartford Life or Hartford L&A retains the right to and interest in each owner's contract value representing the dollar amount of any unvested bonus credits. Therefore, if Hartford Life or Hartford L&A recaptures any bonus credit or part of a bonus credit in the circumstances described above, it would merely be retrieving its own assets. Hartford Life or Hartford L&A would grant bonus credits out of its general account assets and the amount of the credits (although not the earnings on such amounts) would remain Hartford Life's or Hartford L&A's until such amounts vest with the owner. Thus, to the extent that Hartford Life or Hartford L&A may grant and recapture bonus credits in connection with variable contract value, it would not, at either time, deprive any owner of his or her then proportionate share of an Account's assets.

6. Applicants state that the nature of the bonus recapture provisions as they apply to variable contract value dictate that an owner will obtain a benefit from a bonus credit in a rising market because any earnings on the bonus credit amount will vest immediately and over time cause the owner's share of both the Contract's variable contract value and an Account's net assets to be greater on a relative basis than it would have been without the bonus credit. Conversely, in a falling market an owner will suffer a detriment from a bonus credit because losses on the bonus credit amount also will ''vest'' immediately and cause the owner's share of both the Contract's variable contract value and the Account's net assets to decrease on a relative basis.

7. Applicants do not believe that the dynamics of Hartford Life's and Hartford L&A's proposed bonus credit provisions violate sections 2(a)(32) or 27(i)(2)(A) of the Act. Nonetheless, in order to avoid any uncertainty as to full compliance with the Act, Applicants seek exemptions from these two sections.

8. Hartford Life's or Hartford L&A's recapture of any bonus credit could be viewed as the redemption of such an interest at a price other than net asset value. If such is the case, then the bonus credit provisions could be viewed as conflicting with section 22(c) of the Act and Rule 22c–1 thereunder. Applicants believe that the recapture of the bonus credits does not violate section 22(c) of the Act or Rule 22c–1 thereunder. Nonetheless, in order to avoid any uncertainty as to full compliance with the Act, Applicants seek exemptions from section 22(c) and Rule 22c–1.

9. Applicants argue that the bonus credit recapture provisions do not give rise to the evils that Rule 22c–1 was designated to address. The Rule was intended to eliminate or reduce, as far as was reasonably practicable, the dilution of the value of outstanding redeemable securities of registered investment companies through their redemption at a price above net asset value, or other unfair results, including speculative trading practices. The evils prompting the adoption of Rule 22c–1 were primarily the result of backward pricing, the practice of basing the price of a mutual fund share on the net asset value per share determined as of the close of the market on the previous day. Backward pricing permitted certain investors to take advantage of increases or decreases in net asset value that were not yet reflected in the price, thereby diluting the values of outstanding shares. The proposed bonus credit recapture provisions pose no such threat of dilution.

10. Recaptures of bonus credits result in a redemption of Hartford Life's or Hartford L&A's interest in an owner's contract value or in an Account at a price determined on the basis of the Account's current net asset value and not at an inflated price. Moreover, Applicants represent that the amount recaptured will always equal the amount that Hartford Life or Hartford L&A paid from its general account for the credits. Similarly, although owners are entitled to retain any investment gains attributable to the bonus credits, the amount of such gains would always be computed at a price determined on the basis of net asset value.

11. Applicants assert that even if the proposed bonus credit provisions conflict with sections 2(a)(32), 22(c) or 27(i)(2)(A) of the Act or Rule 22c–1 thereunder, the Commission should grant the exemptions because the bonus credit provisions are generally favorable for prospective owners. The bonus credits are beneficial to prospective

owners. The recapture provisions do not, on balance, diminish the overall value of the bonus credit provisions and are fully disclosed in the prospectus for the Contracts.

12. Applicants assert that the bonus credit recapture provisions are necessary if Hartford Life or Hartford L&A are to offer the bonus credits. it would be unfair to Hartford Life or Hartford L&A to permit owners to keep their bonus credits upon their exercise of the Contracts' right to examine provision. Because no CDSC applies to the exercise of the right to examine provision, the owner could obtain a quick profit in the amount of the bonus credit at Hartford Life's or Hartford L&A's expense by exercising that right. Likewise, because no additional CDSC applies upon death of an owner or annuitant or upon annuitization, and no CDSC applies during a confinement period, such a death, annuitization or confinement period surrender or withdrawal shortly after the award of bonus credits would afford an owner or a beneficiary a similar profit. In the event of such profits to owners or beneficiaries, Hartford Life and Hartford L&A could not recover the cost of granting the bonus credits. This is because Hartford Life and Hartford L&A both intend to recoup the costs of providing the bonus credits through the charges under the Contract, particularly the daily mortality and expense risk charge and the daily administrative charge. If the profits described above are permitted, certain owners could take advantage of them, greatly reducing the base from which the daily charges are deducted and greatly increasing the amount of bonus credits that Hartford Life and Hartford L&A must provide. Therefore, the recapture provisions are the price of offering the bonus credits. Hartford Life and Hartford Life and Hartford L&A simply cannot offer the proposed bonus credits without the ability to recapture those credits in the limited circumstances described herein.

13. Applicants assert that the Commission's authority under Section 6(c) of the Act to grant exemptions from various provisions of the Act and rules thereunder is broad enough to permit orders of exemption that cover classes of unidentified persons. Applicants request an order of the Commission that would exempt them, Future Accounts and Future Underwriters from the provisions of sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder. The exemption of these classes of persons is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act because all of the potential members of the class could obtain the foregoing exemptions for themselves on the same basis as the Applicants, but only at a cost to each of them that is not justified by any public policy purpose. The Commission has previously granted exemptions to classes of similarly situated persons in various contexts and in a wide variety of circumstances, including future exemptions for recapturing bonus credits under variable annuity contracts.

14. Applicants represent that Future Contracts will be substantially similar in all material respects to the Contracts and that each factual statement and representation about the bonus credit provisions of the Contracts will be equally true of Future Contracts. Applicants also represent that each material representation made by them about Hartford Life and Hartford L&A, each Account and HSDCI will be equally true of Future Accounts and Future Underwriters, to the extent that such representations relate to the issues discussed in this application.

Conclusion

Applicants request that the Commission issue an order pursuant to section 6(c) of the Act exempting them as well as Future Accounts and Future Underwriters from the provisions of sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder, to the extent necessary to permit the recapture of certain credits applied to purchase payments made in consideration of the Contracts and Future Contracts.

Applicants assert, based on the grounds summarized above, that their exemptive request meets the standards set out in section 6(c) of the 1940 Act, namely, that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–23898 Filed 9–15–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 18, 2000.

An open meeting will be held on Wednesday, September 20, 2000 at 9 a.m., in Room 1C30.

The Commission will hold public hearings on its proposed rule amendments concerning auditor independence. The purpose of the hearings is to give the Commission the benefit of the views of the interested members of the public regarding the issues raised and questions posed in the Proposing Release (33–7870). For further information, contact: John M. Morrissey, Deputy Chief Accountant or W. Scott Bayless, Associate Chief Accountant, Office of the Chief Accountant at (202) 942–4400.

A closed meeting will be held on Thursday, September 21, 2000 at 11 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(A) and (10), permit consideration for the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled Thursday, September 21, 2000 will be:

Institution and settlement of injunctive actions; and

Institution and settlement of administratrative proceedings of an enforcement nature

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: September 13, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–24010 Filed 9–14–00; 11:26 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43280; File No. SR–BSE–00–06]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to the Intermarket Trading System

September 11, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 5, 2000, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On September 5, 2000, the BSE submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to amend its rules relating to the Intermarket Trading System (''ITS'') to make these rules consistent with ITS Plan amendments filed by the Participants in ITS.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The BSE originally filed the proposal on August 4, 2000, pursuant to Section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2). On September 5, 2000, the BSE submitted a letter from John A. Boese, Assistant Vice President, Rule Development and Market Structure, BSE, to Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, amending the proposal (''Amendment No. 1''). In Amendment No. 1, the BSE requested that the Commission consider the proposal under Section 19(b)(3)(A) of the Act. 15 U.S.C. 78s(b)(3)(A). Because the BSE amended the proposal to file it under Section 19(b)(3)(A) of the Act, the Commission considers the proposal refiled as of the date of the amendment. Therefore, the date of the amendment is deemed the date of the filing of the proposal.

[4] Participants to the ITS Plan include the American Stock Exchange LLC, the BSE, the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Inc., the Cincinnati Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc. (collectively, ''Participants''). This filing incorporates ITS Plan amendments, which codify trade adjustment procedures and make technical revisions found in the 15th ITS Plan Amendment (''15th ITS Plan Amendment''). *See* Securities Exchange Act Release No. 43240 (September 1, 2000) (notice of the 15th ITS Plan Amendment).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Sections (a)(1) (*Definitions*) and (1)(b) (*Provisions of the Plan*) of Chapter XXXI, *Intermarket Trading System*, and add Section (5) (*Corrections*) to Chapter XXXI, *Intermarket Trading System.* Specifically, the BSE seeks to change its rules regarding the ITS to make these rules consistent with the recent 15th ITS Plan Amendment filed by the Participants.

Presently, the term ''System'' is defined in sub-section (ii) of Chapter XXXI, Section (1)(a) as ''the communications network and related equipment that links electronically the participating market centers as described in the Plan.'' Under the 15th ITS Plan Amendment, the definition of ''System'' is expanded to include the ITS control center which is responsible for, among other things, monitoring and controlling communications and processing trade adjustments as a result of errors.[5] Accordingly, the Exchange seeks to expand its definition of ''System'' consistent with the 15th ITS Plan Amendment.

Furthermore, the term ''Participant(s) Market'' as defined in sub-section (vii) of Chapter XXXI, Section (1)(a) does not include Remote Specialist locations as part of the Exchange Market. The 15th ITS Plan Amendment takes into account the recent approval by the Commission and pending addition of Remote Specialists to the Exchange.[6] The 15th ITS Plan Amendment includes Remote Specialist locations at which ITS stations are located in the definition of ''Participant Market.'' [7] Accordingly, the Exchange seeks to expand its definition of ''Participant(s) Market'' consistent with the 15th ITS Plan Amendment so that Remote Specialist locations are included in all references thereto.

The 15th ITS Plan Amendment adds a new paragraph to the ITS Plan concerning trade adjustments.[8] In order to remain consistent with the 15th ITS Plan Amendment, the Exchange seeks to add Section (5) (*Trade Adjustments*) to Chapter XXXI. This section sets forth the procedures for facilitating trade adjustments. The Exchange seeks to codify their responsibilities concerning these procedures. Specifically, the Section delineates how and by whom messages requesting trade adjustments must be sent and the steps which will be taken by the ITS Control Center (''ICC'') to process the adjustments. The messages concerning trade adjustments (*i.e.*, price, size, buy or sell side, cancel or insert trade ''as of'' a prior day) must be sent to the ICC in the form of administrative messages through ITS by a supervisor of the Exchange (''Exchange supervisor'') authorized to send such messages.

In the case of trade day adjustments, if an Exchange member receives and executes a commitment to trade, the Exchange supervisor will be permitted to send a trade adjustment message to the ICC only after receiving an administrative message through ITS from the supervisor of the market that issued the commitment (''issuing supervisor''), agreeing to the terms of, and authorizing the Exchange supervisor to make, the adjustment. Similarly, if the Exchange is the issuing market, the Exchange supervisory must send administrative messages to any executing market supervisor regarding any trade adjustment terms and authorizations. In the case of ''as-of'' adjustments, in all cases, the Exchange supervisor and the corresponding supervisor of the trade must both send administrative messages to the ICC, each requesting the same terms and authorization for the adjustment. An administrative message from the ICC confirming any adjustments will be sent to both the issuing and executing markets following each adjustment.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act,[9] in that it is designed to promote just and equitable principles of trade, to foster cooperation

[5] *See* supra note 4.

[6] The Commission approved the BSE's Remote Specialist proposal on August 8, 2000. *See* Exchange Act Release No. 43127 (August 8, 2000), 65 FR 49617 (August 14, 2000).

[7] *See* supra note 4.

[8] *Id.*

[9] 15 U.S.C. 78f(b)(5).

and coordination with persons engaged in regulatory, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The Exchange believes that the proposed rule change is also consistent with section 11A(a)(1)(D) of the Act,[10] which calls for the linking of all markets for qualified securities.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule, which is based on an ITS Plan amendment approved by the Participants: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days or such shorter time as the Commission may designate,[11] the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549–0609. Copies of the submission, all subsequnt 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 BSE. All submissions should refer to File No. SR–BSE–00–06 and should be submitted by October 10, 2000.

For the Commission, by the Division of market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–23830 Filed 9–15–00; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78k–1(a)(1)(D).

[11] On August 4, 2000, the Exchange provided the Commission with the five business day notice required by Rule 19b–4(f)(6) of the Act:

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43273; File No. SR–CBOE–00–29]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Market Performance Responsibilities of the Exchange's Modified Trading System Appointments Committee

September 11, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 11, 2000, the Chicago Board Options Exchange, Inc. (''CBOE or Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules governing designated primary market-makers (''DPMs'') to modify a provision requiring that the Exchange's Modified Trading System Appointments Committee (''MTS Committee'') undertake certain performance evaluation and remedial action functions with respect to DPMs and other Exchange members trading in DPM crowds. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change concerns the role of the CBOE's MTS Committee in reviewing the performance of DPMs and Market Makers and Floor Brokers that regularly trade at DPM trading stations. The purpose of the proposed change is to clarify that while the MTS Committee has the authority, by rule, to perform the market performance evaluations and remedial action functions set forth in CBOE Rule 8.60 [3] with respect to members that regularly trade at DPM stations, it will not be obligated to perform such evaluations and functions when they are carried out by other appropriate Exchange committees.

1. Background

On June 3, 2000, the Commission approved a rule change that updated and reorganized the Exchange's rules

[3] CBOE Rule 8.60(a) requires the periodic evaluation of members to determine whether they have fulfilled various performance standards, including those related to quality of markets, competition among market makers, observance of ethical standards, and administrative factors.

relating to its DPM program,[4] which has been in existence for approximately 13 years. That change also incorporated certain modifications to the operations of the DPM program. Among those was a requirement in recently adopted Rule 8.88(b) that the MTS Committee perform the market performance evaluation and remedial action functions set forth in CBOE Rule 8.60 with respect to DPMs and other members that regularly trade at DPM trading stations.

At the time the CBOE submitted the rule change proposal in December 1998, it was anticipated that only about one-half of the equity option trading crowds on the Exchange would operate under the DPM system, and that, therefore, it would be feasible and practical for the MTS Committee to perform the market performance evaluation and remedial action functions specified above for all DPMs and all members that regularly trade in DPM crowds.[5] The Exchange's Market Performance Committee has historically carried out the market performance and remedial action functions for all trading members other than DPMs who traded in equity option crowds, whether they traded in non-DPM crowds or DPM crowds. The rule change contemplated that the MTS Committee and the Market Performance Committee would equally divide the evaluation and remedial action responsibilities required under CBOE Rule 8.60 for equity option crowds with the MTS Committee performing these functions for members of DPM crowds and the Market Performance Committee performing these functions for members of non-DPM crowds. On June 29, 1999, however, the CBOE members voted to expand the application of the DPM program to all of its equity option trading crowds in an effort to address the strategic needs of the Exchange. This, in turn, has resulted in the MTS Committee having to assume market performance responsibilities for a much larger group of members than originally anticipated.

2. Proposed Change

Because of the significant shift to a DPM system for all equity option classes, the Exchange now believes it is too cumbersome for the MTS Committee to undertake all of the market performance evaluation and remedial action functions for all equity option trading crowds required by CBOE Rule 8.60. This is particularly true in light of the other significant responsibilities delegated to the MTS Committee, such as considering applications for DPM appointments, appointing DPMs, conducting detailed operational reviews of each DPM, making decisions on DPM appointment transfer proposals, and removing DPMs.

The Exchange therefore proposes to modify CBOE Rule 8.88(b) to state that the MTC Committee *may* (as opposed to *shall*) perform the market performance evaluation and remedial action functions set forth in CBOE Rule 8.60 with respect to DPMs and the Market Makers and Floor Brokers that regularly trade at DPM trading stations. The Exchange believes that this proposed change is consistent with the historical application of CBOE Rule 8.60 because it still allows the Market Performance Committee to continue administering performance evaluations of members, a function it has typically performed. Further, the proposed change is consistent with former CBOE Rule 8.80(b)(10),[6] which allowed, but did not require, the MTS Committee to perform the market performance evaluation and remedial action functions set forth in CBOE Rule 8.60 with respect to DPMs.

The Exchange notes that, under the proposed rule change, the MTS Committee would still be allowed to perform market performance evaluation and remedial action functions under CBOE Rule 8.60, if appropriate, but the Exchange would simply have the authority to delegate those functions among various committees. The CBOE believes that this flexibility is consistent with SR–CBOE–97–61,[7] approved by the Commission in 1997, which deleted specific references to a particular Market Performance Committee or a particular Floor Procedure Committee and replaced them with the terms ''appropriate'' Market Performance Committee and ''appropriate'' Floor Procedure Committee. The CBOE believes that, because all CBOE committees will exercise their authority pursuant to Exchange rules, the actual committee that exercises its authority under the rules should not be relevant. Accordingly, as the proposed rule would merely afford the Exchange greater flexibility in determining the appropriate committee or committees to carry out the administrative functions prescribed under CBOE Rule 8.60, the change is truly administrative in nature. Moreover, the proposed rule change would obviate the need to make a future rule change simply to change the delegation of authority under CBOE Rule 8.60 between and among Exchange committees.

3. Statutory Basis

The CBOE believes that the proposed rule change will improve the administration of the Exchange's market performance evaluation and remedial action functions. Accordingly, the CBOE believes that the proposed rule change is consistent with Section 6 of the Act,[8] and in particular Section 6(b)(5),[9] in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the CBOE has designated the proposed rule change as constituting stated policies, practices, or interpretations with respect to the meaning, administration, or enforcement of its existing rules, it has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[10] and Rule 19b–4(f)(1).[11] At any time within 60 days of the filing of this proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the

[4] Securities Exchange Act Release No. 43004 (June 30, 2000), 65 FR 43060 (July 12, 2000).

[5] The MTS Committee currently has the ability to review and evaluate the conduct of DPMs pursuant to CBOE Rule 8.60.

[6] CBOE Rule 8.80(b)(10) preceded current CBOE Rule 8.88(b).

[7] Securities Exchange Act Release No. 39479 (December 22, 1997), 62 FR 68326 (December 31, 1997).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(i).

[11] 17 CFR 240.19b–4(f)(1).

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 CBOE. All submissions should refer to file number SR–CBOE–00–29 and should be submitted by October 10, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–23831 Filed 9–15–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43281; File No. SR–CBOE–99–44]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc; Order Approving Proposed Rule Change to Revise the Limits for Introducing New Series of Index Options

September 11, 2000.

I. Introduction

On August 18, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' or the ''Board'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the limits for introducing new series of index options. The proposed rule change was published for comment in the **Federal Register** on March 14, 2000.[3]

II. Description of the Proposal

The CBOE has filed with the Commission a proposed rule change to amend Interpretations .01 and .05 of Exchange Rule 24.9, ''Terms of Index Option Contracts,'' regarding the limits on new series of index options. The proposal would permit the CBOE to introduce new series of index options if their strike prices are within 30% of the current index value. The proposed rule change also would permit the CBOE to introduce new series of index options with strike prices of more than 30% away from the current index value, where demonstrated customer interest exists for those new option series.

Currently, Interpretation .05 of CBOE Rule 24.9 allows the CBOE to list additional series of the same class of index options, other than options based on the S&P 100 Index (''OEX''), when the current index value of the underlying index moves substantially from the exercise price of those index options trading on the Exchange. Under the Exchange's rules, the exercise price for each new series of index options must be ''reasonably related'' to the current index value of the underlying index to which the options relate at or around the time the series of options is first opened for trading on the Exchange. Interpretation .05 defines ''reasonably related,'' for all options other than long term index options (''LEAPS'') and OEX index options, as: (a) The lesser of 50 points of the current index value or 15% of the current index value; and (b) where demonstrated customer interest exists, the lesser of 100 points of the current index value or 30% of the current index value. For OEX options, which are governed by Interpretation .01 of Rule 24.9, ''reasonably related'' is defined to be 8% of the current index value, or 20% if unusual market conditions exist. Under the Exchange's proposal, OEX options would be subject to the same parameters as other index options.

The CBOE represents that the proposed rule change will enable the Exchange to more effectively respond to changing market conditions and provide market participants with effective risk management strategies in rapidly changing markets. The CBOE believes that the proposal will benefit Exchange members and their customers, because the proposal will permit the CBOE to introduce new series of index options as warranted by market conditions and eliminate an obsolete formula that is tied to a fixed number of index options.

III. Discussion

The Commission finds that the proposal is consistent with the requirements of the Act.[4] In particular, the Commission finds that the proposed rule change furthers the objectives of section 6(b)(5),[5] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and national market system.

The Exchange proposal would allow the Exchange to introduce new series of index options with strike prices that are within 30% of the current index value of the underlying index. In addition, the Exchange would be permitted to introduce new series of index options, without regard to the 30 percent limitation, whenever demonstrated customer interest exists.

The Commission believes that the proposed rule change will allow the Exchange to meet the needs of its members and their customers, while also promoting just and equitable principles of trade, and removing impediments to and perfecting the mechanism of a free and open market and national market system. The Commission also believes that the Exchange's proposal to utilize a single percentage, rather than a numerical standard, will assist the CBOE to better calculate whether, in a rapidly changing market, a proposed new series of index options is reasonably related to the value of the underlying index. Moreover, the Commission believes that allowing new series to be introduced without regard to the 30% limitation, whenever demonstrated customer interest exists, will provide greater flexibility to options customers. Finally, the Commission believes that it is appropriate for the Exchange to no longer maintain a separate definition of ''reasonably related'' for OEX options.

IV. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (SR–CBOE–99–44) is approved.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] Securities Exchange Act Release No. 42500 (March 7, 2000), 65 FR 13799 (March 14, 2000).

[4] 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).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–23832 Filed 9–15–00; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3419]

Culturally Significant Objects Imported for Exhibition Determinations: ''Antioch: The Lost Ancient City''

AGENCY: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999, as amended by Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the objects to be included in the exhibit, ''Antioch: The Lost Ancient City,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with a foreign lender. I also determine that the temporary exhibition or display of the exhibit objects at the Worcester Art Museum, Worcester, Massachusetts from on or about October 7, 2000, to on or about February 4, 2001, at the Cleveland Museum of Art, Cleveland, Ohio from on or about March 18, 2001, to on or about June 3, 2001, and at the Baltimore Museum of Art, Baltimore, Maryland from on or about September 16, 2001, to on or about December 30, 2001, is in the national interest. Public Notice of these determinations is ordered to be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is Room 700, United States Department of State, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: September 11, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 00–23904 Filed 9–15–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2000–46]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 8, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271, Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Dated: Issued in Washington, D.C., September 12, 2000.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 30070.

Petitioner: The Lancair Company.

Section of the FAR Affected: 14 CFR 47.65.

Description of Relief Sought/Disposition: To permit Lancair to obtain a Dealer's Aircraft Registration Certificate without meeting citizenship requirements. *Grant, 08/30/00, Exemption No. 7330.*

Docket No.: 24800.

Petitioner: Tennessee Air Cooperative, Inc.

Section of the FAR Affected: 14 CFR 103.1(e)(1).

Description of Relief Sought/Disposition: To permit TAC to operate powered ultralight vehicles with an empty weight of up to 350 pounds to accommodate physically disabled persons. *Grant, 08/25/00, Exemption No. 5001F.*

Docket No.: 12227.

Petitioner: National Business Aviation Association, Inc.

Section of the FAR Affected: 14 CFR 91.409(e) and 91.501(a).

Description of Relief Sought/Disposition: To permit NBAA members to operate small civil airplanes and helicopters of U.S. registry under the operating rules of §§ 91.503 through 91.535 and to select an inspection program as described in § 91.409(f). *Grant, 08/25/00, Exemption No. 1637U.*

Docket No.: 30101.

Petitioner: Garden State Chapter of the International Organization of Women Pilots.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353 and Appendixes I and J to part 121.

Description of Relief Sought/Disposition: To permit Garden State 99s to conduct local sightseeing flights at South Jersey Regional Airport, Mt. Holly, New Jersey, for its two-day Pennies a Pound event in September 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 08/29/00, Exemption No. 7328.*

Docket No.: 30143.

Petitioner: Experimental Aircraft Association Chapter 1047 and Tar River Composite of the Civil Air Patrol.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and Apppendixes I and J to part 121.

Description of Relief Sought/ Disposition: To permit EAA Chapter 1047 to conduct local sightseeing flights at the Wilson Industrial Center, Wilson, North Carolina, for a one-day open house event in September 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 08/29/00, Exemption No. 7329.*

Docket No.: 30185.

Petitioner: Dr. Fred A. Collatz, III.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353 and Appendixes I and J to part 121.

Description of Relief Sought/ Disposition: To permit Dr. Collatz to conduct local sightseeing flights in the vicinity of Manchester, Kentucky, for the Clay County Days Festival on August 31, 2000, through September 2, 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 08/31/00, Exemption No. 7331.*

[FR Doc. 00–23815 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE– 2000–47]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 8, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271, Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on September 12, 2000.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 30040.

Petitioner: Mr. Kenneth D. Jannereth.

Section of the FAR Affected: 14 CFR 121.383(c).

Description of Relief Sought/ Disposition: To permit Mr. Jannereth to act as a pilot in operations conducted under part 121 after reaching his 60th birthday. *Denial, 09/01/00, Exemption No. 7338.*

Docket No.: 30168.

Petitioner: Washington Flyers Club (WFC).

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and Appendix I and J to part 121.

Description of Relief Sought/ Disposition: To permit WFC to conduct local sightseeing flights at Washington County Pennsylvania Airport for a one-day charitable event in September 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 09/06/00, Exemption No. 7334.*

Docket No.: 30075.

Petitioner: Mr. Joe A. Stamm.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and Appendixes I and J to part 121.

Description of Relief Sought/ Disposition: To permit Mr. Stamm to conduct a local sightseeing flight at Cuyahoga County Airport, Richmond Heights, Ohio, to benefit the Orange Public Schools Foundation, on one day between September 29, 2000, and September 28, 2001, to be determined by Mr. Stamm and the passenger(s), for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 09/06/00, Exemption No. 7333.*

Docket No.: 31136.

Petitioner: Columbiana County Pilots Association.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and Appendixes I and J to part 121.

Description of Relief Sought/ Disposition: To permit CCPA to conduct local sightseeing flights at Columbiana County Airport for its one-day Wings-N-Wheels event in September 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 09/06/00, Exemption No. 7332.*

Docket No.: 30133.

Petitioner: Fullerton Chapter of the Ninety-Nines, Inc.

Section of the FAR Affected: 14 CFR 135.251, 135,255, 135.353, and Appendix I and J to part 121.

Description of Relief Sought/ Disposition: To permit Fullerton Ninety-Nines to conduct local sightseeing flights at Fullerton Municipal Airport, California, for a one-day charitable event in September 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 09/06/00, Exemption No. 7340.*

Docket No.: 30153.

Petitioner: Mr. Rick Mantei.

Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and Appendixes I and J to part 121.

Description of Relief Sought/ Disposition: To permit Mr. Mantei to conduct local sightseeing flights in the vicinity of Corder, South Carolina, for a one-day charitable event benefiting the local chapter of the Experimental Aircraft Association in September 2000, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 09/08/00, Exemption No. 7342.*

Docket No.: 28718.

Petitioner: The Goodyear Tire & Rubber Company.

Section of the FAR Affected: 14 CFR 21.325(b)(3).

Description of Relief Sought/ Disposition: To permit the issuance of

U.S. export airworthiness approvals for aircraft tires manufactured and located at Goodyear's Bangkok, Thailand, facility. *Grant, 09/07/00, Exemption No. 6682D.*

Docket No.: 29509.

Petitioner: Michelin Aircraft Tire Corporation.

Section of the FAR Affected: 14 CFR 21.325(b)(3).

Description of Relief Sought/ Disposition: To permit the issuance of U.S. export airworthiness approvals for aircraft tires manufactured and located at Michelin's Nong Khae, Thailand facility. *Grant, 09/07/00, Exemption No. 7099B.*

[FR Doc. 00–23816 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Atlanta, GA

AGENCY: Federal Highway Administration (FHWA), Georgia Department of Transportation (GDOT).

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the ''Northern Arc,'' a proposed west-east connector between U.S. 411 in Bartow County, Georgia and S.R. 400 in Forsyth County, Georgia.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Giersch, Environmental Coordinator, Federal Highway Administration, Atlanta Federal Center, 61 Forsyth Street, SW., Suite 17T100, Atlanta, GA 30303–3104, Telephone (404) 562–3653; or Mr. Harvey Keepler, State Environmental/Location Engineer, Georgia Department of Transportation, Office of Environment/Location, 3993 Aviation Circle, Atlanta, Georgia 30336, Telephone (404) 699–4400; or Northern Arc Information Line, Telephone (770) 455–1946, Email info@northernarc.com.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the GDOT, will prepare an Environmental Impact Statement (EIS) on a proposal to construct a four-lane, limited access highway located between U.S. 411 in Bartow County and S.R. 400 in Forsyth County, a distance of approximately 50 miles. The proposed project is necessary to provide a new facility to mitigate existing and projected traffic congestion for west-east traffic on S.R. 20 and other existing facilities in Bartow, Cherokee, and Forsyth Counties.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies. A public hearing will be held and a public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified in the EIS, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. Georgia's approved clearinghouse review procedures apply to this program.)

Issued on September 7, 2000.

Jennifer Giersch,

Environmental Coordinator, Atlanta, Georiga.

[FR Doc. 00–23723 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Over-the-Road Bus Accessibility Program Announcement of Project Selection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice.

SUMMARY: The U.S. Department of Transportation (DOT) Federal Transit Administration (FTA) announces the selection of projects to be funded under the Over-the-road Bus (OTRB) Accessibility Program, authorized by Section 3038 of the Transportation Equity Act for the 21st Century (TEA–21). The OTRB Accessibility Program makes funds available to private operators of over-the-road buses to help finance the incremental capital and training costs of complying with DOT's over-the-road bus accessibility rule, published in a **Federal Register** Notice on September 24, 1998.

FOR FURTHER INFORMATION CONTACT: The appropriate FTA Regional Administrator for grant-specific issues; or Sue Masselink, Office of Program Management, 202–366–2053 for general information about the OTRB Accessibility Program.

SUPPLEMENTARY INFORMATION:

Projects Selected for Fiscal Year 2000 Funding

In fiscal year 2000, a total of $7.6 million was requested by 57 applicants: $5.9 million was requested for intercity fixed-route providers, and $1.7 million was requested for other providers such as charter, tour, and commuter service providers. A total of $3.7 million was available for providers of over-the-road services: $2 million at 90 percent Federal share for providers of intercity fixed-route services and $1.7 million at 50 percent Federal share for providers of other types of services, such as charter, tour, and commuter. See section 3038 of TEA–21, Pub. L. 105–178 and section 342 of the Department of Transportation and Related Agencies Appropriation Act 2000, Pub. L. 106–69. Project selections were made on a discretionary basis, based on each applicant's responsiveness to statutory project selection criteria, fleet size, and level of funding received last year. Because of the high demand for the funds available to providers of intercity fixed-route service, most applicants received less funding than they requested, although with the exception of some of the applicants that received funding last year, all qualified applicants received some funding. Each of the following 47 awardees, as well as the 10 applicants who were not selected for funding, will receive a letter which explains how funding decisions were made.

Operator	Award amounts		
	Intercity fixed-route	Other	Total
REGION I			
The Arrow Line, Inc, East Hartford, CT	$123,400	$0	$123,400
Bonanza Bus Lines, Providence, RI	68,900	0	68,900
Concord Trailways, Concord, NH	31,300	0	31,300
Peter Pan Bus Lines, Springfield, MA	129,700	0	129,700
Edwin J. Pina, Sr. and Sons, Inc., Marstons Mill, PA	0	14,250	14,250

Operator	Award amounts		
	Intercity fixed-route	Other	Total
VIP Tour and Charter Bus Co., Portland, ME	0	72,625	72,625
REGION II			
Travelways, Inc., Howell, NJ	71,600	132,500	204,100
Birnie Bus Service, Rome, NY	30,200	0	30,200
Shortline Hudson, Mahwah, NJ	6,100	0	6,100
Lakeland Bus Lines, Dover, NJ	0	108,000	108,000
REGION III			
Fullington Auto Bus Co., Clearfield, PA	30,910	0	30,910
Trans-Bridge Lines, Bethlehem, PA	31,720	70,412	102,132
Motor Transportation Company, Inc., Hazelton, PA	0	37,500	37,500
Krapf's Coaches, Westchester, PA	0	26,230	26,230
Keller Bus Service, Waldorf, MD	0	42,500	42,500
Butler Motor Company, Pittsburg, PA	0	36,000	36,000
Susquehanna Transit Company, Avis, PA	30,960	15,250	46,210
Werner Coach, Phoenixville, PA	32,800	18,210	51,010
Wisconsin Coach, Pittsburgh, PA	0	42,500	42,500
REGION IV			
P&S Transportation/Coach USA, Orlando, FL	0	59,957	59,957
Capital Motors/Colonial Trailways, Montgomery, AL	23,800	12,500	36,300
Colonial Trailways, Inc., Mobile, Alabama	23,400	12,500	35,900
Good Times Tours, Pensacola, FL	0	15,140	15,140
A.A. Crow Corp./Ingram Bus Lines, Tallassee, AL	0	15,000	15,000
Busco, Inc., Birmingham, AL	0	15,000	15,000
REGION V			
Eclipse Charter and Tours, Gary, IN	0	21,500	21,500
Peoria Charter Coach Co., Peoria, IL	3,000	0	3,000
Mid-America, Elk Grove Village, IL	0	79,280	79,280
Bosch Bus Co., Ft. Wayne, IN	0	25,872	25,872
Lakefront Lines, Brook Park, OH	31,460	0	31,460
Lamers Bus Company, Green Bay, WI	24,265	16,250	40,515
VanGalder Bus Company, Janesville, WI	0	107,500	107,500
REGION VI			
Americanos USA, El Paso, TX	94,600	0	94,600
Autobus Amigos, LLC, Brownsville, TX	31,500	0	31,500
Greyhound Lines, Inc., Dallas, TX	1,000,000	0	1,000,000
REGION VII			
Northwest Iowa Transportation, Inc., Ft. Dodge, IA	0	10,000	10,000
REGION VIII			
Powder River Transportation Svcs., Inc., Gillette, WY	19,965	9,983	29,948
Rimrock Stages, Billings, MT	29,200	12,500	41,700
REGION IX			
Pacific Coachways Charter Svcs., Inc., Garden Grove, CA	0	29,750	29,750
Golden State Coaches/Frontier Tours, Carson City, NV	0	361,122	361,122
Arrow Stage Lines, Phoenix, AZ	0	105,000	105,000
Gonzales Inc., Los Angeles, CA	126,100	0	126,100
Navi-Hopi Tours, Flagstaff, AZ	0	30,450	30,450
VIA Adventures, Tempe, AZ	15,120	11,750	26,870
REGION X			
Wheatland Express, Pullman, WA	0	12,735	12,735
Northwestern Stage, Spokane, WA	0	14,975	14,975
Commuter Bus, Caldwell, ID	0	12,435	12,435
TOTAL	*$2,010,000	$1,607,176	$3,617,176

*$10,000 was carried over from unobligated 1999 funds.

Eligible project costs may be incurred by awardees prior to final grant approval. The incremental capital cost for adding wheelchair lift equipment to any new vehicles delivered on or after June 9, 1998, the effective date of TEA–21, is eligible for funding under the OTRB Accessibility Program.

Applicants selected for funding may be contacted by FTA regional offices if any additional information is needed before grants are made. The grant applications will be sent to the U.S. Department of Labor (DOL) for certification under the labor protection requirements pursuant to 49 U.S.C. 5333(b). After referring applications to affected employees represented by a labor organization, DOL will issue a certification to FTA. The terms and conditions of the certification will be incorporated in the FTA grant agreement under the new guidelines replacing those in 29 CFR part 215. Please see *Amendment to Section 5333(b), Guidelines to Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century (TEA–21);* Final Rule (64 FR 40990, July 28, 1999).

Issued on September 12, 2000.

Nuria I. Fernandez,

Acting Administrator.

[FR Doc. 00–23817 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration (RSPA)

[Docket No. RSPA–98–4470]

Pipeline Safety: Meeting of the Hazardous Liquid Pipeline Safety Advisory Committee

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, DOT.

ACTION: Notice; Meeting of the Hazardous Liquid Pipeline Safety Standards Committee.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1) the Office of Pipeline Safety (OPS) gives notice of the continuation of a conference call meeting of the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) to consider the Notice of Proposed Rulemaking (NPRM), ''Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Hazardous Liquid Operators with 500 or more Miles of Pipeline).'' This meeting is being held without the required 15-day notice (THLPSSC Charter; Section 7 (d)) because of the urgent need to complete advisory committee action on this rule.

DATES: OPS will continue the conference call meeting on Friday, September 22, 2000, at 3:30 p.m. EST.

ADDRESSES: Members of the public may attend the meetings at the Department of Transportation, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. The meeting will be held in room 6332. The public may participate by telephone by registering with Juan Carlos Martinez, (202) 366–1933, no later than Wednesday, September 20, 2000. The Office of Pipeline Safety will contact all registered individuals prior to the meeting to notify them of the conference call number.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance during the telephone conference calls, contact Juan Carlos Martinez at (202) 366–1933.

FOR FURTHER INFORMATION CONTACT: Cheryl Whetsel, OPS, (202) 366–4431 or Richard Huriaux, OPS, (202) 366–4565, regarding the subject matter of this notice.

SUPPLEMENTARY INFORMATION: The THLPSSC is a statutorily mandated advisory committee that advises OPS on proposed safety standards and other safety policies for hazardous liquid pipelines. The committee consists of 15 members representing government, industry, and the public. The committee meets twice a year, usually in May and November. However, because the THLPSSC requested a delay in its formal review of the proposed rule at the May 2000 meeting, a special conference call meeting was held on September 11, 2000. Because the committee did not have time to complete its work, an additional conference call meeting will be held on September 22, 2000. The THLPSSC will provide comments on the Notice of Proposed Rulemaking (NPRM), ''Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Hazardous Liquid Operators with 500 or more Miles of Pipeline)'' (65 FR 21695) and will vote on the adequacy of the rule and the accompanying risk assessment.

Authority: 49 U.S.C. 60102, 60115.

Issued in Washington, DC on September 12, 2000.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 00–23905 Filed 9–15–00; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33919]

IRW Railway, LLC—Acquisition Exemption—West Tennessee Railroad Line

IRW Railway, LLC (IRW), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire the West Tennessee Railroad line (WTR line) from the Gibson County Railroad Authority (Authority). The WTR line extends from milepost 394.5, north of Carol, TN, to milepost 431.31, at Kenton, TN, a distance of 36.8 miles.[1]

According to the verified notice of exemption, the parties intended to purchase title to the line after approval of this exemption. The earliest the exemption could have been consummated was August 30, 2000, the effective date of the exemption (7 days after the exemption was filed).

This transaction is related to STB Finance Docket No. 33918, *Henry G. Hohorst, Bruce Hohorst, Joan D. Hohorst, and Anthony M. Linn—Continuance in Control Exemption—IRW Railway, LLC,* wherein Henry G. Hohorst, Bruce Hohorst, Joan D. Hohorst, and Anthony M. Linn have filed a verified notice of exemption to continue in control of IRW after it acquires ownership of the title to the lands and track of the WTR line.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding 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. 33919, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925

[1] The WTR line was acquired by Authority pursuant to the Board's decision in *Gibson County Railroad Authority and West Tennessee Railroad Corporation—Exemption—From 49 U.S.C. Subtitle IV,* Finance Docket No. 30502 (ICC served 8/27/84). West Tennessee Railroad Corp. (WTRC) currently provides rail service over the line under an operating agreement with Authority. The rail operation obligations of Authority will be transferred to IRW and WTRC will continue to operate the line.

K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John F. McHugh, McHugh & Barnes, P.C., 20 Exchange Place, New York, NY 10005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 8, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–23632 Filed 9–15–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33918]

Henry G. Hohorst, Bruce Hohorst, Joan D. Hohorst, and Anthony M. Linn—Continuance in Control Exemption—IRW Railway, LLC

Henry G. Hohorst, Bruce Hohorst, Joan D. Hohorst, and Anthony M. Linn, individuals (applicants), have filed a verified notice of exemption to continue in control of the IRW Railway, LLC (IRW), a limited liability company, after it acquires ownership of the title to the lands and track of the West Tennessee Railroad line (line).

According to the verified notice of exemption, the parties expected to purchase the line after approval of the transaction. The earliest the exemption could have been consummated was August 30, 2000, the effective date of the exemption (7 days after the exemption was filed).[1]

This transaction is related to STB Finance Docket No. 33919, *IRW Railway LLC—Acquisition Exemption—West Tenneesee Railroad Line,* wherein IRW will acquire ownership of title to the line from the Gibson County Railroad Authority (Authority).

Applicants own a controlling interest in South Central Rail Group, Inc., which owns the West Tennessee Railroad Corp., which currently operates the line under a lease and operating agreement with the Authority.[2] Applicants also hold a controlling interest in the Tennken Railroad Co., which operates in the States of Tennessee and Kentucky. According to applicants, the two railroads do not connect and there are no plans to connect them. The transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice 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. 33918, 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, a copy of each pleading must be served on John F. McHugh, McHugh & Barnes, P.C., 20 Exchange Place, New York, NY 10005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 8, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–23633 Filed 9–15–00; 8:45 am]

BILLING CODE 4915–00–P

[1] Although applicants initially filed their verified notice of exemption and filing fee on August 21, 2000, the official filing date became August 23, 2000, when applicants filed an amended verified notice of exemption.

[2] The rail operation obligations of Authority will be transferred to IRW and West Tennessee Railroad Corp. will continue to operate the line.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 199X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Buncombe County, NC

Norfolk Southern Railway Company (NS) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 3.45-mile line of its railroad between old Asheville Southern Station 76+97 at Asheville and old Asheville & Craggy Mountain Station 123+00 at New Bridge, in Buncombe County, NC. The line traverses United States Postal Service Zip Codes 28804 and 28806.

NS has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 18, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 28, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 10, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

NS has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by September 22, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NS shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NS's filing of a notice of consummation by September 18, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 11, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–23770 Filed 9–15–00; 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: Notice of meeting.

SUMMARY: This notice announces the date and time for the next meeting and the provisional agenda for consideration by the Committee.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, September 22, 2000 at 9 a.m. at the La Posada Hotel, located at 1000 Zaragoza Street, Laredo, TX. The duration of the meeting will be approximately four hours, starting at 9 a.m.

FOR FURTHER INFORMATION CONTACT: John P. Simpson, Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement), Office of the Under Secretary (Enforcement), Room 4308, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220. Tel.: (202) 622–0230.

At the September 22, 2000 session, the Advisory Committee is expected to pursue the following agenda. The agenda may be modified prior to the meeting.

Agenda

(1) MPF—Restructuring for Renewal—draft legislation

(2) OR&R Alternatives to Ruling Process to Achieve Timely Commercial Certainty

(3) CAT Subcommittee: Customs' Response to COAC Comments and Suggestions

(4) Status of HR 4868 Treasury Study and Report on Proposed Subcommittee

(5) Comments on Status and Improvement of Customs Programs

(6) Border Resources Alternatives

(7) 2001–2002 COAC Team

(8) Agenda Items for Next Meeting

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, participation in the Committee's deliberations is limited to Committee members, Customs and Treasury Department staff, and persons invited to attend the meeting for special presentations. A person other than an Advisory Committee member who wishes to attend the meeting should contact Theresa Manning at (202) 622–0220 or Helen Belt at (202) 622–0230.

Dated: September 13, 2000.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff, and Trade Enforcement).

[FR Doc. 00–23963 Filed 9–13–00; 5:01 pm]

BILLING CODE 4810–25–M

Corrections

Federal Register

Vol. 65, No. 181

Monday, September 18, 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.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43201; File No. SR–Phlx–00–71]

Self–Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to an Options Specialist Shortfall Fee

August 23, 2000.

Correction

In notice document 00–22014 beginning on page 52465 in the issue of Tuesday, August 29, 2000, the docket number is corrected to read as set forth above.

[FR Doc. C0–22014 Filed 9–15–00; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43210; File No. SR–SCCP–00–01]

Self–Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing of Proposed Rule Change Relating to the Eligibility of Holders of Equity Trading Permits Issued by the Philadelphia Stock Exchange, Inc. to be Participants of the Stock Clearing Corporation of Philadelphia

August 25, 2000.

Correction

In notice document 00–22485 beginning on page 53259 in the issue of Friday, September 1, 2000, the date is added to read as set forth above.

[FR Doc. C0–22485 Filed 9–15–00; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43206; File No. SR–PHLX–00–08]

Self–Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Incorporated, Establishing a Pilot Program Relating to Price Improvement in a Decimals Environment

August 25, 2000.

Correction

In notice document 00–22419 beginning on page 53250 in the issue of Friday, September 1, 2000, the docket number is added to read as set forth above.

[FR Doc. C0–22419 Filed 9–15–00; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43110; file No. SR–NYSE–00–19]

Self–Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exhcange, Inc. Relating to Rule 1006 of NYSe District+™, the Exchange's Automatic Execution Facility for Certain Limit Orders

August 2, 2000.

Correction

In notice document 00–20098 beginning on page 48776 in the issue of Wednesday, August 9, 2000, make the following corrections:

On page 48776 the heading is corrected by adding the date ''August 2, 2000.'' and on page 48778, the first column, last five lines of **IV. Solicitation of Comments**, ''[insert date 21 days from date of publication]'' should read ''August 30, 2000''.

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Part II

Department of Commerce

Patent and Trademark Office

37 CFR Part 1

Changes To Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

RIN 0651–AB06

Changes To Implement Patent Term Adjustment Under Twenty-Year Patent Term

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office) is revising the rules of practice in patent cases to implement certain provisions of the American Inventors Protection Act of 1999. These provisions of the American Inventors Protection Act of 1999 provide patent term adjustment to compensate patentees for certain delays in the application examination process.

DATES: *Effective Dates:* Sections 1.702 through 1.705 and the amendment to § 1.701 are effective October 18, 2000. The amendment to § 1.18 is effective November 17, 2000.

Applicability Date: Section 1.701 applies to original (non-reissue) patents issued on applications (other than for a design patent) filed on or after June 8, 1995, and before May 29, 2000. Sections 1.702 through 1.705 apply to original applications (other than for a design patent) filed on or after May 29, 2000, and to patents issued on such applications.

FOR FURTHER INFORMATION CONTACT: Karin L. Tyson, Robert W. Bahr, or Robert A. Clarke by telephone at (703) 305–1383, or by mail addressed to: Box Comments—Patents, Commissioner for Patents, Washington, D.C. 20231, or by facsimile to (703) 872–9411 or (703) 308–6916, marked to the attention of Karin L. Tyson.

SUPPLEMENTARY INFORMATION: The American Inventors Protection Act of 1999 (Title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948) as introduced in the 106th Congress on November 17, 1999) was incorporated and enacted into law on November 29, 1999, by § 1000(a)(9), Division B, of Pub. L. 106–113, 113 Stat. 1501 (1999). The American Inventors Protection Act of 1999 contains a number of changes to title 35, United States Code. This final rule changes the rules of practice to implement the provisions of §§ 4401 and 4402 of the American Inventors Protection Act of 1999. These provisions are effective on the date that is six months after the date of enactment of the American Inventors Protection Act of 1999 (May 29, 2000) and apply to original (non-reissue) applications, other than for a design patent, filed on or after the date that is six months after the date of enactment of the American Inventors Protection Act of 1999 (May 29, 2000).

Section 532(a)(1) of the Uruguay Round Agreements Act (Pub. L. 103–465, 108 Stat. 4809 (1994)) amended 35 U.S.C. 154 to provide that the term of patent protection begins on the date of patent grant and ends on the date twenty years from the filing date of the application, or the earliest filing date for which a benefit is claimed under 35 U.S.C. 120, 121, or 365(c). Pub. L. 103–465 also contained provisions, codified at 35 U.S.C. 154(b), for patent term extension due to certain examination delays.

Section 4402 of the American Inventors Protection Act of 1999 amends 35 U.S.C. 154(b)(1) to provide day-by-day patent term adjustment if the Office fails, within specified time periods, to: (1) initially act on the application; (2) respond to a reply or appeal to the Board of Patent Appeals and Interferences by the applicant; (3) act on an application after a decision by the Board of Patent Appeals and Interferences or a Federal court where at least one allowable claim remains in the application; or (4) issue the application after the issue fee is paid in reply to a notice of allowance and all outstanding requirements are satisfied (35 U.S.C. 154(b)(1)(A)). Section 4402 of the American Inventors Protection Act of 1999 also amends 35 U.S.C. 154(b)(1) to provide day-by-day patent term adjustment if, subject to a number of limitations, the Office fails to issue a patent within three years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B)). Section 4402 of the American Inventors Protection Act of 1999 also amends 35 U.S.C. 154(b)(1) to provide day-by-day patent term adjustment for delays due to interference proceedings under 35 U.S.C. 135(a), imposition of a secrecy order under 35 U.S.C. 181, or successful appellate review by the Board of Patent Appeals and Interferences or a Federal court (35 U.S.C. 154(b)(1)(C)).

Section 4402 of the American Inventors Protection Act of 1999 amends 35 U.S.C. 154(b)(2) to place limitations on the period of patent term adjustment granted under 35 U.S.C. 154(b)(1). First, to the extent that the periods of delay attributed to the grounds specified in 35 U.S.C. 154(b)(1) overlap, the period of adjustment shall not exceed the actual number of days the issuance of the patent was delayed. Second, no patent, the term of which has been disclaimed beyond a specified date, may be adjusted under 35 U.S.C. 154(b) beyond the expiration date specified in the disclaimer. Third, the period of patent term adjustment under 35 U.S.C. 154(b)(1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution (or processing or examination) of the application. Section 4402 of the American Inventors Protection Act of 1999, however, does not contain any limit (*e.g.,* of five or ten years) on the total extension or adjustment that may be granted under 35 U.S.C. 154(b).

An applicant is deemed to have failed to engage in reasonable efforts to conclude prosecution of an application with respect to any patent term adjustment under 35 U.S.C. 154(b)(1)(B) (failure to issue a patent within three years of the actual filing date of the application) for the cumulative total of any periods of time in excess of three months that are taken to reply to a notice of any rejection, objection, argument, or other request, measuring the three-month period from the date the notice was mailed or given. In addition, 35 U.S.C. 154(b)(2) directs the Office to prescribe regulations establishing the circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application.

Section 4402 of the American Inventors Protection Act of 1999 also amends 35 U.S.C. 154(b)(3) to establish procedures for patent term adjustment determinations. 35 U.S.C. 154(b)(3) directs the Office to prescribe regulations establishing procedures for the application for and determination of patent term adjustment under 35 U.S.C. 154(b). 35 U.S.C. 154(b)(3), however, requires the Office to: (1) Make a patent term adjustment determination and transmit a notice of that determination with the notice of allowance; and (2) provide the applicant with one opportunity to request reconsideration of that patent term adjustment determination. 35 U.S.C. 154(b)(3) also provides that the Office shall reinstate all or part of the cumulative period of time of an adjustment reduced under 35 U.S.C. 154(b)(2)(C) (for failure to reply to a notice of any rejection, objection, argument, or other request within three months of the date the notice was mailed or given) if, prior to issuance of the patent, the applicant makes a showing that, in spite of all due care, the applicant was unable to reply within the three-month period, except that the

Office may not reinstate more than three additional months for each reply beyond the original three-month period. Section 4402 of the American Inventors Protection Act of 1999 also amends 35 U.S.C. 154(b)(3) to provide that the Office shall proceed to grant the patent after completing its patent term adjustment determination and amends 35 U.S.C. 154(b)(4) to provide for judicial review in the event that the applicant is dissatisfied with that patent term adjustment determination.

Section 4405(a) of the American Inventors Protection Act of 1999 provides that § 4402 shall take effect on the date that is six months after the date of enactment of the American Inventors Protection Act of 1999 (May 29, 2000) and shall apply to any application (other than for a reissue or design) filed on or after the date that is six months after the date of enactment of the American Inventors Protection Act of 1999 (May 29, 2000). Therefore, patents (other than reissue or design) issued on applications filed on or after June 8, 1995, but before May 29, 2000, are subject to the patent term extension provisions of 35 U.S.C. 154(b) as amended by § 532(a)(1) of Pub. L. 103–465 and § 1.701, whereas patents (other than reissue or design) issued on applications filed on or after May 29, 2000, are subject to the patent term adjustment provisions of 35 U.S.C. 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999.

The filing date of a continued prosecution application (CPA) under § 1.53(d) is the date that the request for CPA is filed (§ 1.53(d)(2)), even though the Office uses the filing date of the prior application for identification purposes. Therefore, the patent term adjustment provisions of 35 U.S.C. 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999 apply to any CPA filed on or after May 29, 2000, regardless of the filing date of the prior application of the CPA. While an applicant may file a continuing application under § 1.53(b) on or after May 29, 2000, for the application to be subject to the patent term adjustment provisions of 35 U.S.C. 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999, an applicant need only file a CPA under § 1.53(d) on or after May 29, 2000, for the application to be subject to the patent term adjustment provisions of 35 U.S.C. 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999. The filing of a CPA on or after May 29, 2000, does not, however, entitle an applicant to receive term adjustment for Office delays before the filing date of the CPA (*i.e.*, before May 29, 2000).

The Office published a notice proposing changes to the rules of practice to implement the provisions of § 4402 of the American Inventors Protection Act of 1999. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term*, Notice of Proposed Rulemaking, 65 FR 17215 (Mar. 31, 2000), 1233 *Off. Gaz. Pat. Office* 109 (Apr. 25, 2000) (notice of proposed rulemaking). This final rule adopts changes to the rules of practice to implement the provisions of § 4402 of the American Inventors Protection Act of 1999.

Section 4732 of the American Inventors Protection Act of 1999 changed (among other things) the title ''Commissioner'' to ''Director.'' The title ''Commissioner,'' however, is not being changed to ''Director'' where it appears in the rules of practice involved in this final rule because legislation is pending before Congress that (if enacted) would restore the former title ''Commissioner.'' *See* Intellectual Property Technical Amendments Act of 2000, H.R. 4870, 106th Cong. (2000).

Discussion of Specific Rules

Sections 1.18(e) and (f) are added to set forth the fees for filing an application for patent term adjustment under § 1.705, and for filing a request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) in an application for patent term adjustment under § 1.705. The fees in § 1.18(e) and (f) are set to recover the estimated average cost to the Office for processing and evaluating an application for patent term adjustment under § 1.705, and for processing and evaluating a request under 35 U.S.C. 154(b)(3)(C) for reinstatement of the term reduced under 35 U.S.C. 154(b)(2)(C), respectively. *See* 35 U.S.C. 41(d).

Section 1.18(e) is added to provide a $200 fee for filing an application for patent term adjustment under § 1.705. An application for patent term adjustment under § 1.705(b) requires the Office to calculate the applicable patent term adjustment to determine the correct patent term adjustment. Handling such applications for patent term adjustment will involve careful record review and date calculation, but not a great deal of legal analysis. The Office expects them to be as burdensome as petitions of medium level complexity. Based upon activity-based cost estimates (using the costs of treating similar petitions, that is, petitions of medium level burden), a $200 fee was determined to be the appropriate fee amount for cost-recovery as provided for in 35 U.S.C. 41(d).

Section 1.18(f) is added to provide a $400 fee for filing a request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) in an application for patent term adjustment under § 1.705. The request for reinstatement provided for in § 1.705(c) requires the Office to evaluate the merits of the applicant's showing that at least one delay occurred in spite of all due care. Evaluating such ''due care'' showings is expected to be as burdensome as evaluating the ''unavoidable'' delay petitions provided for in §§ 1.137(a) and 1.378(b), which are some of the most burdensome petitions. Thus, based upon activity-based cost estimates (using the costs of treating ''unavoidable'' delay petitions), a $400 fee was determined to be the appropriate fee amount for cost-recovery as provided for in 35 U.S.C. 41(d).

The Office initially proposed a $450 fee for filing a request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) in an application for patent term adjustment under § 1.705. The Office, however, has since further refined its cost estimates for processing and evaluating such requests for reinstatement and has determined that $400 is the appropriate fee amount for cost-recovery as provided for in 35 U.S.C. 41(d).

Subpart F of 37 CFR Part 1 is amended to include a first undesignated center heading to read ''Adjustment of Patent Term Due to Examination Delay'' followed by an amended § 1.701 and newly added §§ 1.702 through 1.705 concerning patent term adjustment under 35 U.S.C. 154(b), and a second undesignated center heading to read ''Extension of Patent Term Due to Regulatory Review'' followed by current § 1.710 *et seq.* concerning patent term extension under 35 U.S.C. 156.

Section 1.701 is amended by revising its heading to indicate that its provisions concern the patent term extension provisions of the Uruguay Round Agreements Act (Pub. L. 103–465 and to add a paragraph (e) to specify that the provisions of § 1.701 apply only to original patents issued on applications filed on or after June 8, 1995, and before May 29, 2000. As discussed above, the provisions of 35 U.S.C. 154(b) as amended by § 532(a)(1) of Pub. L. 103–465 and § 1.701 apply to applications (other than for a reissue or design patent) filed on or after June 8, 1995, but before May 29, 2000, and the provisions of § 4402 of the American Inventors Protection Act of 1999 and §§ 1.702 through 1.705 apply to applications (other than for a reissue or

design patent) filed on or after May 29, 2000.

Section 1.702 is added to set forth the bases for patent term adjustment under 35 U.S.C. 154(b)(1). Section 1.702(a) indicates that a patent is entitled to patent term adjustment if the Office fails to perform certain acts of examination within specified time frames (35 U.S.C. 154(b)(1)(A)). Section 1.702(b) indicates that a patent is entitled to patent term adjustment if, subject to a number of limitations, the Office fails to issue a patent within three years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B)). Section 1.702(c) indicates that a patent is entitled to patent term adjustment if the issuance of the patent was delayed by an interference proceeding (35 U.S.C. 154(b)(1)(C)(i)). Section 1.702(d) indicates that a patent is entitled to patent term adjustment if the issuance of the patent was delayed by the application being placed under a secrecy order under 35 U.S.C. 181 (35 U.S.C. 154(b)(1)(C)(ii)). Section 1.702(e) indicates that a patent is entitled to patent term adjustment if the issuance of the patent was delayed by successful appellate review under 35 U.S.C. 134, 141, or 145 (35 U.S.C. 154(b)(1)(C)(iii)). Section 1.702(f) provides that the provisions of §§ 1.702 through 1.705 apply only to original (*i.e.,* non-reissue) applications, except applications for a design patent, filed on or after May 29, 2000, and patents issued on such applications.

Section 1.703 specifies the period of adjustment if a patent is entitled to patent term adjustment under 35 U.S.C. 154(b)(1) and § 1.702. When a period is indicated (in § 1.703 or 1.704) as ''beginning'' on a particular day, that day is included in the period, in that such day is ''day one'' of the period and not ''day zero.'' For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length.

35 U.S.C. 154(b)(1)(A) and (B) provide for an adjustment of one day for each day after the end of the period set forth in 35 U.S.C. 154(b)(1)(A)(i), (ii), (iii), (iv), and (B) until the prescribed action is taken, whereas 35 U.S.C. 154(b)(1)(C) provides for an adjustment of one day for each day of the pendency of the proceeding, order, or review prescribed in 35 U.S.C. 154(b)(1)(C)(i) through (iii). Therefore, the end of the period set forth in §§ 1.703(a) and 1.703(b) (which correspond to 35 U.S.C. 154(b)(1)(A) and (B)) is ''day zero'' (not ''day one'') as to the period of adjustment, whereas the first day of the proceeding, order, or review set forth in §§ 1.703(c), 1.703(d), and 1.703(e) (which correspond to 35 U.S.C. 154(b)(1)(C)(i) through (iii)) is ''day one'' of the period of adjustment.

Section 1.703(a) pertains to 35 U.S.C. 154(b)(1)(A) and indicates that the period of adjustment under § 1.702(a) is the sum of the periods specified in § 1.703(a)(1) through § 1.703(a)(6).

Section 1.703(a)(1) pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(i). Section 1.703(a)(1) specifies that the period is the number of days, if any, beginning on the date after the day that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application and ending on the mailing date of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. A written restriction requirement, a written election of species requirement, a requirement for information under § 1.105, an action under *Ex parte Quayle*, 1935 Comm'r Dec. 11 (1935), and a notice of allowability (PTOL–37) are each an action issued as a result of the examination conducted pursuant to 35 U.S.C. 131. As such, each of these Office actions is a notification under 35 U.S.C. 132. Office notices and letters issued as part of the pre-examination processing of an application are not notices issued as a result of an examination conducted pursuant to 35 U.S.C. 131, and thus are not notifications under 35 U.S.C. 132. Examples of such notices are: a Notice of Incomplete Nonprovisional Application (PTO–1123), a Notice of Omitted Item(s) in a Nonprovisional Application (PTO–1669), a Notice to File Missing Parts of Application (PTO–1533), a Notice of Informal Application (PTO–152), a Notice to File Corrected Application Papers Filing Date Granted (PTO–1660), or a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO–1661).

Section 1.703(a)(2) pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(ii). Section 1.703(a)(2) specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the mailing date of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

Section 1.703(a)(3) also pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(ii). Section 1.703(a)(3) specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. A reply under § 1.113 is a reply to a final Office action, and a reply in compliance with § 1.113 is a reply that cancels all of the rejected claims and removes all outstanding objections and requirements or otherwise places the application in condition for allowance. Any amendment after final that does not cancel all of the rejected claims and remove all outstanding objections and requirements or otherwise place the application in condition for allowance is not a reply in compliance with § 1.113(c).

Section 1.703(a)(4) also pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(ii). Section 1.703(a)(4) specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date an appeal brief in compliance with § 1.192 was filed and ending on the mailing date of any of an examiner's answer under § 1.193, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. As discussed below, the phrase ''the date on which'' an ''appeal was taken'' in 35 U.S.C. 154(b)(1)(A)(ii) means the date on which an appeal brief (and not a notice of appeal) was filed. The phrase ''appeal brief in compliance with § 1.192'' requires that: (1) the appeal brief fee (§ 1.17(c)) be paid (§ 1.192(a)); and (2) the appeal brief complies with § 1.192(c)(1) through (c)(9).

Section 1.703(a)(5) pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(iii). Section 1.703(a)(5) specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146, where at least one allowable claim remains in the application and ending on the mailing date of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

For a Board of Patent Appeals and Interferences decision to be a ''decision by the Board of Patent Appeals and Interferences under [35 U.S.C.] 134'' within the meaning of 35 U.S.C. 154(b)(1)(A)(iii) (and § 1.703(a)(5)), the decision must sustain or reverse the rejection(s) of the claim(s) on appeal. For a Board of Patent Appeals and Interferences decision to be a ''decision by the Board of Patent Appeals and Interferences under [35 U.S.C.] 135''

within the meaning of 35 U.S.C. 154(b)(1)(A)(iii) (and § 1.703(a)(5)), the decision must include a decision on the patentability of the claims or priority of invention. A remand or other administrative order by the Board of Patent Appeals and Interferences (even if by a merits panel) is not a ''decision'' within the meaning of 35 U.S.C. 154(b)(1)(A)(iii) (and § 1.703(a)(5)).

The phrase ''final decision'' in § 1.703(a)(5) means that: (1) the decision is the last decision in the review by the Board of Patent Appeals and Interferences (or by a Federal court); and (2) the decision does not require further action by the applicant to avoid termination of proceedings as to the rejected claims. Thus, a Board of Patent Appeals and Interferences decision containing a new ground of rejection under § 1.196(b) requires action by the applicant to avoid termination of proceedings as to the rejected claims and is thus not considered a ''final decision'' for purposes of § 1.703(a)(5). The phrase ''final decision,'' however, does not require that the decision be final for purposes of judicial review (*e.g.*, a Board of Patent Appeals and Interferences decision reversing the rejection of all of the claims on appeal is not ''final'' for purposes of judicial review, but (absent a subsequent decision by the Board of Patent Appeals and Interferences) is a ''final decision'' for purposes of § 1.703(a)(5)).

The phrase ''allowable claims remain in the application'' for purposes of 35 U.S.C. 154(b)(1)(A)(iii) means that after the decision there is at least one pending claim (for purposes of statutory construction, ''words importing the plural include the singular'' (1 U.S.C. 1)) that is not withdrawn from consideration and is not subject to a rejection, objection, or other requirement. This applies in the following situations: (1) At least one claim is allowable (not merely objected to) at the time the examiner's answer is mailed and is not canceled before, or made subject to a rejection as a result of, the appellate review; or (2) when all of the rejections applied to at least one claim are reversed, and such claim is not made subject to a rejection, as a result of the appellate review. For example:

(1) If claims 1 and 2 (both independent) are pending, the decision affirms the rejection of claim 1, and claim 2 was indicated as allowable prior to the appeal, ''allowable claims remain in the application'' for purposes of 35 U.S.C. 154(b)(1)(A)(iii).

(2) If claims 1 and 2 are pending, the decision affirms the rejection of claim 1, and claim 2 was objected to by the examiner prior to the appeal as being allowable except for its dependency from claim 1, ''allowable claims'' do not ''remain in the application'' for purposes of 35 U.S.C. 154(b)(1)(A)(iii) (claim 2 is not allowable because there is an outstanding objection to it).

(3) If claims 1 and 2 are pending, the decision affirms the rejection of claim 1 and reverses the rejection of claim 2, ''allowable claims remain in the application'' for purposes of 35 U.S.C. 154(b)(1)(A)(iii) (claim 2 is ''allowable'' within the meaning of § 1.703(a)(5) because there is no outstanding objection or requirement as to it until the examiner issues a notice under section 1214.06, paragraph (I)(B) of the *Manual of Patent Examining Procedure* (7th ed.1998) (Rev. 1, Feb. 2000) (*MPEP*)).

Section 1.703(a)(6) pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(iv). Section 1.703(a)(6) specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date the patent was issued. The date the issue fee was paid and all outstanding requirements were satisfied is the later of the date the issue fee was paid or the date all outstanding requirements were satisfied. If prosecution in an application is reopened after allowance (*see MPEP* 1308), all outstanding requirements are not satisfied until the application is again in condition for allowance as indicated by the issuance of a new notice of allowance under 35 U.S.C. 151 (*see MPEP* 1308).

Section 1.703(b) pertains to the provisions of 35 U.S.C. 154(b)(1)(B). Section 1.703(b) indicates that the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. Section 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Section 1.703(b) specifically provides that the period of adjustment of the term of a patent under § 1.703(b) shall not include the period equal to the sum of the following periods: (1) The period of pendency consumed by continued examination of the application under 35 U.S.C. 132(b) (35 U.S.C. 154(b)(1)(B)(i)); (2) the period of pendency consumed by interference proceedings (35 U.S.C. 154(b)(1)(B)(ii)); (3) the period of pendency consumed by imposition of a secrecy order (35 U.S.C. 154(b)(1)(B)(ii)); and (4) the period of pendency consumed by appellate review under 35 U.S.C. 134, 141, 145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)). The provisions of 35 U.S.C. 154(b)(1)(B)(iii) concerning the period of pendency consumed by delays in the processing of the application requested by the applicant are treated in § 1.704 as such delays are also circumstances constituting a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

Section 1.703(c) pertains to the provisions of 35 U.S.C. 154(b)(1)(C)(i). Section 1.703(c) indicates that the period of adjustment under § 1.702(c) is the sum of the following periods (to the extent that such periods are not overlapping): (1) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (2) the number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

Section 1.703(d) pertains to the provisions of 35 U.S.C. 154(b)(1)(C)(ii). Section 1.703(d) indicates that the period of adjustment under § 1.702(d) is the sum of the following periods (to the extent that such periods are not overlapping): (1) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (2) the number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 1.193 in the application under secrecy order and ending on the date the secrecy order was removed; (3) the number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (4) the number of days, if any, in the period beginning on the date of notification under § 5.3(c) and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151 and § 1.311.

Section 1.703(e) pertains to the provisions of 35 U.S.C. 154(b)(1)(C)(iii). Section 1.703(e) indicates that the period of adjustment under § 1.702(e) is the sum of the number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 1.191 and ending on the date of a final decision in favor of the applicant by the

Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145. The phrase ''in which the patent was issued under a decision in the review reversing an adverse determination of patentability'' (a final decision in favor of the applicant) in 35 U.S.C. 154(b)(1)(C)(iii) requires a Board of Patent Appeals and Interferences or Federal court decision in the review that reverses all of the rejections of at least one claim and that such claim is not subject to a rejection under § 1.196(b). For example:

(1) If claims 1 and 2 are pending, claim 1 stands rejected under 35 U.S.C. 103 and claim 2 was indicated as allowable prior to the appeal, the rejection of claim 1 under 35 U.S.C. 103 is affirmed, and a patent is issued (containing claim 2), the patent was not issued under a decision in the review reversing an adverse determination of patentability.

(2) If claims 1 and 2 are pending, claims 1 and 2 stand rejected under 35 U.S.C. 103, as well as 35 U.S.C. 112, ¶ 2, the rejection of claims 1 and 2 under 35 U.S.C. 103 is affirmed but the rejection of claims 1 and 2 under 35 U.S.C. 112, ¶ 2, is reversed, and a patent is issued as a result of continued examination under the provisions of 35 U.S.C. 132(b) and § 1.114, the patent was not issued under a decision in the review reversing an adverse determination of patentability.

(3) If claims 1 and 2 are pending, claims 1 and 2 stand rejected under 35 U.S.C. 102, the rejection of claims 1 and 2 under 35 U.S.C. 102 is reversed, and the decision by the Board of Patent Appeals and Interferences enters a new ground of rejection of claims 1 and 2 under 35 U.S.C. 103 (§ 1.196(b)), and a patent is issued as a result of further prosecution before the examiner, the patent was not issued under a decision in the review reversing an adverse determination of patentability.

(4) If claims 1 and 2 are pending, claims 1 and 2 stand rejected under 35 U.S.C. 103, the rejection of claim 1 under 35 U.S.C. 103 is affirmed but the rejection of claim 2 under 35 U.S.C. 103 is reversed, and a patent is issued (containing claim 2), the patent was issued under a decision in the review reversing an adverse determination of patentability.

The Committee Reports for the predecessors of the American Inventors Protection Act of 1999 in the 105th Congress (the 21st Century Patent System Improvement Act, H.R. 400, 105th Cong. (1997), and The Omnibus Patent Act of 1997, S. 507, 105th Cong. (1997)) indicate that the Office should not determine whether ''the patent was issued under a decision in the review reversing an adverse determination of patentability'' in a mechanistic way, but should consider the particulars of each application after an appeal to determine whether patent term adjustment (restoration) is appropriate. *See* H.R. Rep. No. 105–39, at 66–67 (1997), and S. Rep. No. 105–42, at 102–03 (1997). Nevertheless, this language cannot be relied upon in interpreting the phrase ''the patent was issued under a decision in the review reversing an adverse determination of patentability'' because: (1) while H.R. 400 was passed by the House of Representatives on April 23, 1997, neither H.R. 400 nor S. 507 were enacted into law; and (2) this language is not contained in the section-by-section analysis of the American Inventors Protection Act of 1999 or the Committee or Conference Reports for its predecessors (the Intellectual Property and Communications Omnibus Reform Act of 1999, H.R. 1554, 106th Cong. (1999), and the American Inventors Protection Act of 1999, H.R. 1907, 106th Cong. (1999)) in the 106th Congress. *See* 145 Cong. Rec. S14,708–26 (1999)(daily ed. Nov. 17, 1999), H.R. Conf. Rep. No. 106–464 (1999), and H.R. Rep. No. 106–287 (1999).

As discussed below, the Office must make its patent term adjustment determinations by a computer program that uses the information recorded in the Office's automated patent application information system (the Patent Application Location and Monitoring system or PALM system). Thus, the Office must determine whether the Board of Patent Appeals and Interferences (or court) decision was of a nature such that ''the patent was issued under a decision in the review reversing an adverse determination of patentability'' under 35 U.S.C. 154(b)(1)(C)(iii) from information concerning the decision susceptible of being recorded in the PALM system (rather than by a case-by-case review of each decision).

Section 1.703(f) indicates that the adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). Section 1.703(f) also indicates that to the extent that periods of adjustment attributable to the grounds specified in § 1.702 overlap, the period of adjustment will not exceed the actual number of days the issuance of the patent was delayed (35 U.S.C. 154(b)(2)(A)). Section 1.703(f) also specifically indicates that the term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under § 1.703(a) through (e), to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. Section 1.703(f) also provides that the date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation. That is, while the date indicated on any certificate of mailing or transmission under § 1.8 will continue to be taken into account in determining timeliness, the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation. Applicant may wish to consider the use of the ''Express Mail Post Office to Addressee'' service of the United States Postal Service (§ 1.10) or facsimile transmission (§ 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations.

Section 1.703(g) indicates that no patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under §§ 1.702 and 1.703 beyond the expiration date specified in the disclaimer (35 U.S.C. 154(b)(2)(B)).

Section 1.704 implements the provisions of 35 U.S.C. 154(b)(2)(C). 35 U.S.C. 154(b)(2)(C) specifies certain circumstances as constituting a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application and also provides for the Office to prescribe regulations establishing circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

Section 1.704(a) implements the provisions of 35 U.S.C. 154(b)(2)(C)(i) and indicates that the period of adjustment shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution (*i.e.*, processing or examination) of an application.

Section 1.704(b) provides that with respect to the ground for adjustments set forth in §§ 1.702(a) through (e), and in particular § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude prosecution for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant. A Notice of Omitted Items in a Nonprovisional Application (PTO–1669), however, is not a notice or action by the Office making a rejection, objection, argument, or other request

within the meaning of 35 U.S.C. 154(b)(2)(C)(ii) or § 1.704(b), since the Office does not require a reply to that notice to continue the processing and examination of an application. Section 1.704(b) indicates that the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. As discussed above, a reply is considered filed on the date of its actual receipt in the Office as defined by § 1.6, and the date indicated on any certificate of mailing or transmission under § 1.8 will not be taken into account for patent term adjustment purposes.

The three-month period in § 1.704(b) applies to the Office notices and letters issued as part of the pre-examination processing of an application (except a Notice of Omitted Items in a Nonprovisional Application (PTO–1669) as discussed above). These notices include: (1) A Notice of Incomplete Nonprovisional Application (PTO–1123) (except as to any period prior to the filing date ultimately accorded to the application); (2) a Notice to File Missing Parts of Application (PTO–1533); (3) a Notice of Informal Application (PTO–152); (4) a Notice to File Corrected Application Papers Filing Date Granted (PTO–1660); or (5) a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO–1661).

In addition, the three-month period in 35 U.S.C. 154(b)(2)(C)(ii) and § 1.704(b) applies regardless of the period for reply set in the Office action or notice. For example, if an Office action sets a one-month period for reply (restriction requirement), the applicant may obtain a two-month extension of time under § 1.136(a) before being subject to a reduction of patent term adjustment under 35 U.S.C. 154(b)(2)(C)(ii) and § 1.704(b). If, however, an Office action sets a six-month period for reply, as is commonly set in applications subject to secrecy orders (*see MPEP* 130), the applicant is subject to a reduction of patent term adjustment under 35 U.S.C. 154(b)(2)(C)(ii) and § 1.704(b) if the applicant does not reply to the Office action within three months, notwithstanding that a reply may be timely filed six months after the mailing date of the Office action.

Section 1.704(c) establishes further circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Sections 1.704(c)(1) through (c)(11) set forth actions or inactions by an applicant that interfere with the Office's ability to process or examine an application (and thus circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application), as well as the period by which a period of adjustment set forth in § 1.703 shall be reduced if an applicant engages in any of the enumerated actions or inactions.

Sections 1.704(c)(1) through 1.704(c)(11) address situations that occur with sufficient frequency to warrant being specifically provided for in the rules of practice. An attempt to provide an exhaustive listing of actions or inactions that interfere with the Office's ability to process or examine an application is impractical, since there are a myriad of actions or inactions that occur infrequently but will interfere with the Office's ability to process or examine an application (*e.g.*, applicant files and persists in requesting reconsideration of a meritless petition under § 1.10; parties to an interference obtain an extension for purposes of settlement negotiations which do not result in settlement of the interference; and when the scope of the broadest claim in the application at the time an application is placed in condition for allowance is substantially the same as suggested or allowed by the examiner more than six months earlier than the date the application was placed in condition for allowance). Thus, the actions or inactions set forth in § 1.704(c) are exemplary circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The Office may also reduce a period of adjustment provided in § 1.703 on the basis of conduct that interferes with the Office's ability to process or examine an application under the authority provided in 35 U.S.C. 154(b)(2)(C)(iii), even if such conduct is not specifically addressed in § 1.704(c).

Section 1.704(c)(1) establishes suspension of action under § 1.103 at the applicant's request as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Obviously, if action is suspended at the applicant's request, the Office is precluded from processing or examining the application as a result of an action by the applicant. Section 1.704(c)(1) also provides that in such a case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date a request for suspension of action under § 1.103 was filed and ending on the date of the termination of the suspension.

Section 1.704(c)(2) establishes deferral of issuance of a patent under § 1.314 as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Obviously, if issuance of the patent is deferred under § 1.314, the Office is precluded from issuing the application as a result of an action by the applicant. When a petition under § 1.314 is granted, the petition decision generally states that the application will be held for a period of a month to await the filing of a paper. At the end of the period, the application is returned to the issue process without a further communication from the Office to the applicant. Section 1.704(c)(2) also provides that in such a case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date a request for deferral of issuance of a patent under § 1.314 was filed and ending on the issue date of the patent.

Section 1.704(c)(3) establishes abandonment of the application or late payment of the issue fee as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Obviously, if the application is abandoned (either by failure to prosecute or late payment of the issue fee), the Office is precluded from processing or examining the application as a result of an action or inaction by the applicant. Section 1.704(c)(3) also provides that in such a case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the day the issue fee was due and ending on the earlier of: (1) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or (2) the date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed. The phrase ''earlier of * * * [t]he date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed'' is to place a cap (measured from the filing date of the grantable petition) on the reduction if the Office does not act on (grant) the grantable petition to revive within four months of the date it was filed.

Section 1.704(c)(4) establishes failure to file a petition to withdraw a holding of abandonment or to revive an application within two months from the mailing date of a notice of abandonment as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Any applicant who considers an application to have been improperly held abandoned (the reduction in § 1.704(c)(3) is applicable to the revival of an application properly held abandoned) is expected to file a petition to withdraw the holding of abandonment (or to revive the application) within two months from the mailing date of a notice of abandonment. *See MPEP* 711.03(c), paragraph (I). Section 1.704(c)(4) also provides that in such a case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date two months from the mailing date of a notice of abandonment and ending on the date a petition to withdraw the holding of abandonment or to revive the application was filed.

Section 1.704(c)(5) establishes conversion of a provisional application under 35 U.S.C. 111(b) to a nonprovisional application under 35 U.S.C. 111(a) (pursuant to 35 U.S.C. 111(b)(5)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Section 4801(a) of the American Inventors Protection Act of 1999, which provides for the conversion of a provisional application under 35 U.S.C. 111(b) and § 1.53(c) to a nonprovisional application under 35 U.S.C. 111(a) and § 1.53(b), is being implemented in a separate rulemaking. Conversion of a provisional application to a nonprovisional application will require the Office to reprocess the application (as a nonprovisional application) up to one year after the filing date that will be accorded to such nonprovisional application as a result of an action by the applicant. Section 1.704(c)(5) also provides that in such a case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date the application was filed under 35 U.S.C. 111(b) and ending on the date a request in compliance with § 1.53(c)(3) to convert the provisional application into a nonprovisional application was filed.

Section 1.704(c)(6) establishes submission of a preliminary amendment or other preliminary paper less than one month before the mailing of an Office action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 that requires the mailing of a supplemental Office action or notice of allowance as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. If the submission of a preliminary amendment or other paper requires the Office to issue a supplemental Office action or notice of allowance, the submission of that preliminary amendment or other paper has interfered with the processing and examination of an application. Section 1.704(c)(6) also provides that in such a case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of the number of days, if any, beginning on the mailing date of the original Office action or notice of allowance and ending on the date of mailing of the supplemental Office action or notice of allowance or four months. The phrase ''lesser of * * * or [f]our months'' is to provide a four-month cap for a reduction under § 1.704(c)(6) if the Office takes longer than four months to issue a supplemental Office action or notice of allowance.

Section 1.704(c)(7) establishes submission of a reply having an omission (§ 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under § 1.135(c) and await and process the applicant's reply to the action under § 1.135(c) before the initial reply (as corrected) can be treated on its merits. Section 1.704(c)(7) also provides that in such a case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed. The reference to ''§ 1.135(c)'' is parenthetical because § 1.704(c)(7) is not limited to Office actions under § 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected: *e.g.,* (1) a decision on a petition under § 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO–1661) does not comply with § 1.821 *et seq.*

Section 1.704(c)(8) establishes submission of a supplemental reply or other paper after a reply has been filed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of a supplemental reply or other paper (*e.g.,* an information disclosure statement (IDS) or petition) after an initial reply was filed requires the Office to restart consideration of the initial reply in view of the supplemental reply or other paper, which will result in a delay in the Office's response to the initial reply. Section 1.704(c)(8) does not apply to a supplemental reply or other paper that was expressly requested by the examiner. Section 1.704(c)(8) also provides that in such a case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date the initial reply was filed and ending on the date that the supplemental reply or such other paper was filed.

Section 1.704(c)(9) establishes submission of an amendment or other paper in an application containing allowed claims after a decision by the Board of Patent Appeals and Interferences (other than a decision containing a rejection under § 1.196(b)) or a Federal court less than one month before the mailing of an Office action under 35 U.S.C. 132 or notice of allowance under 35 U.S.C. 151 that requires the mailing of a supplemental Office action or supplemental notice of allowance as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of an amendment or other paper (e.g., IDS or petition) in an application after a Board of Patent Appeals and Interferences or court decision requires the Office to restart consideration of the application in view of the amendment or other paper, which will result in a delay in the Office's taking action on the application. Section 1.704(c)(9) also provides that in such a case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of the number of days, if any, beginning on the mailing date of the original Office action or notice of allowance and ending on the mailing date of the supplemental Office action or notice of allowance or four months. The phrase ''lesser of * * * or [f]our months'' is to provide a four-month cap for a reduction under § 1.704(c)(9) if the Office takes longer than four months to issue a

supplemental Office action or notice of allowance.

Section 1.704(c)(10) establishes submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed causes substantial interference with the patent issue process. *See Filing of Continuing Applications, Amendments, or Petitions after Payment of Issue Fee,* Notice, 1221 *Off. Gaz. Pat. Office* 14 (Apr. 6, 1999); and *Patents to Issue More Quickly After Issue Fee Payment,* Notice, 1220 *Off. Gaz. Pat. Office* 42 (Mar. 9, 1999). Thus, to continue to permit applicants to submit an amendment or other paper after a notice of allowance is mailed or given, the Office must establish submission of such papers as circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Section 1.704(c)(10) also provides that in such a case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of: (1) the number of days, if any, beginning on the date the amendment under § 1.312 was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (2) four months. The phrase ''lesser of * * * or [f]our months'' is to provide a four-month cap for a reduction under § 1.704(c)(10) if the Office takes longer than four months to issue an Office action or notice in response to the amendment under § 1.312 or other paper.

Section 1.704(c)(11) establishes further prosecution via a continuing application as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Currently, a continuing application may be used to: (1) Obtain further examination of an invention disclosed and claimed in the prior application (continuation application); (2) obtain examination (for the first time) of an invention disclosed but not claimed or not elected for examination in the prior application (divisional application); or (3) obtain examination of an invention neither disclosed nor claimed in the prior application (continuation-in-part application). The provisions of 35 U.S.C. 132(b) and § 1.114 permit an applicant to obtain further or continued examination of an invention disclosed and claimed in an application, which renders it unnecessary for an applicant whose application is eligible for patent term adjustment under 35 U.S.C. 154(b) to file a continuing application to obtain further examination of an invention disclosed and claimed in an application. If an applicant is filing a continuing application to obtain examination (for the first time) of an invention disclosed but not claimed or not elected for examination in the prior application or an invention neither disclosed nor claimed in the prior application, it is not appropriate for that applicant to obtain any benefit in the continuing application for examination delays that might have occurred in the prior application. Thus, the Office is establishing further prosecution via a continuing application as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application, in that the period of adjustment set forth in § 1.703 shall not include any period that is prior to the actual filing date of the application that resulted in the patent. Thus, if the application that resulted in the patent is a continuing application (including a CPA), the period of adjustment set forth in § 1.703 (if any) will not include any period that is prior to the actual filing date of the application (in the case of a CPA, the filing date of the request for a CPA) that resulted in the patent.

As discussed above, an applicant may file a CPA under § 1.53(d) on or after May 29, 2000, for the application to be subject to the patent term adjustment provisions of 35 U.S.C. 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999. The period of patent term adjustment set forth in § 1.703 (if any), however, will not include any period that is prior to the filing date of the request for that CPA.

Section 1.704(d) provides that a paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered (result in a reduction) under §§ 1.704(c)(6), 1.704(c)(8), 1.704(c)(9), or 1.704 (c)(10) if it is accompanied by a certification that each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This provision will permit applicants to submit information cited in a communication from a foreign patent office in a counterpart application to the Office without a reduction in patent term adjustment if an information disclosure statement is promptly (within thirty days of receipt of the communication) submitted to the Office. Obviously, compliance with the certification requirement of § 1.704(d) does not substitute for compliance with any relevant requirement of §§ 1.97 or 1.98. Section 1.704(d) also provides that this thirty-day period is not extendable.

Section 1.704(e) provides that submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under § 1.704(c)(10). Due to the time constraints on the Office under 35 U.S.C. 154(b)(1)(A)(iv) and (B) to complete its patent term adjustment determination and issue the patent, the Office must require applicants to follow the specific procedure set forth in § 1.705 for requesting reconsideration of the Office's initial patent term adjustment determination and for requesting reinstatement of patent term adjustment reduced under § 1.704(b). Thus, while submission of an application for patent term adjustment under § 1.705(b) (regardless of whether it contains a request under § 1.705(c) for reinstatement of reduced patent term adjustment) will interfere with the patent printing process, submission of the application will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under § 1.704 (c)(10). Other papers concerning patent term adjustment (e.g., status letters, untimely applications for patent term adjustment, requests for reconsideration of the Office's decisions on applications for patent term adjustment, petitions under §§ 1.181, 1.182, or 1.183 concerning patent term adjustment, or miscellaneous letters concerning patent term adjustment), however, will be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under § 1.704(c)(10).

Section 1.705 implements the provisions of 35 U.S.C. 154(b)(3) and (b)(4)(B).

Section 1.705(a) indicates that the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. 154(b) (35 U.S.C. 154(b)(3)(B)(i)). Since the Office now issues over 160,000 patents each year, the only practical way to make the

patent term adjustment determinations required by 35 U.S.C. 154(b)(3)(B)(i) is by a computer program that uses the information (dates of receipt and nature of applicant correspondence and of the dates of mailing and nature of Office actions or notices) recorded in the PALM system.

Section 1.705(b) provides that any request for review or reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in § 1.705(d)) and any request for reinstatement of all or part of the term reduced pursuant to § 1.704(a) must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. Section 1.705(b) provides that any such request must be by way of an application for patent term adjustment accompanied by the fee set forth in § 1.18(e) and a statement of the facts involved. Section 1.705(b) also provides that such statement of facts must specify: (1) The basis or bases under § 1.702 for the adjustment; (2) the relevant dates as specified in §§ 1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled; (3) whether the patent is subject to a terminal disclaimer and any expiration date specified in the terminal disclaimer; and (4) any circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704 (or a statement that there were no such circumstances). Since the Office must complete its determination of patent term adjustment before proceeding to issue the patent (35 U.S.C. 154(b)(3)(D)), the Office must require that such application for patent term adjustment be filed within a non-extendable time period and setting forth with particularity why the Office's patent term adjustment determination is not correct. In the absence of these requirements, the issuance of the patent will be further delayed by a protracted patent term adjustment determination proceeding.

Section 1.705(c) implements the provisions of 35 U.S.C. 154(b)(3)(C). Section 1.705(c) specifically provides that a request for reinstatement of all or part of the period of adjustment reduced pursuant to § 1.704(b) for failing to reply to a rejection, objection, argument, or other request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request must include: (1) The fee set forth in § 1.18(f); and (2) a showing to the satisfaction of the Commissioner that, in spite of all due care, the applicant was unable to reply to the rejection, objection, argument, or other request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request. Section 1.705(c) also provides that the Office shall not grant any request for reinstatement for more than three additional months for each reply beyond three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request (35 U.S.C. 154(b)(3)(C)).

Since the Office is obligated to provide a determination of patent term adjustment under 35 U.S.C. 154(b) in the notice of allowance (*i.e.,* before the actual patent issue date), the Office must project (or estimate) the actual patent issue date and base its patent term adjustment determination on that projection. Thus, § 1.705(d) provides for the situation in which the patent is issued on a date other than the projected date of issue and this change necessitates a revision of the patent term adjustment indicated in the notice of allowance. Section 1.705(d) specifically provides that if the patent is issued on a date other than the projected date of issue and this change necessitates a revision of the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. Section 1.705(d) also provides that if the patent indicates a revised patent term adjustment due to the patent being issued on a date other than the projected date of issue, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within thirty days of the date the patent issued and must comply with the requirements of § 1.705(b)(1) and § 1.705(b)(2).

Section 1.705(e) provides that the periods set forth in this section are not extendable. As discussed above, the Office must set non-extendable time periods in § 1.705 to avoid delay in the issuance of the patent.

Section 1.705(f) implements the provisions of 35 U.S.C. 154(b)(4)(B) and provides that no submission or petition on behalf of a third party concerning patent term adjustment under 35 U.S.C. 154(b) will be considered by the Office, and that any such submission or petition, will be returned to the third party, or otherwise disposed of, at the convenience of the Office.

Response to comments: The Office received twenty-three written comments (from Intellectual Property Organizations, Businesses, Law Firms, Patent Practitioners, and others) in response to the notice of proposed rulemaking. Comments generally in support of a change are not discussed. The comments and the Office's responses to those comments follow:

Comment 1: One comment argued that charging a fee as set forth in § 1.18(e) to correct an Office error was unfair. In addition, several comments argued that the fee for a patent term adjustment calculation should be refundable if the Office does not calculate the term adjustment correctly.

Response: 35 U.S.C. 154(b)(3) provides for the Office to establish procedures for the application for and determination of patent term adjustment under 35 U.S.C. 154(b). The Office will provide an initial determination of the patent term adjustment in the notice of allowance. If, however, an applicant wishes to request reconsideration of the initial determination in the notice of allowance, the applicant must file an application for patent term adjustment. 35 U.S.C. 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment), and the cost of treating an application for patent term adjustment is about the same regardless of whether the Office's initial determination of patent term adjustment indicated in the notice of allowance is correct. In any event, refunding the fee under § 1.18(e) when the application for patent term adjustment is correct would: (1) Require the Office to raise the fee set forth in § 1.18(e) (to enable the Office to recover the same aggregate amount); and (2) add further complication to a review process that must take place in a limited period of time.

Comment 2: One comment argued that the fees under §§ 1.18(e) and (f) should be reduced for small entities.

Response: As discussed above, 35 U.S.C. 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment). The small entity discount in 35 U.S.C. 41(h)(1) applies only to fees charged under 35 U.S.C. 41(a) and (b). Thus, the Office has no authority to apply the small entity discount to the fees set forth in §§ 1.18(e) and (f).

Comment 3: One comment noted that the heading of § 1.701 was inconsistent with § 1.701(e), and suggested that ''and before May 29, 2000'' be added to the heading of § 1.701.

Response: The phrase ''and before May 29, 2000'' has been added to the heading of § 1.701.

Comment 4: Several comments argued that for purposes of § 1.702(a)(1), a restriction requirement or an election of species requirement should not be considered a notification under 35 U.S.C. 132. The comments stated an Office action containing only a restriction requirement or an election of species requirement should be issued only after there has been an attempt to make the restriction requirement or the election of species requirement by telephone, and that treating a restriction requirement or election of species requirement as an action under 35 U.S.C. 132 will further exacerbate a concern of applicants that a restriction requirement is not proper.

Response: The comment cannot be adopted. The Office did not ''decide'' to treat restriction requirements and election of species requirements as notifications under 35 U.S.C. 132; they are notifications under 35 U.S.C. 132.

In considering whether a restriction requirement under 35 U.S.C. 121 was appealable under 35 U.S.C. 134, the Court of Customs and Patent Appeals (CCPA) noted that: (1) 35 U.S.C. 121 denoted its procedure as a ''requirement''; (2) 35 U.S.C. 132 stated that the Commissioner shall give notice to the applicant whenever ''any claim for a patent is rejected, or any objection or requirement made''; and (3) 35 U.S.C. 134 provided for an appeal only by an applicant whose claims have been ''twice rejected.'' *See In re Hengehold,* 440 F.2d 1395, 1402–03, 169 USPQ 473, 479 (CCPA 1971). Thus, the CCPA concluded that Congress intended to differentiate between objections and requirements (under 35 U.S.C. 132) and actual rejections of claims (under 35 U.S.C. 132) and made appeal applicable only to the latter. *See Hengehold,* 440 F.2d at 1403, 169 USPQ at 479. Since the CCPA discussed and differentiated between rejections, objections, and requirements under 35 U.S.C. 132 in determining whether a restriction requirement was appealable under 35 U.S.C. 134, the CCPA must have considered a restriction requirement to be a requirement under 35 U.S.C. 132, thus making a written restriction (or election) requirement a notification under 35 U.S.C. 132. *See also Digital Equipment Corp.* v. *Diamond,* 653 F.2d 701, 713 n.13, 210 USPQ 521, 535–36 n.13 (1st Cir. 1981) (citing 35 U.S.C. 132 when noting that the terms ''requirement'' and ''objection'' are distinct from ''rejection'' (as used in title 35, U.S.C.) and that requirements and objections were not appealable under 35 U.S.C. 134).

In addition, the Office has long considered (at least implicitly) a written restriction requirement containing no action on the merits to be a notice under 35 U.S.C. 132. *MPEP* 710.02(b) instructs examiners to set a shortened statutory period for reply of one month for a written restriction requirement containing no action on the merits under the authority given by 35 U.S.C. 133 (35 U.S.C. 133 would not apply to the period for reply to a written restriction requirement, if a written restriction requirement containing no action on the merits is not a notice under 35 U.S.C. 132).

The Office encourages examiners to make an oral restriction requirement. Many applicants, however, prefer a written restriction requirement because it gives them more time to consider the requirement.

Comment 5: One comment requested a definition of the term ''original application'' as used in § 1.702(f) and asked whether the term refers to a parent application or a divisional or continuation. Several comments expressed confusion as to whether term adjustment for a first-filed application would result in the same term adjustment in a continuation of that application. One comment suggested that the term ''applications other than reissue applications'' be used instead of ''original applications.''

Response: An ''original application'' is any application other than a reissue application. *See Guidelines Concerning the Implementation of Changes to 35 U.S.C. 102(g) and 103(c) and the Interpretation of the Term ''Original Application'' in the American Inventors Protection Act of 1999,* 1233 *Off. Gaz. Pat. Office* 54 (Apr. 11, 2000). Thus, the term ''original application'' includes a continuing application (continuation, divisional, or continuation-in-part, whether the application is filed under § 1.53(b) or as a continued prosecution application under § 1.53(d)), and the national stage of an international application. Since a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is not an application (but a submission in a previously filed application), the term ''original application'' does not include a request for continued examination under 35 U.S.C. 132(b) and § 1.114.

While 35 U.S.C. 154(b) does not use the term ''original application,'' its provisions concern the situation in which the issue of an original patent is delayed due to the failure of the Office to take certain actions in the application that issued as the patent. Patent term adjustment events in one application may not be relied upon as giving rise to patent term adjustment in another application, even if the other application claims the benefit of the first application under 35 U.S.C. 120, 121, or 365(c) (*i.e.,* patent term adjustment events in a parent application do not carry over to a child application).

Comment 6: One comment stated that § 1.702(f) should also provide that the provisions apply to international applications in which the requirements of 35 U.S.C. 371 are met on or after May 29, 2000.

Response: The date on which an international application fulfills the requirements of 35 U.S.C. 371 is not the filing date, or even relevant to the filing date, of the international application. Section 4405 of the American Inventors Protection Act of 1999 provides that the amendments relating to patent term adjustment shall apply to any application filed on or after May 29, 2000, but does not provide that its patent term adjustment provisions apply to international applications filed before May 29, 2000, that complied with the requirements of 35 U.S.C. 371 on or after May 29, 2000.

Comment 7: As to § 1.703(a)(6), one comment requested clarification as to whether the filing of a priority document would be an ''outstanding requirement'' which would cause a delay in the beginning of the ''four months after payment of the issue fee and all outstanding requirements were satisfied'' period. The comment argued that filing of a priority document should not be considered an outstanding requirement because if the priority document is not filed the patent simply issues without the priority claim (the application is not abandoned).

Response: Section 1.55 has been amended to eliminate the need for a petition to accept a priority document filed after payment of the issue fee, as well as the need for the Office to evaluate the priority claim before a patent is granted. Therefore, the filing of a priority document (and processing fee) is not considered an outstanding requirement under 35 U.S.C. 154(b)(1)(A)(iv) and § 1.703(a)(6).

Comment 8: One comment objected to the exclusion from the three-year period in § 1.703(b)(1) of the period of time in which a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is processed. The comment argues that filing a request for continued examination should not preclude an applicant from obtaining a term adjustment for printing delays of a patent.

Response: 35 U.S.C. 154(b)(1)(B) provides that an applicant may receive a term adjustment if the application is not issued within three years of the filing date of the application, excluding (among other things) any time consumed by continued examination requested under 35 U.S.C. 132(b). Once a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and § 1.114. Nevertheless, if a request for continued examination is filed in an application, the applicant may still accrue patent term adjustment under 35 U.S.C. 154(b)(1)(A) or (C). Accordingly, if two years after the filing date of an application, a request for continued examination is filed, and three years after the filing date of the application, the issue fee is paid (and all outstanding requirements are satisfied), but the patent does not issue as a patent until four years after the application's filing date, applicant may be entitled to an eight-month term adjustment because the application did not issue within four months of payment of the issue fee. Since the request for continued examination was filed within three years of the filing date of the application, applicant cannot accrue any term adjustment under the ''three-year'' statutory basis (35 U.S.C. 154(b)(1)(B)), but may accrue patent term adjustment under the other bases (*e.g.,* 35 U.S.C. 154(b)(1)(A)(iv)).

Comment 9: One comment asked whether ''a final decision in favor of applicant'' as used in § 1.703(e) and ''a decision in the [appellate] review reversing an adverse determination of patentability'' as used in 35 U.S.C. 154(b)(1)(C)(iii) is limited to successful appeals on purely statutory grounds or would also include non-statutory grounds (*e.g.,* obviousness-type double patenting).

Response: A ''final decision in favor of applicant'' is understood to include any final decision of the Board of Patent Appeals and Interferences or Federal court that reverses all of the rejections of at least one claim (without subjecting the claim to a new rejection). The type of rejection (i.e., whether the rejection is based upon a statutory or judicial basis) is not relevant.

Comment 10: A number of comments objected to the provision in § 1.703(f) that the certificate of mailing date under § 1.8 will not be used for determining when applicant is considered to ''respond to a notice from the Office making any rejection, objection argument or other request.'' The comments included suggestions, objections, or arguments that: (1) the date set forth in the § 1.8 statement should be used as the date when applicant is considered to have responded within three months of the Office action; (2) applicants should not be compelled to hand-carry papers to the Office or to use the Express Mail service of the United States Postal Service in order to be able to meet the three-month timeliness goal or reduce a period of time in which they are considered to have ''failed to engage in reasonable efforts to conclude processing or examination of an application''; (3) a certificate of mailing is now accepted for purposes of a filing date; (4) using the date of receipt rather than the date of mailing by a practitioner would require the Office to keep ''separate books'' of the date of mailing and date of receipt of papers; and (5) United States Postal Service delays are insignificant compared to Office mailroom delays.

Response: The suggestion is not adopted. The date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. *See* § 1.8(a). In addition, a certificate of mailing date under § 1.8 cannot be relied upon for purposes of according a filing date to a patent application. *See* § 1.8(a)(2)(i)(A). Rather, correspondence is considered filed in the Office on the date of its actual receipt in the Office (§ 1.6(a)) or the date it was deposited with the United States Postal Service under § 1.10 as shown by the ''date-in'' on the Express Mail mailing label. Nevertheless, § 1.8 will continue to be used in determining whether correspondence is timely filed and whether an extension of time and fee for an extension of time are due.

Section 1.703(f) does not compel applicants to hand-carry papers to the Office or to use the Express Mail service of the United States Postal Service to ensure that correspondence is received within three months of an Office action and avoid a reduction in any patent term adjustment. Most correspondence that can be submitted using the benefit of § 1.8 can also be submitted to the Office by facsimile transmission (§ 1.6(d)) to avoid mail delays and ensure that correspondence is received within three months of an Office action or notice. In addition, applicants can also mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. Applicants who chose to use first-class mail at the end of the period for reply instead of a quicker means of submitting correspondence to the Office have no complaint concerning consequences of their decision on patent term adjustment.

The Office practice of using the date of receipt of papers rather than the date of mailing of papers as the filing date of the papers is well established and changing this practice would have undesirable results. For example, when a notice of appeal is filed, the filing date accorded the notice of appeal is the date of receipt of the notice of appeal in the Office, not the certificate of mailing date under § 1.8 indicated on the notice of appeal. An appeal brief must then be filed within two months of the date of receipt of the notice of appeal. *See* § 1.191(a) and *MPEP* 1206. If the suggested change to Office practice were adopted, the date on the certificate of mailing under § 1.8 would be used as the ''receipt date'' of the notice of appeal to determine whether applicant replied within three months of the Office action for patent term adjustment purposes, and the appeal brief would be required to be filed within two months of the date on the certificate of mailing under § 1.8 (now the ''receipt date'), unless the period for reply to the Office action is later. For many applicants, this would lead to the appeal brief being required to be filed several days earlier, which would be an undesirable result.

The certificate of mailing date is not recorded in the Office's PALM system. The Office's PALM system records contain a single date: the date of receipt in the Office (as defined by § 1.6). The certificate of mailing date may be noted on the date received/mailed column of the contents of the application's file wrapper with an entry such as ''1–31–00 (c.o.m. 1/26/00).'' Thus, adopting the suggested change to § 1.703(f) would require the Office to keep ''separate books'' of the date of mailing and date of receipt of correspondence.

Finally, whether United States Postal Service delays are insignificant compared to Office mailroom delays is immaterial. The purpose of the patent term adjustment provisions of the American Inventors Protection Act of 1999 is to compensate applicants for certain administrative delays by the Office, and any delays (whether significant or insignificant) by United States Postal Service in delivering

correspondence to the Office is not a delay by the Office.

Comment 11: One comment was received objecting to the provision in § 1.703(f) as unfair because applicants were responsible for a reply within a set time from the mailing date by the Office, whereas the Office is held to a standard for reply from the filing date of papers filed by the applicant.

Response: 35 U.S.C. 154(b)(2)(C)(ii) establishes the standard of reply by applicants to within three months of the date a notice is given or mailed to applicants. In addition, 35 U.S.C. 154(b)(1)(A)(i) and (ii) measure the deadline for the Office's reply from the date an application or a reply is filed. These different standards established by Congress are considered important because they are both dates that are contained in the Office's PALM system records.

Comment 12: One comment also stated that if the certificate of mailing date was not used for establishing a date of receipt under § 1.703(f), the patent term adjustment procedure would be more difficult because applicant would not know when the paper was received by the Office.

Response: Applicants may use a postcard receipt to establish when a paper is received by the Office. Not only does a postcard receipt provide evidence of a date of receipt, but it also provides *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped by the Office. *See MPEP* 503. In addition, applicants may check the Office's PALM system records (which shows the date of receipt of papers) through the Patent Application Information Retrieval (PAIR) system at http://pair.uspto.gov.

If the date of mailing under § 1.8 were to be used for determining if applicant has replied within three months of the date of an Office action, the Office's PALM system would have to record two different dates for patent term adjustment calculation purposes. This is because the measurements of whether the Office has taken action within a set time would not run from the same date (*e.g.,* fourteen months from the filing date of the application or four months of the date on which a reply was filed or an appeal is taken). Such a patent term adjustment calculation would be unnecessarily complex.

Comment 13: One comment stated that the reduction in § 1.703(f) for failure to reply within three months even where the Office sets a longer period is a subtle point which should be mentioned in the rules as well as being stated in any communication setting a period for reply of longer than three months.

Response: The suggestion to expressly mention in any communication warning applicants that any reply not received within three months of an Office action may result in a reduction to any patent term adjustment, even where the Office action sets forth a longer period for reply, has been adopted. The Office is planning to modify forms used by patent examiners to include this warning.

Comment 14: One comment argued that the phrase ''processing or examination'' in 35 U.S.C. 154(b)(2)(C)(ii) and (iii) means the same thing as ''prosecution'' in 35 U.S.C. 154(b)(2)(C)(i).

Response: The Office agrees with this interpretation of 35 U.S.C. 154(b)(2)(C). Section 1.704(a) uses the term ''prosecution (processing or examination)'' for this reason.

Comment 15: One comment objected to § 1.704(b), arguing that foreign applicants, especially those from non-English speaking countries, need more time to reply to an Office action than United States applicants and argued that one additional month should be considered as not being a failure to engage in reasonable efforts to conclude prosecution.

Response: The language in § 1.704(b) is taken directly from 35 U.S.C. 154(b)(2)(C)(ii), wherein Congress stated that a delay in a reply beyond three months is *per se* a failure to engage in reasonable efforts. Moreover, Congress provided that if applicant makes a showing that in spite of all due care applicant was unable to reply within the three-month period, the adjustment may be reinstated. Since Congress provided that applicants must make a showing explaining that the delay was in spite of all due care for a reply beyond three months not to be a failure to engage in reasonable efforts, the Office cannot by rule provide that a reply within a longer period is not failure to engage in reasonable efforts to conclude prosecution (absent a showing explaining that the delay was in spite of all due care).

Comment 16: Another comment objected to the use of ''or given'' in the phrase ''measuring such three-month period from the date the notice or action was mailed or given to the applicant'' in § 1.704(b), and argued that § 1.2 requires all correspondence to be in writing, and allowing an oral restriction requirement to start a period for the applicant to reply would not be consistent with § 1.2. In addition, the comment argued that sometimes a message is left on an answering machine and such a message should not be considered notice of an objection or other requirement.

Response: The phrase ''measuring such three-month period from the date the notice [or action] was mailed or given to the applicant'' (emphasis added) is taken almost directly from 35 U.S.C. 154(b)(2)(C)(ii). The Office is using the statutory language ''mailed or given,'' rather than ''mailed,'' because the Office envisions that it may one day issue (or ''give'') actions or notices by means other than mailing (*e.g.,* by facsimile transmission or e-mail message over the Internet). The Office, however, does not envision that it would issue (or ''give'') actions or notices by non-written means (*e.g.,* a telephone conversation). Thus, a telephone message left on an answering machine would not constitute the giving notice of an objection or other requirement.

Comment 17: One comment suggested that setting forth ''strict examples'' in § 1.704(c) of circumstances of when applicant has failed to engage in reasonable efforts to conclude prosecution (or processing or examination) of an application is inconsistent with the legislative intent of Congress in enacting the provisions of 35 U.S.C. 154(b)(2)(C)(iii). The comment suggested that a reduction of patent term adjustment under 35 U.S.C. 154(b)(2)(C) should occur to prevent only ''the few applicants who engage in intentional or unjustifiable delay tactics'' from abusing the system, such that ''only the most egregious and obvious delay tactics will go unrewarded,'' citing to H.R. Rep. No. 105–39 at 66 (1997). The comment suggested that the regulations are so strict as to require the applicant to be a ''perfect'' applicant rather than a ''diligent'' or ''reasonable'' applicant. The comment suggested that the Office should instead review each application on a case-by-case basis to determine a reduction of patent term adjustment is warranted due to the applicant's failure to engage in reasonable efforts to conclude prosecution (or processing or examination) of an application.

Response: 35 U.S.C. 154(b)(2)(C) provides that: (1) The Office is to prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application (35 U.S.C. 154(b)(2)(C)(iii)); and (2) the period of patent term adjustment under 35 U.S.C. 154(b)(1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of an application (35 U.S.C.

154(b)(2)(C)(i)). Thus, promulgating regulations that set forth ''strict examples'' of circumstances of when applicant has failed to engage in reasonable efforts to conclude prosecution (or processing or examination) of an application (rather than considering applications on an *ad hoc* or case-by-case basis) is not only consistent with 35 U.S.C. 154(b)(2)(C), it is what the Office is required to do under 35 U.S.C. 154(b)(2)(C)(iii).

The cited House Report (H.R. Rep. No. 105–39) is of questionable reliability in interpreting the patent term adjustment provisions of the American Inventors Protection Act of 1999 concerning the Office's authority to prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application (35 U.S.C. 154(b)(2)(C)(iii)). H.R. Rep. No. 105–39 is the Committee Report for the 21st Century Patent System Improvement Act, H.R. 400, 105th Cong., (1997), which was passed by the House of Representatives on April 23, 1997, but was not enacted into law.

The American Inventors Protection Act of 1999 is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), and S. 1948 was incorporated and enacted into law as part of Pub. L. 106–113. The Conference Report for H.R. 3194, 106th Cong., 1st. Sess. (1999), which resulted in Pub. L. 106–113, does not contain any discussion (other than the incorporated language) of S. 1948. *See* H.R. Conf. Rep. No. 106–497, at 37 and 1089–174 (1999). A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott. *See* 145 Cong. Rec. S14,708–26 (1999) (daily ed. Nov. 17, 1999). This section-by-section analysis of the patent term adjustment provisions of the American Inventors Protection Act of 1999 provides, in relevant part, that:

Subtitle D amends the provisions in the Patent Act that compensate patent applicants for certain reductions in patent term that are not the fault of the applicant. The provisions that were initially included in the term adjustment provisions of patent bills in the 105th Congress only provided adjustments for up to 10 years for secrecy orders, interferences, and successful appeals. Not only are these adjustments too short in some cases, but no adjustments were provided for administrative delays caused by the [Office] that were beyond the control of the applicant. Accordingly, subtitle D removes the 10 year caps from the existing provisions, adds a new provision to compensate applicants fully for [Office]-caused administrative delays, and, for good measure, includes a new provision guaranteeing diligent applicants at least a 17-year term by extending the term of any patent not granted within three years of filing. Thus, no patent applicant diligently seeking to obtain a patent will receive a term of less than the 17 years as provided under the pre-GATT standard; in fact, most will receive considerably more. Only those who purposely manipulate the system to delay the issuance of their patents will be penalized under subtitle D, a result that the Conferees believe entirely appropriate.

* * * * *

Section 4402 amends [35 U.S.C.] 154(b) of the Patent Act covering term.

First, new [35 U.S.C.] 154(b)(1)(A)(i)–(iv) guarantees day-for-day restoration of term lost as a result of delay created by the [Office] when the [Office] fails to:

(1) Make a notification of the rejection of any claim for a patent or any objection or argument under [35 U.S.C.] 132, or give or mail a written notice of allowance under [35 U.S.C.] 151, within 14 months after the date on which a non-provisional application was actually filed in the [Office];

(2) Respond to a reply under [35 U.S.C.] 132, or to an appeal taken under [35 U.S.C.] 134, within four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application within four months after the date of a decision by the Board of Patent Appeals and Interferences under [35 U.S.C.] 134 or 135 or a decision by a Federal court under [35 U.S.C.] 141, 145, or 146 in a case in which allowable claims remain in the application; or

(4) Issue a patent within four months after the date on which the issue fee was paid under [35 U.S.C.] 151 and all outstanding requirements were satisfied.

Further, subject to certain limitations, infra, [35 U.S.C.] 154(b)(1)(B) guarantees a total application pendency of no more than three years. Specifically, day-for-day restoration of term is granted if the [Office] has not issued a patent within three years after ''the actual date of the application in the United States.'' This language was intentionally selected to exclude the filing date of an application under the Patent Cooperation Treaty (PCT). Otherwise, an applicant could obtain up to a 30-month extension of a U.S. patent merely by filing under PCT, rather than directly in the [Office], gaining an unfair advantage in contrast to strictly domestic applicants. Any periods of time—

(1) Consumed in the continued examination of the application under [35 U.S.C.] 132(b);

(2) Lost due to an interference under [35 U.S.C.] 135(a), a secrecy order under [35 U.S.C.] 181, or appellate review by the Board of Patent Appeals and Interferences or by a Federal court (irrespective of the outcome); and

(3) Incurred at the request of an applicant in excess of the three months to respond to a notice from the Office permitted by [35 U.S.C.] 154(b)(2)(C)(ii) unless excused by a showing by the applicant under [35 U.S.C.] 154(b)(3)(C) that in spite of all due care the applicant could not respond within three months shall not be considered a delay by the [Office] and shall not be counted for purposes of determining whether the patent issued within three years from the actual filing date.

Day-for-day restoration is also granted under new [35 U.S.C.] 154(b)(1)(C) for delays resulting from interferences, secrecy orders, and appeals by the Board of Patent Appeals and Interferences or a Federal court in which a patent was issued as a result of a decision reversing an adverse determination of patentability.

Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)–(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows:

(1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (*e.g.*, delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed;

(2) The term of any patent which has been disclaimed beyond a date certain may not receive an adjustment beyond the expiration date specified in the disclaimer; and

(3) Adjustments shall be reduced by a period equal to the time in which the applicant failed to engage in reasonable efforts to conclude prosecution of the application, based on regulations developed by the Director, and an applicant shall be deemed to have failed to engage in such reasonable efforts for any periods of time in excess of three months that are taken to respond to a notice from the Office making any rejection or other request;

New [35 U.S.C.] 154(b)(3) sets forth the procedures for the adjustment of patent terms. [35 U.S.C. 154(b)](3)(A) empowers the Director to establish regulations by which term extensions are determined and contested. Paragraph (3)(B) requires the Director to send a notice of any determination with the notice of allowance and to give the applicant one opportunity to request reconsideration of the determination. Paragraph (3)(C) requires the Director to reinstate any time the applicant takes to respond to a notice from the Office in excess of three months that was deducted from any patent term extension that would otherwise have been granted if the applicant can show that he or she was, in spite of all due care, unable to respond within three months. In no case shall more than an additional three months be reinstated for each response. Paragraph (3)(D) requires the Director to grant the patent after completion of determining any patent term extension irrespective of whether the applicant appeals.

New [35 U.S.C.] 154(b)(4) regulates appeals of term adjustment determinations made by the Director. Paragraph (4)(A) requires a dissatisfied applicant to seek remedy in the District Court for the District of Columbia under the Administrative Procedures Act within 180 days after the grant of the patent. The Director shall alter the term of the patent to reflect any final judgment. Paragraph (4)(B) precludes a third party from challenging the determination of a patent term prior to patent grant.

See 145 Cong. Rec. S14,718 (footnotes omitted).

In addition, since the patent term adjustment provisions of the American Inventors Protection Act of 1999 contained in Pub. L. 106–113 are identical to the patent term adjustment provisions in title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (H.R. 1554), the joint statement in the Conference Report for H.R. 1554 may also be useful in interpreting the patent term adjustment provisions of the American Inventors Protection Act of 1999. The joint statement in the Conference Report for H.R. 1554 contains an identical discussion of its patent term adjustment provisions. See H.R. Conf. Rep. No. 106–464, at 125–27 (1999).

The language relied upon for the position that the provisions of § 1.704(c) (establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application) are inconsistent with the legislative intent of Congress in enacting the provisions of 35 U.S.C. 154(b)(2)(C)(iii) is not included in either the section-by-section analysis of S. 1948 by Senator Lott or the Conference Report for H.R. 1554 (H.R. Conf. Rep. No. 106-464). In addition, while H.R. 400 is one of the forerunners of the patent term adjustment provisions enacted into law in the American Inventors Protection Act of 1999, the provision concerning the establishment of circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application contained in the American Inventors Protection Act of 1999 is not the same as the corresponding provision in H.R. 400.

In any event, the provisions of § 1.704(c) do not require an applicant to be ''perfect'' or even ''diligent'' when prosecuting an application to avoid a reduction of patent term adjustment; § 1.704(c) simply requires that an applicant refrain from engaging in actions or inactions that prevent or interfere with the Office's ability to process or examine an application. An applicant who is engaging in actions or inactions that prevent or interfere with the Office's ability to process or examine an application cannot reasonably be characterized as ''engag[ing] in reasonable efforts to conclude processing or examination of an application'' (35 U.S.C. 154(b)(2)(C)(i)).

That conduct (an action or inaction) has been established in § 1.704 as circumstances constituting a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application should not be taken as an indication that such conduct is unreasonable *per se.* If Congress considered taking longer than three months to reply to an Office action or notice to be unreasonable *per se,* Congress would simply have amended title 35, U.S.C., to provide a statutory period of three months to reply to all Office actions or notices. The patent statute (and specifically the fee extension provisions of 35 U.S.C. 41(a)(8)), however, permits applicants to take longer than three months to reply to an Office action or notice even in the absence of showing that, in spite of all due care, the applicant was unable to reply within a three-month period. Nevertheless, 35 U.S.C. 154(b)(2)(C)(ii) provides that an applicant shall be deemed to have failed to engage in reasonable efforts to conclude prosecution for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request. Thus, Congress concluded that there is conduct during the prosecution of an application that is not unreasonable *per se,* but which is a failure to engage in reasonable efforts to conclude processing or examination of an application. Conversely, that conduct is permitted by the patent statute and rules of practice does not imply that such conduct is not a failure to engage in reasonable efforts to conclude processing or examination of an application.

Comment 18: One comment objected to § 1.704(c) as being overly broad and not being limited to the situations where applicant's actions or inactions have hindered the Office's ability to process or examine the application. Several other comments argued that § 1.704(c) sets off an applicant delay against unrelated Office delays (*e.g.,* one comment noted that if in an application the Office does not issue a first Office action until fifteen months after the application's filing date and later applicant files a notice of appeal followed by an appeal brief two months later, and an examiner's answer is mailed two months after the appeal brief is filed, the applicant would receive no term adjustment, and argued that there was ''no logical reason'' for such a setoff). Another comment argued that the result is that applicants are penalized twice for actions which are characterized as a failure to engage in reasonable efforts to conclude prosecution: once because their patent issues later than it would have had the applicant not delayed and a second time because they receive a lesser term adjustment than they would have without their delay.

Response: Section 1.704 as adopted (*i.e.,* not adopting proposed §§ 1.704(c)(6), 1.704(c)(7), 1.704(c)(8), 1.704(c)(9), and 1.704(c)(13)) will result in fewer situations in which patent term adjustment is reduced by an action or inaction that did not cause or contribute to the patent term adjustment.

Nevertheless, 35 U.S.C. 154(b) provides that the period of patent term adjustment under 35 U.S.C. 154(b)(1) ''shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.'' *See* 35 U.S.C. 154(b)(2)(C)(i). 35 U.S.C. 154(b)(1)(C)(i) does not require the applicant's action or inaction (that amounts to a failure to engage in reasonable efforts to conclude prosecution of the application) to have caused or contributed to patent term adjustment for the period of adjustment to be reduced due to such action or inaction. The patent term adjustment provisions of 35 U.S.C. 154(b) create a balanced system allowing for patent term adjustment due to Office delays for a reasonably diligent applicant. Since the public has an interest in the technology disclosed and covered by a patent being available to the public at the earliest possible date, it is appropriate to reduce patent term adjustment by any period of time during which applicant failed to engage in reasonable efforts to conclude prosecution of the application, regardless of whether the applicant's actions or inactions caused or contributed to patent term adjustment.

Comment 19: One comment objected to § 1.704(c) not being limited to the proposed sixteen enumerated events that would result in reduction in term adjustment, but being also applicable to situations where an applicant acts in a manner which would delay the conclusion of prosecution (arguing, *e.g.,* that an applicant should not have to accept a ''picture claim'' or face a reduction to any term adjustment). In addition, the comment stated that it is unclear what petitions the Office considers meritless since the Office does not publish petition decisions.

Response: The Office anticipates that some applicants will seek out ways to manipulate the system to their advantage no matter how exhaustive a listing of circumstances the Office were to set forth in § 1.704(c). Thus, the Office must provide that the enumerated circumstances in § 1.704(c) are

exemplary (and not exhaustive) to avoid always being one step behind such applicants.

As discussed above, the Office plans to calculate patent term adjustment with a computer program that uses the PALM system records of the dates of receipt and nature of applicant correspondence and of the dates of mailing and nature of Office actions or notices. This automated approach will not lend itself to basing a reduction of patent term adjustment on circumstances not enumerated in § 1.704(c) except in the most peculiar situations (*e.g.,* unsuccessfully seeking reconsideration or judicial review of a petition decision designated as final agency action). Finally, while the Office does not submit petition decisions for publication in the United States Patent Quarterly as a matter of course, the Office does post a variety of petition decisions on its Internet Web site (on the FOIA Web page, FOIA Reading Room (http://www.uspto.gov/web/offices/com/sol/foia/readroom.htm), Final Decisions of the Office of the Commissioner).

Comment 20: One comment argued that the reduction in § 1.704(c)(1) being equal to the time between the date a request for suspension of action under § 1.103 was filed and ending on the date the suspension was terminated should only be applied against any period where an adjustment is caused (*e.g.,* against the three-year period).

Response: As discussed above, 35 U.S.C. 154(b)(2)(C)(i) provides that the Office shall reduce any term adjustment by the period of time in which applicant has failed to engage in reasonable efforts to conclude prosecution, regardless of whether the applicant's actions or inactions caused or contributed to patent term adjustment.

Comment 21: One comment stated that making the period of reduction in § 1.704(c)(2) equal to the time between the date a request for deferral from issuance is filed to the date of issue of the patent was unfair because it includes the time in which the patent is printed. Another comment argued that the period should only be used to reduce a period of adjustment under § 1.703(a)(6) and (b) (failure to issue a patent within four months of the issue fee and compliance with all formal requirements, and failure to issue a patent within three years of the filing date of the application).

Response: An applicant can avoid any reduction of patent term adjustment under § 1.703(c)(2) by refraining from requesting that the Office suspend or defer action in the application. An applicant who affirmatively seeks a deferral of action by the Office should not complain that such a request has resulted in a reduction of any patent term adjustment due to administrative delays by the Office.

Comment 22: One comment stated that the proposal to make the period of reduction in § 1.704(c)(3) run from the date of abandonment to the date a favorable decision is mailed was unfair. The comment suggested that the applicant should not be charged with periods beyond four months from the date a petition is filed (as provided in proposed § 1.704(c)(15)).

Response: The suggestion is adopted to the extent described below. In many applications, the first-filed petitions to revive an application or to accept late payment is not grantable and further evidence, a terminal disclaimer or a fee is required before it can be granted. The Office of Petitions may call the applicant and request the necessary item, have the applicant send it by facsimile transmission, and then grant the petition on the same day. Section 1.704(c)(3) has been revised to state that the period of reduction will be the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of: (1) the date of mailing of the decision reviving the application or accepting late payment of the issue fee § 1.703; or (2) the date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed.

Comment 23: One comment argued that the periods of reduction in § 1.704(c)(3) and (c)(4) should be combined and that the period should be reinstated if the abandonment was not the fault of applicant. Another comment argued that a reduction should apply only if the abandonment was unintentional (not unavoidable).

Response: The suggestions are not adopted. The provisions of § 1.704(c)(3) relate to situations in which the application was in fact abandoned, but the abandonment was either unavoidable or unintentional (permitting revival of the application). If an application is not properly held abandoned (is not in fact abandoned), the applicant should not petition to revive under § 1.137, but should petition to have the (improper) holding of abandonment withdrawn. The provisions of § 1.704(c)(4) relate to where the holding of abandonment is withdrawn because applicant has shown, for example, that the application became abandoned because the Office mailed a communication to the incorrect address, or applicant did not receive the communication. When a petition to withdraw the holding of abandonment is granted, the application is treated as never having been abandoned, but where an application is revived the period in which the application was abandoned is a failure to engage in reasonable efforts to conclude prosecution. Since the two concepts are different, they have been separated into separate paragraphs of § 1.704.

Section 1.704(c)(3) applies regardless of whether the abandonment was unavoidable or just unintentional (but not unavoidable). The abandonment of an application as a result of actions or inactions within the control of applicant (and outside the control of the Office) does not preclude a finding of unavoidable delay. *See, e.g., In re Lonardo,* 17 USPQ2d 1455 (Comm'r Pat. 1990)(delay caused by deception of applicant by applicant's representative); *Ex parte Pratt,* 1887 Dec. Comm'r Pat. 31 (1887)(delay caused by error by representative's clerical staff); *In re Katrapat, A.G.,* 6 USPQ2d 1863 (Comm'r Pat. 1988)(same). Such action, however, is still considered a failure to engage in reasonable efforts to conclude prosecution of the application.

Comment 24: Another comment argued that the reduction in § 1.704(c)(4) was unfair because it will generate a need for applicant to file a petition under § 1.705.

Response: The Office is mindful that if a petition to withdraw the holding of abandonment is granted, the Office's PALM system records should be checked to ensure that the correct term adjustment determination is made. As discussed above, applicants may check the Office's PALM system records for their applications through PAIR at http://pair.uspto.gov (and are encouraged to do so). For example, if applicant shows that a reply was filed in the Office on March 2, but the March 2 reply was never matched with the file, when the petition to withdraw the holding of abandonment is granted, the receipt of a paper on March 2 should be recorded on the Office's PALM system records. An applicant who receives a Notice of Abandonment and does not request that the holding be withdrawn within two months of the mailing date of the notice, however, is considered to have failed to engage in reasonable efforts to conclude prosecution and it is appropriate to use this period under § 1.704(c)(3) as a reduction.

Comment 25: One comment generally agreed with § 1.704(c)(4), but objected to a ''blameless applicant'' who never received a Notice of Abandonment experiencing a reduction in term

adjustment because they did not reply to the Notice within two months.

Response: The Office currently issues over 160,000 patents each year. The only practical way to perform the calculations required by the patent term adjustment provisions of 35 U.S.C. 154 (and its implementation regulations) is by a program using the information contained in the PALM system. If the patent term adjustment were to be manually calculated for each application, the time required for the term adjustment calculation could exceed the time required to otherwise process the application. In order to minimize the cost of the patent term adjustment determination and conserve resources for examination of the application (*e.g.,* the prior art search and a decision of whether the claims are patentable), it is imperative that as much of the computation be done using the Office's automated information systems. The computer program must rely upon the information in the Office's PALM system records for the dates of receipt of applicant correspondence and the dates of mailing of Office actions or notices and of the nature of such applicant correspondence and Office actions or notices. As discussed above, applicants may check the Office's PALM system records for their applications through the PAIR system at http://pair.uspto.gov (and are encouraged to do so).

Comment 26: Two comments argued that in § 1.704(c)(5), the reduction for conversion of a provisional application to a non-provisional application should only offset periods of adjustment in § 1.703(a)(1) and (b) (the fourteen-month and three-year provisions).

Response: 35 U.S.C. 154(b)(2)(C)(i) provides that the period of adjustment ''shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.'' In any event, requesting conversion of a provisional application into a nonprovisional application is a poor choice for any applicant interested in maximizing patent term. *See Changes to Application Examination and Provisional Application Practice,* Interim Rule, 65 FR 14865, 14866 (Mar. 20, 2000), 1233 *Off. Gaz. Pat. Office* 47, 47 (Apr. 11, 2000). In addition, converting a provisional application into a nonprovisional application (rather than simply processing a nonprovisional application that claims the benefit of the provisional application's filing date) requires exception processing by the Office. As discussed above, applicants who prosecute applications in a manner that requires exception handling by the Office have no complaint concerning the negative patent term impacts that result from their poor choices.

Comment 27: Several comments argued that the provisions of § 1.704(c)(6) reducing patent term adjustment for all the time taken by an applicant to complete the requirements of a patent application were an unfair penalty. The comments argued that there should be a relationship between the reduction and an adjustment, that the Office should be able to demonstrate that the actions of the applicant resulted in delays in examination of that application, and that it was not unreasonable to file an application as soon as possible and to file an executed oath or declaration, formal drawings or a translation of the application at a later date. Another comment argued that the provisions of § 1.704(c)(6) penalized an applicant for the Office's delay in assigning an application number. Another comment argued that it is better for the Office for the applicant to wait until a Notice to File Missing Parts of Application is received than for the applicant to file the missing parts after filing the application and without a copy of a Notice to File Missing Parts of Application, and that the reduction should be measured from the mailing date of the notice.

Response: The Office has revised § 1.704 to eliminate proposed § 1.704(c)(6), such that missing parts (missing filing fee, oath or declaration, and missing English language translation of a non-English language application) and application formalities (specification on papers in compliance with § 1.52, title and abstract in compliance with § 1.72, drawings in compliance with § 1.84, and sequence listings in compliance with § 1.821 *et seq.*) are treated under § 1.704(b). Thus, any patent term adjustment will be reduced if an applicant does not supply the missing part or correct the informality within three months of the Office action or notice requiring the missing part or correction of the informality.

Comment 28: One comment argued that 35 U.S.C. 154(b)(2)(C)(ii) provides that a reply filed within three months of the date of an Office action or notice setting forth a requirement should not result in any patent term adjustment penalty. The comment also argued that since the eighteen-month publication rules permit a redacted application to be filed up to sixteen months from the priority date, the requirement for papers to be filed for purposes any earlier than this date was not justified. Another comment argued that the provisions of proposed § 1.704(c)(6) were too strict and that applicants should be given three months to complete formal requirements after receiving notice of the necessary formal requirements. The comment argues that a period of three months after the Office makes any rejection, objection or other request should be considered *prima facie* reasonable. Another comment argued that the period in which an applicant is considered to have ''failed to engage in reasonable efforts'' should begin with the date on which applicant is given notice of the defect.

Response: While the Office has revised § 1.704 such that missing parts and application formalities are treated under § 1.704(b) (as discussed above), this revision to § 1.704 is not required by the provisions of 35 U.S.C. 154(b)(2)(C). Since 35 U.S.C. 154(b)(2)(C)(iii) provides for the Office to prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application, 35 U.S.C. 154(b)(2)(C)(ii) cannot be considered exhaustive of the circumstances for which an applicant may be determined to have failed to engage in reasonable efforts to conclude processing or examination of an application. If the Office determines that treating missing parts and application formalities under § 1.704(b) is causing the Office to miss the time periods set forth in 35 U.S.C. 154(b)(1), the Office will need to reconsider its original proposal to treat missing parts and application formalities as a failure to engage in reasonable efforts to conclude processing or examination without regard to whether the applicant has been given a prior reminder or notice to supply the missing part or correct the informality.

As to the provisions for a redacted application to be filed up to sixteen months from the earliest priority date or filing date of the application, these provisions are not relevant to whether filing components of an application after the filing date of the application is a failure to engage in reasonable efforts to conclude processing or examination of an application. The timing of when a redacted application is filed is irrelevant to the prosecution of an application because the filing of a redacted copy of an application is completely unrelated to prosecution of the application.

Comment 29: One comment suggested that the missing parts practice in the Office of Initial Patent Examination (OIPE) be expanded to include examination of components required for

eighteen-month publication so as to minimize any term adjustment reductions.

Response: The Office plans to modify the review in OIPE to include items necessary for publication of applications.

Comment 30: Another comment argued that proposed § 1.704(c)(6) was in conflict with the diligence requirements of § 1.47 and frustrates a fundamental objective of patent law (*i.e.,* encouraging an applicant to file a patent application as soon as possible). The comment argues that because inventorship is not determined until the claims are finalized and because of the requirement for diligence under § 1.47, it is not possible to file a petition under § 1.47 for months after an application is filed.

Response: As discussed above, the Office has revised § 1.704 to eliminate proposed § 1.704(c)(6), such that missing parts (missing filing fee, oath or declaration, and missing English language translation) are treated under § 1.704(b), in that any patent term adjustment will be reduced if an applicant does not supply a missing filing fee, oath or declaration, or English-language translation within three months of the Office notice requiring the filing fee, oath or declaration, or English-language translation.

In the event that one or all of the inventors refuse to execute the oath or declaration, the Office cannot process the application for publication or examine the application until the party filing the application on behalf of the inventor(s) establishes that he or she is the appropriate applicant and that the requirements of 35 U.S.C. 116 and 118 have been met. Thus, if one or all of the inventors refuse to execute the oath or declaration, a grantable petition under § 1.47 must be filed within three months of the Office notice requiring an executed oath or declaration (*e.g.,* a Notice to File Missing Parts of Application (PTO–1533)) to avoid a reduction of any patent term adjustment under § 1.704(b). While the patent law does encourage the filing of a patent application as soon as possible (*e.g.,* to avoid a bar under 35 U.S.C. 102(b)), § 1.47 (35 U.S.C. 116 and 118) was not intended to give applicants a longer time to prepare an application for filing. *See Ex parte Sassin,* 1906 Dec. Comm'r Pat 205, 206 (1906).

Comment 31: Several comments argued that the provisions of proposed § 1.704(c)(7) unfairly discriminated against PCT applicants and ignored the legislative history of the Act. These comments suggested that the Office should define, for purposes of patent term adjustment, the ''actual filing date'' as the date that all requirements for entry into the national stage are met. Another comment argued that the provisions of proposed § 1.704(c)(7) and (c)(8) undermine the benefits provided by the international phase procedure under the PCT. This comment also: (1) suggested that any period of patent term adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B) be reduced by the number of days (if any) beginning on the date on which the national phase commences under 35 U.S.C. 371(b) or (f) and ending on the day the applicant completes the requirements for entry into the national phase; (2) observed that events that occur in the international phase advance prosecution because formalities are resolved, a search is conducted, and preliminary examination is begun; (3) argued that proposed § 1.704(c)(7) will force applicants to forgo their entitlements under the treaty or risk a reduction in a term adjustment, and that applicants under the PCT will be in a worse position than regular national applicants; and (4) noted that someone who files a ''bypass'' application (an application under 35 U.S.C. 111 claiming the benefit of the international application under 35 U.S.C. 120) instead of entering the national phase under 35 U.S.C. 371 will not have the international phase used as a reduction to any term adjustment. The comments also argued that the provisions of proposed § 1.704(c)(8) were unfair for the same reasons as stated for proposed § 1.704(c)(7). Finally, several comments requested clarification of, or made suggestions, for the language of proposed § 1.704(c)(7) and proposed § 1.704(c)(8).

Response: The Office is interpreting the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) to mean the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application. The Office originally interpreted the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) to mean the international filing date of the application under PCT Article 11(3) and 35 U.S.C. 363 in the case of an international application. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 17220, 1233 *Off. Gaz. Pat. Office* at 113. Further consideration of this position, however, leads to the conclusion that: (1) the interpretation of the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) to be the filing date of the international application under PCT Article 11(3) and 35 U.S.C. 363 in the case of an international application is inconsistent with the legislative history of 35 U.S.C. 154(b)(1)(B) and is incongruous with the provisions of 35 U.S.C. 154(b)(1)(A)(i)(II) and (B)(iii); and (2) the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) must mean the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application.

Without resort to guides to interpretation (*e.g.,* legislative history, other provisions of title 35, U.S.C., or the PCT), the phrase ''actual filing date of the application in the United States'' appears to mean that the three-year period specified in 35 U.S.C. 154(b)(1)(B) is measured from the date the application is actually filed (*i.e.,* physically received) in the United States Patent and Trademark Office. That is, the phrase ''actual filing date of the application in the United States'' appears to mean the date that the application itself is physically received in the United States Patent and Trademark Office, regardless of whether it is an application filed under 35 U.S.C. 111(a) or an international application filed under PCT Article 11.

As discussed above, the American Inventors Protection Act of 1999 was enacted into law as part of Pub. L. 106–113. The Conference Report for H.R. 3194 (which resulted in Pub. L. 106–113) does not contain any discussion (other than the incorporated language) of the American Inventors Protection Act of 1999 (title IV of S. 1948). *See* H.R. Conf. Rep. No. 106–497, at 37 and 1089–174 (1999). A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott. *See* 145 Cong. Rec. S14,708–26 (1999)(daily ed. Nov. 17, 1999). The section-by-section analysis explained that:

> day-for-day restoration of term is granted if the [Office] has not issued a patent within three years after ''the actual date of the application in the United States.'' This language was intentionally selected to exclude the filing date of an application under the Patent Cooperation Treaty (PCT). Otherwise, an applicant could obtain up to a 30-month extension of a U.S. patent merely by filing under PCT, rather than directly in the [Office], gaining an unfair advantage in contrast to strictly domestic applicants.

See 145 Cong. Rec. at S14,718.

The legislative history of 35 U.S.C. 154(b)(1)(B) is clear that the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) does not mean (but was

intentionally selected to exclude) the date on which the international application was filed under the PCT. The interpretation of the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) as meaning the filing date of the application under the PCT (PCT Article 11(3)) would defeat the plain intent of Congress to ''exclude the filing date of an application under the [PCT]'' and would permit (rather than avoid) the use of the PCT to give an applicant an advantage in obtaining a longer patent term adjustment compared to a similarly processed and examined application filed under 35 U.S.C. 111(a). Therefore, the interpretation of the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) as not meaning the filing date of the application under the PCT (PCT Article 11(3)) is consistent with the legislative history of 35 U.S.C. 154(b)(1)(B).

In addition, the interpretation of the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) as meaning the filing date of the application under the PCT is incongruous with the provision in 35 U.S.C. 154(b)(1)(B)(iii). 35 U.S.C. 154(b)(1)(B) provides that if the pendency of an application is more than three years from the actual filing date of the application, the term of the patent issuing from the application shall be extended one day for each day after the end of the three-year period, but that certain time periods are excluded from the three-year period. 35 U.S.C. 154(b)(1)(B)(iii) specifically provides that time consumed by delays in the processing of the application by the Office requested by applicant are excluded from this three-year period. The interpretation of the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) as meaning the ''international filing date'' under PCT Article 11(3) leads to the result that an applicant is able to obtain a delay in paying fees and filing papers and in the processing of the application by using the PCT (*MPEP* 1893), and obtain term adjustment based upon the three-year period being measured from the international filing date (*i.e.,* without the delay being excluded from the three-year period as with other applicant-elected delays). This result is incongruous with the provisions in 35 U.S.C. 154(b)(1)(B)(iii) that time consumed by delays in the processing of the application by the Office requested by applicant are excluded from this three-year period.

The interpretation of the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) as meaning the filing date of the application under the PCT is also incongruous with the provision in 35 U.S.C. 154(b)(1)(A)(i)(II) where a date later than the filing date of the application under the PCT is used. Each of 35 U.S.C. 154(b)(1)(A)(i) and 154(b)(1)(B) provide that an applicant may be entitled to patent term adjustment if the Office fails to take certain action within a specified time period: (1) provide at least one of an Office action under 35 U.S.C. 132 or notice of allowance under 35 U.S.C. 151 within fourteen months (35 U.S.C. 154(b)(1)(A)(i)); or (2) issue a patent within three years (35 U.S.C. 154(b)(1)(B)). For applications filed under 35 U.S.C. 111(a), the fourteen-month period begins with the filing date of the application (35 U.S.C. 154(b)(1)(A)(i)(I)), but for applications that enter the national stage under 35 U.S.C. 371, the fourteen-month period begins with the date on which the international application fulfilled the requirements of 35 U.S.C. 371 (35 U.S.C. 154(b)(1)(A)(i)(II)), which can be more than thirty months after the international filing date of the application.

As discussed above, Congress recognized that national processing of an international application is delayed by up to thirty months under the PCT filing system. Interpreting the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) as meaning the filing date of the application under the PCT would require the conclusion that Congress considered the Office's failure to issue a patent within thirty-six months of the filing date of an international application under 35 U.S.C. 363 to constitute an unusual administrative delay (35 U.S.C. 154(b)(1)(B)), but did not consider the Office's failure to initially act on the application to be an unusual administrative delay unless the Office did not issue either an Office action under 35 U.S.C. 132 or notice of allowance under 35 U.S.C. 151 within forty-four (thirty plus fourteen) months of the filing date of an international application under 35 U.S.C. 363 (35 U.S.C. 154(b)(1)(A)(i)(II)). 35 U.S.C. 131 and 151, however, require the Office to examine an application and issue a notice of allowance under 35 U.S.C. 151 before issuing a patent on the application. Thus, the interpretation of the ''actual filing date of the application in the United States'' to mean the filing date under 35 U.S.C. 363 requires the conclusion that Congress intended an odd if not absurd result: that the Office is expected to be able to issue a patent quicker (within thirty-six months of the filing date under 35 U.S.C. 363) than it is expected to be able to initially act on the application (within forty-four months of the filing date under 35 U.S.C. 363).

The legislative history of 35 U.S.C. 154(b)(1)(B) specifically indicates that Congress wanted to avoid the situation in which an applicant could gain an extension of ''up to'' thirty months merely by filing the application under the PCT system. *See* 145 Cong. Rec. at S14,718 ([o]therwise, an applicant could obtain up to a 30-month extension of a U.S. patent merely by filing under PCT, rather than directly in the [Office], gaining an unfair advantage in contrast to strictly domestic applicants). While 35 U.S.C. 154(b)(1)(A)(i)(II) ties its fourteen-month period to fulfillment of the requirements of 35 U.S.C. 371 in the case of an international application, the PCT and 35 U.S.C. 371 permit applicants to delay fulfillment of the requirements of 35 U.S.C. 371 beyond thirty months (rather than ''up to'' thirty months). The PCT (PCT Article 39(1)(a)), however, allows an applicant to obtain a delay of up to thirty months in commencement of the national stage (35 U.S.C. 371(b)) by the timely filing of a demand for international preliminary examination. Therefore, the legislative history of 35 U.S.C. 154(b)(1)(B) indicates that the phrase ''actual filing date of the application in the United States'' as used in 35 U.S.C. 154(b)(1)(B) means the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application.

In addition, while the international phase of an international application is not entirely devoid of activity, the Office does not (and cannot) begin examination of the application as provided for in 35 U.S.C. 131 and 132 until after it has entered that national stage of processing under 35 U.S.C. 371(b) or (f). *See* PCT Articles 23 and 40. Therefore, it is consistent with the legislative history of 35 U.S.C. 154(b) to not take the period prior to commencement of the national stage into account in determining whether the Office is meeting any of the time frames for examination of the application provided for in 35 U.S.C. 154(b)(1).

35 U.S.C. 363 does provide, in relevant part, that ''[a]n international application designating the United States shall have the effect, from its international filing date under [PCT Article 11], of a national application for patent regularly filed in the [Office].'' The legislative history of 35 U.S.C. 363 indicates that an international application designating the United

States, regardless of whether it was filed in this or any other contracting country, has the effect, from its international filing date, of a regular national application for patent filed in the United States Patent and Trademark Office, and that the international filing date of an international application would be considered as the actual filing date in the United States Patent and Trademark Office (except as provided in 35 U.S.C. 102(e)). *See* H.R. Rep. No. 94–592, at 9 (1975), *reprinted in* 1975 U.S.C.C.A.N. 1220, 1228. Nevertheless, the phrase ''shall have the effect'' of having an earlier filing date (the international filing date) as used in the patent statute does not necessarily mean that the actual filing date of the application is the earlier filing date (the international filing date). *See In re Hilmer,* 359 F.2d 859, 149 USPQ 480 (CCPA 1966) (discusses distinction in the patent statute between an actual filing date having the same effect of such a filing date).

In addition, PCT Article 11(3) provides, in relevant part, that ''any international application fulfilling the requirements listed in [PCT Article 11(1)(i) through (iii)] and accorded an international filing date shall have the effect of a regular national application in each designated State as of the international filing date, which date shall be considered to be the actual filing date in each designated State.'' Read in conjunction with the provisions of PCT Article 11(3), the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b)(1)(B) might appear to mean the filing date of the international application under PCT Article 11(3) and 35 U.S.C. 363 in the case of an international application. Nevertheless, it is not appropriate to mechanically interpret the phrase ''actual filing date of the application in the United States'' in 35 U.S.C. 154(b) in light of PCT Article 11(3) when that interpretation is at odds with the legislative history of this provision of 35 U.S.C. 154(b)(1)(B) and the provisions of 35 U.S.C. 154(b)(1)(A)(i)(II) and (B)(iii).

The Office will continue to interpret the phrase ''from the date on which the application for the patent was filed in the United States'' in 35 U.S.C. 154(a)(2) (and former 35 U.S.C. 154(b)(3)(B)) as meaning the international filing date under PCT Article 11(3) and 35 U.S.C. 363 in the case of an international application.

If the phrase ''actual filing date of the application in the United States'' as used in 35 U.S.C. 154(b)(1)(B) were to be interpreted to mean any date other than the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application, the Office would have to consider the failure to fulfill the requirements of 35 U.S.C. 371 to be a circumstance constituting a failure to engage in reasonable efforts to conclude prosecution (or processing or examination) of an application in an international application and reduce the period of any patent term adjustment by the period beginning on the ''actual filing date of the application in the United States'' of the application and ending on the date the application fulfilled the requirements of 35 U.S.C. 371. The interpretation of the phrase ''actual filing date of the application in the United States'' as used in 35 U.S.C. 154(b)(1)(B) to mean the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application, however, renders it unnecessary to provide that any period of patent term adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B) be reduced by the number of days (if any) beginning on the date on which the national phase commences under 35 U.S.C. 371(b) and ending on the day the applicant completes the requirements for entry into the national phase. After commencement of national stage processing, delays in fulfilling the requirements of 35 U.S.C. 371 will be treated under § 1.704(b).

Finally, the interpretation of the phrase ''actual filing date of the application in the United States'' as used in 35 U.S.C. 154(b)(1)(B) to mean the date the national stage commenced under 35 U.S.C. 371(b) or (f) in the case of an international application, rather than establishing the failure to fulfill the requirements of 35 U.S.C. 371 as a circumstance constituting a failure to engage in reasonable efforts to conclude prosecution (or processing or examination) of an application, will not force applicants to forgo their entitlements under the treaty or risk a reduction in a term adjustment, and will place PCT applicants in a similar position to ''regular'' national applicants or applicants who chose to file a ''bypass'' application (an application under 35 U.S.C. 111 claiming priority under 35 U.S.C. 120 to the international application) instead of entering the national phase under 35 U.S.C. 371.

Comment 32: Several comments argued that the formalities covered by proposed § 1.704(c)(9) (which subjects an applicant to reduction of any term adjustment if, for example, the application papers cannot be scanned, an abstract is not submitted or does not comply with the rules, printable drawings are not filed or a sequence listing is not filed in appropriate computer readable form) usually do not delay examination. The comments also expressed concern that the defect would not be objected to in initial examination, and only later by the patent examiner. The comments argue that there should be no failure to engage reduction if the defect is not noted during initial examination, especially if the defect only arises after a restriction requirement which makes a revision to the title, for example, necessary. Several comments alleged that the proposed § 1.704(c)(9) required formal drawings to be included on filing.

Response: The Office has revised § 1.704 such that application formalities (specification on papers in compliance with § 1.52, title and abstract in compliance with § 1.72, drawings in compliance with § 1.84, and sequence listings in compliance with § 1.821 *et seq.*) are treated under § 1.704(b). Thus, any patent term adjustment will be reduced if an applicant does not correct the informality within three months of the Office action or notice requiring the missing part or correction of the informality.

Comment 33: One comment argued that the reduction in proposed § 1.704(c)(10) (§ 1.704(c)(6) as adopted) was excessive because there was no requirement for the Office to treat the preliminary paper within a set time. The comment argues that any time beyond one month from the filing of the preliminary amendment for the Office to issue a supplemental action should not be considered a failure to engage in reasonable efforts to conclude processing of an application. One comment argued that the proposal left an ''immense loophole for unlimited PTO delay'' and suggested that any reduction be limited to the lesser of (a) the proposed period or (b) the sum of (i) the time between the original Office action and the request for a supplement action plus (ii) the lesser of four months and the time between the filing of the request and the issuance of the supplemental action. Another comment argued that the reduction should be limited to four months.

Response: Section 1.704(c)(6) as adopted provides that the period of adjustment set forth in § 1.703 shall be reduced by the lesser of the number of days, if any, beginning on the mailing date of the original Office action or notice of allowance and ending on the date of mailing of the supplemental Office action or notice of allowance **or four months** (emphasis added). An applicant filing a preliminary amendment or other paper at a time close to when a first Office action is

expected is encouraged to check with the Office (*e.g.,* through PAIR at http://pair.uspto.gov) before mailing in the paper. If the application is charged to a patent examiner, the examiner should be informed of the paper and the paper should be submitted to the examiner by facsimile transmission in order to reduce the likelihood of the examiner having to issue a supplemental Office action.

Applicants do not generally ask the Office to issue a supplemental Office action and § 1.704(c)(6) is not directed to this situation. Instead, § 1.704(c)(6) is directed to the situation, for example, in which an amendment is filed in February and then a supplemental amendment is filed in March, but is not in the file when the examiner prepares a reply in April. If the examiner then prepares another Office action in May to treat the March amendment, the reduction under § 1.704(c)(6) would be one month, the time between the April Office action and the May Office action.

Comment 34: As to proposed § 1.704(c)(11) (§ 1.704(c)(7) as adopted), the proposal that patent term adjustment will be reduced for the time period between submission of an initial reply and a reply in compliance with § 1.135(c) was criticized as creating an incentive for the examiner to find a reply non-responsive when a four-month deadline is not met. The comment suggests that other options be considered, including setting an upper limit of four months for this situation.

Response: Patent examiner performance plans hold examiners responsible for acting on applications within specified time frames. Patent examiner performance plans, however, do not hold examiners responsible for the patent term adjustment that may result in their applications. Thus, an examiner should not be overly mindful of the patent term adjustment implications of their actions. If a reply is filed that does not address each and every objection, rejection or other requirement made by the examiner, then the reply is not responsive to the Office action and the time between the filing of the incomplete reply and the date the omission was supplied is the period of time in which applicant's actions resulted in the Office not being able to complete processing or examination of the application.

While Office practice is to treat a *bona fide* but non-responsive reply by issuing a notice setting a one-month (or thirty-day) period for reply and permitting applicants to obtain up to five additional months under § 1.136(a), the Office could have changed this practice (as part of implementing the patent term adjustment provisions of the American Inventors Protection Act of 1999) to set a one-month (or thirty-day) non-extendable period for supplying omissions in a reply. The Office elected to retain the relatively liberal practice for treating such non-responsive replies. To provide applicants with this extended period within which to supply an omission, however, the Office must provide that any patent term adjustment will be reduced by the period of time between the date the incomplete reply was filed and the date the omission was supplied. Since both the filing of a reply that is complete and the filing of any supplement necessary to a reply having an omission are within the control of the applicant, there is no need for a four-month upper limit.

Comment 35: As to proposed § 1.704(c)(12) (§ 1.704(c)(8) as adopted), one comment argued that the submission of supplemental replies should not be construed as a failure to engage in reasonable efforts because sometimes the supplemental reply expedites resolution of the issues.

Response: Section 1.704(c)(8) as adopted contains an exclusion for ''a supplemental reply or other paper expressly requested by the examiner.'' Thus, a supplemental reply or other paper expressly requested by the examiner (*e.g.,* a supplemental amendment carrying into effect agreements reached between the applicant and the examiner) will not be considered a failure to engage in reasonable efforts to conclude processing or examination of an application, where the filing of a supplemental reply or other paper that was not expressly requested by the examiner will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application.

Comment 36: Several other comments addressed proposed § 1.704(c)(12), arguing that an information disclosure statement filed within three months of applicant learning of the prior art should not be construed as a failure to engage in reasonable efforts because this event is beyond the control of the applicant.

Response: The filing of an information disclosure statement (or supplemental reply) after the filing of a reply will significantly interfere with the Office's ability to meet the time frame set forth in 35 U.S.C. 154(b)(1)(A)(ii) and 154(b)(1)(B) and § 1.702(a)(2) and (b). Nevertheless, the Office considers it appropriate to permit applicants to submit information cited in a communication from a foreign patent office in a counterpart application to the Office without a reduction in patent term adjustment if an information disclosure statement is submitted to the Office within thirty days (not three months) of the date the communication from the foreign patent office was received by an individual designated in § 1.56(c). While this time period is considerably shorter than the three-month period provided in § 1.97(e), a non-extendable thirty-day time period is necessary to avoid substantial interference with the time frame imposed on the Office by 35 U.S.C. 154(b)(1)(A)(ii).

Comment 37: One comment argued that proposed § 1.704(c)(12) would result in a request for filing an assignment being used to reduce the period of adjustment.

Response: Assignment papers should be mailed to BOX ASSIGNMENT and should not be placed into an application file. *See MPEP* 303. As a result, the filing of a cover sheet for an assignment and an assignment would not be used in the patent term adjustment determination. Furthermore, a Notice of Non-Recordation (*MPEP* 302.09) is not a notice related to the processing or examination of a patent application and will not be used in the patent term adjustment determination.

Comment 38: Several comments stated that it was manifestly unfair for a term adjustment to be reduced by the time between filing a notice of appeal and the appeal brief in proposed § 1.704(c)(13). Several of these comments suggested that the time between two months after the notice of appeal and filing of the appeal brief be used as a failure to engage reduction. One of the comments suggested that applicants be given at least one month between notice of appeal and filing of the appeal brief before further delays begin to be considered a failure to engage. Another comment argued that proposed § 1.704(c)(13) was unfair because a notice of appeal is a desirable means of avoiding paying extension of time fees. The comment further argued that if the appeal is successful, the time taken to file an appeal brief should not be considered a failure to engage in reasonable efforts to conclude processing or examination of the application unless more than a reasonable amount of time is taken to file the appeal brief. Several comments suggested that the taking of an appeal begins with the filing of the appeal brief and not with the filing of a notice of appeal. One of these comments stated that the Office's treating an appeal as having been taken when the notice of appeal is filed but reducing any patent term adjustment by the period between

the filing of the notice of appeal and the filing of an appeal brief will have the effect of having the relevant four-month period run from the filing of the appeal brief and probably reached the result Congress intended, but indicated that such a practice will create client-relation difficulty.

Response: The Office is interpreting the phrase ''the date on which'' an ''appeal was taken'' in 35 U.S.C. 154(b)(1)(A)(ii) as the date an appeal brief in compliance with § 1.192 was filed. The Office originally interpreted the phrase ''the date on which'' an ''appeal was taken'' in 35 U.S.C. 154(b)(1)(A)(ii) to mean the date a notice of appeal to the Board of Patent Appeals and Interferences under 35 U.S.C. 134 and § 1.191 was filed. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR at 17217, 1233 *Off. Gaz. Pat. Office* at 111. The Office has reconsidered this interpretation of the phrase ''the date on which'' an ''appeal was taken'' in 35 U.S.C. 154(b)(1)(A)(ii).

Neither the patent statute nor the rules of practice provide any definition (or antecedent basis) for the phrase ''appeal was taken'' so as to signify whether ''the date on which'' an ''appeal was taken'' means the date a notice of appeal to the Board of Patent Appeals and Interferences under 35 U.S.C. 134 and § 1.191 was filed, or whether it means the date the documents and fees from applicant (*i.e.,* an appeal brief in compliance with § 1.192) that are necessary for the appeal to go forward (or be ''taken'') to the Board of Patent Appeals and Interferences was filed. Therefore, it is necessary to resort to the context of this provision within the scheme of 35 U.S.C. 154(b)(1) and legislative history of 35 U.S.C. 154(b) to ascertain the meaning of this phrase.

The interpretation of the phrase ''the date on which'' an ''appeal was taken'' as meaning the date a notice of appeal to the Board of Patent Appeals and Interferences under 35 U.S.C. 134 and § 1.191 was filed (rather than the date an appeal brief in compliance with § 1.192 was filed) is not consistent with the scheme of 35 U.S.C. 154(b)(1) (A) and (B). Both 35 U.S.C. 154(b)(1) (A) and (B) set forth an objective time clock system. 35 U.S.C. 154(b)(1)(A) sets forth an objective clock system that measures the time taken by the Office to perform certain acts of examination when such actions are expected in response to actions (*e.g.,* the filing of an application, reply to an Office action, payment of the issue fee) by the applicant, where 35 U.S.C. 154(b)(1)(B) sets forth an objective clock system that measures overall time taken by the Office to issue the patent.

The Office is not expected to respond to the filing of a notice of appeal to the Board of Patent Appeals and Interferences under 35 U.S.C. 134 and § 1.191 unless and until the applicant files the documents and fees (*i.e.*, an appeal brief in compliance with § 1.192) necessary for the appeal to go forward (or be ''taken'') to the Board of Patent Appeals and Interferences. Since this provision is included as part of the clock system of 35 U.S.C. 154(b)(1)(A) that measures the time taken by the Office to perform certain acts of examination when such actions are expected in response to actions by the applicant (rather than the overall clock system of 35 U.S.C. 154(b)(1)(B)), it would be inconsistent with the scheme of 35 U.S.C. 154(b)(1) (A) and (B) to have the four-month period in 35 U.S.C. 154(b)(1)(A)(ii) run at a time (between the filing of a notice of appeal to the Board of Patent Appeals and Interferences under 35 U.S.C. 134 and § 1.191 and the filing of an appeal brief in compliance with § 1.192) when the Office is not expected to perform any action in the application.

The interpretation of the phrase ''the date on which'' an ''appeal was taken'' as meaning the date a notice of appeal to the Board of Patent Appeals and Interferences under 35 U.S.C. 134 and § 1.191 was filed (rather than the date an appeal brief in compliance with § 1.192 was filed) is also not consistent with the legislative history of 35 U.S.C. 154(b). As discussed above, the provisions in 35 U.S.C. 154(b) (A) and (B) for patent term adjustment on the bases of administrative delays in acting on an application or issuing a patent evolved from legislation introduced in the 104th Congress. *See* Patent Application Publication Act of 1995, H.R. 1733, 104th Cong. (1995). Section 8 of H.R. 1733 simply provided for patent term adjustment (or extension) for ''an unusual administrative delay,'' and authorized the Office to ''prescribe regulations to govern the determination of the period of delay and the particular circumstances deemed to be an unusual administrative delay'' (35 U.S.C. 154(b)(1)(D)).

The Office proposed to implement this provision of H.R. 1733 using a three-prong objective time clock for certain actions by the Office to determine whether there was ''an unusual administrative delay'' by the Office. Specifically, the Office proposed to define ''an unusual administrative delay'' by the Office as failure to: (1) act on a reply under § 1.111 or appeal brief under § 1.192 within six months of the date it was filed; (2) act on application with six months of the date of a decision under § 1.196 by the Board of Patent Appeals and Interferences where claims stand allowed in an application or the nature of the decision requires further action by the examiner (§ 1.197); or (3) issue a patent within six months of the date the issue fee was paid or all outstanding requirements were satisfied, whichever is later. *See Changes to Implement 18-Month Publication of Patent Applications,* Notice of Proposed Rulemaking, 60 FR 42352, 42369–70, 42385–86 (Aug. 15, 1995), 1177 *Off. Gaz. Pat. Office* 61, 76–77, 91–91 (Aug. 15, 1995).

The 104th Congress replaced H.R. 1733 with H.R. 3460. *See* Moorhead-Schroeder Patent Reform Act, H.R. 3460, 104th Cong. (1996). The patent term adjustment provisions of H.R. 3460 were based upon the objective time clock system proposed by the Office in August of 1995, with two modifications: (1) an additional fourth prong (now the first prong) was added to also define ''an unusual administrative delay'' by the Office as failure to initially act on an application within fourteen months of its filing date; and (2) the six-month time periods were shortened to four months in the remaining three prongs which correspond to the three prongs proposed by the Office. *See* H.R. Rep. No. 104–784, at 19 and 33 (1996). There is nothing in the Committee Report for H.R. 3460 to indicate that Congress intended the four-month period in the second prong of the objective time clock to run from the date a notice of appeal to the Board of Patent Appeals and Interferences under 35 U.S.C. 134 and § 1.191 was filed, rather than the date an appeal brief under § 1.192 was filed (as proposed by the Office), with regard to measuring whether the time taken by the Office to respond to an appeal constituted ''an unusual administrative delay'' by the Office.

While 35 U.S.C. 154(b) as ultimately amended by the 106th Congress in Pub. L. 106–113 differs dramatically from 35 U.S.C. 154(b) as it would have been amended by H.R. 3460, the language of 35 U.S.C. 154(b)(1)(A)(ii) as enacted is identical to the language of 35 U.S.C. 154(b)(1)(B)(ii) (the corresponding provision) in H.R. 3460. Since this objective clock system of 35 U.S.C. 154(b)(1)(A) tracks the objective time clock system proposed by the Office in August of 1995, and there is nothing in the legislative history of 35 U.S.C. 154(b) to indicate that Congress meant to alter this prong of the objective time clock (such that the time period would run from the date a notice of appeal to the Board of Patent Appeals and

Interferences under 35 U.S.C. 134 and § 1.191 was filed rather than the date an appeal brief under § 1.192 was filed), it is reasonable to conclude that Congress intended the phrase ''the date on which'' an ''appeal was taken'' in 35 U.S.C. 154(b)(1)(A)(ii) to mean the date an appeal brief under § 1.192 was filed.

Comment 39: As to proposed § 1.704(c)(14) (§ 1.704(c)(9) as adopted), several comments argued that the comments raised against proposed § 1.704(c)(10) were also relevant. One comment argued that the period defined by the rule was not within the control of the applicant and that an upper limit for the period of adjustment (*e.g.,* four months) should be set.

Response: Section 1.704(c)(9) as adopted provides that adjustment set forth in § 1.703 shall be reduced by the lesser of the number of days, if any, beginning on the day after the mailing date of the original Office action or notice of allowance and ending on the mailing date of the supplemental Office action or notice of allowance or four months (emphasis added).

Comment 40: Another comment addressed proposed § 1.704(c)(14) (§ 1.704(c)(9) as adopted), stating that the term ''designated'' in the phrase ''[s]ubmission of an amendment or other paper after a decision of the Board of Patent Appeals and Interferences, other than a decision designated as containing a new ground of rejection under § 1.196(b) or a statement under § 1.196(c)'' should not be used to arbitrarily deny term adjustment.

Response: The phrase from § 1.704(c)(9) as adopted addressed in this comment explains that a paper filed in reply to a new ground of rejection will not be used to reduce a term adjustment. Applicants will be able to timely reply to a Board of Patent Appeals and Interferences decision containing a new ground of rejection under § 1.196(b) without a reduction of patent term adjustment.

Comment 41: Several comments objected to the reference to ''or other paper'' in proposed § 1.704(c)(15) (§ 1.704(c)(10) as adopted) because a paper filed to correct an examiner's amendment or to request a copy of a PTO–1449 should not be construed as a failure to engage in reasonable efforts to concludeprosecution. One comment suggested instead that only an amendment requiring further examination should be listed under this section.

Response: In order to be able to perform the patent term adjustment calculation at the time of mailing the Notice of Allowance, the Office needs to have the calculation performed by a computer program using the Office's records of papers mailed and received as recorded in its PALM system. The PALM system is simply not capable of making value judgments concerning papers filed after allowance. In any event (as discussed above), all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait for payment of the issue fee to begin the process of preparing the application for publication as a patent. Section 1.704(c)(10) as adopted should deter applicants from filing papers after allowance which should have a beneficial impact upon the Office's ability to publish applications as patents more quickly.

Applicants can avoid this reduction being applied to applicant's attempts to correct the record by making a telephone request for a missing copy of a PTO–1449 or other document as soon as possible after receipt of the Notice of Allowance. As to information disclosure statements filed after allowance, pursuant to § 1.704(d) an information disclosure statement citing prior art cited in a communication from the foreign patent office in a counterpart application and filed within thirty days of the communication from the foreign patent office will not reduce the term of any adjustment if the required certification is made. In addition, a status inquiry filed after allowance may result in a reduction of the term adjustment. Applicants are encouraged to either call the Office or use the PAIR system (http://pair.uspto.gov) to monitor the status of an application rather than submitting written status inquiries.

Comment 42: One comment argued that proposed § 1.704(c)(16) (§ 1.704(c)(11) as adopted) was unnecessary because time periods before the filing date of an application are not relevant to patent term adjustment and do not constitute delays in the prosecution of the application. Another comment asked whether applicant delays in a prior application would reduce the patent term adjustment in a continuation application.

Response: Delays before the filing date of an application are not relevant to whether an application is entitled to patent term adjustment, but the provision is considered necessary to remind applicants of this. Likewise, patent term adjustment will not be reduced by applicant actions or inactions (that amount to a failure to engage in reasonable efforts to conclude processing or examination of the application) occurring in a prior (or other) application.

Comment 43: Section 1.705(a) states that the notification of any patent term adjustment under 35 U.S.C. 154(b) will be included on the notice of allowance. One comment asked whether a registered practitioner has an ethical duty to disclose to the Office when the term adjustment indicated is longer period than expected. The comment continues to ask whether attorneys have a similar duty to inform the Office when an examiner indicates subject matter as being allowable with a scope broader than it should be. Finally, the comment asks whether the ethical obligation would be any different if the pre-printed Office form is not used to pay the issue fee and an attorney-generated form is used instead.

Response: The Office currently issues a notice of allowance using the Notice of Allowance and Issue Fee Due (PTOL–85). The Notice of Allowance and Issue Fee Due (PTOL–85) is printed in several parts and one part (PTOL–85B) may be returned with the issue fee payment in order to communicate the assignee and attorney data to be printed on the face of the patent. A registered practitioner is under a general obligation of candor and good faith in practice before the Office. Accordingly, if an examiner suggests claims that the attorney knows are not patentable, § 10.18 precludes the attorney from adopting the examiner's suggestions in an amendment. Similarly, a practitioner signing the PTOL–85B does so pursuant to § 10.18, which means, for example, that if assignee data is provided on the PTOL–85B, the assignee is an assignee of the entire interest in the application, and that the patent term adjustment is correct to the best of his or her knowledge, information and belief, formed after an inquiry reasonable under the circumstances. For example, if a registered practitioner receives determination that the application is eligible for a 1,500 day adjustment and the practitioner is not sure exactly what the adjustment should be, but believes that the adjustment should be 1,000 days, the practitioner does have a duty to disclose the error to the Office, regardless of whether the issue fee is paid using the Office-generated form (PTOL–85B) or an attorney-generated equivalent. In order to comply with this duty and where the correct adjustment is thought to be less than indicated by the Office, an application for term adjustment under § 1.705(b) need not be filed. Instead, a letter could be filed with the issue fee payment, indicating that the term adjustment is thought to be longer than appropriate.

Comment 44: As to § 1.705(a) one comment asked if the patent term adjustment would be printed in the Official Gazette.

Response: The Office has no plans at this time to add the patent term adjustment to the information printed in the Official Gazette.

Comment 45: As to § 1.705(b), one comment noted that the reference to § 1.704(b) should be a reference to § 1.704.

Response: The suggestion has been adopted in part. The reference to § 1.704(b) has been changed to a reference to § 1.704(a). Section 1.704(a) states that a patent term adjustment shall be reduced by the period of time in which applicant has failed to engage in reasonable efforts to conclude prosecution whereas § 1.704(b) and (c) define when an applicant is determined to have failed to act in such a manner.

Comment 46: As to § 1.705(b), one comment stated that the amount of detail of how the patent term adjustment calculation is made was not stated and urged that the Office provide information as to patent term adjustment which applicants can check as an application is prosecuted. One comment asked that a copy of the patent term adjustment worksheet be included with the patent term adjustment determination.

Response: The Office does plan to provide information as to how the patent term adjustment calculation has been made through PAIR at http://pair.uspto.gov. This system is now available to all patent applicants who have a customer number. The precise information that will be communicated, and when this information will be available has not yet been determined.

Comment 47: One comment asked that the software algorithm for the patent term adjustment determination be made available to the public before being implemented.

Response: The computer program written to perform the patent term adjustment determinations of 35 U.S.C. 154 as amended will be written for the Office mainframe computer using the PALM records. It is not anticipated that this software will be capable of being used on another computer. Accordingly, the computer codes are unlikely to be understood by someone outside of the Office. Moreover, the Office does not plan to initially launch a computer program that will perform all necessary patent term adjustment determination, but instead plans to add to the program in stages until it is fully functional. For example, the first patents to be eligible for term adjustment will be when the Office fails to issue a patent within four months of payment of the issue fee and compliance with all formal requirements. This is unlikely to occur before February of 2001. Accordingly, the first stage of the computer program should be running by November of 2000 to generate a report with the Issue Notification if this four-month deadline is missed. On the other hand, the last part of the program (failing to issue a patent within three years of the filing date of the application) cannot take place before May 29, 2003, and this final stage of the program is not anticipated to be operational until after the remainder of the programming has been completed.

Comment 48: One comment argued that applicants should be able to address patent term adjustment with the filing of a reply to an Office action.

Response: Although 35 U.S.C. 154(b)(3)(C) states that a showing that the delay was in spite of all due care may be filed prior to the issuance of the patent, the general framework of the 35 U.S.C. 154(b)(3) has the Office first making a patent term adjustment determination and then applicant filing a request for reconsideration of the Office's determination (*i.e.,* an application for term adjustment). Since the initial patent term adjustment determination will be made by the Office's computer system with the mailing of the Notice of Allowance and Issue Fee Due, applicant should file any showing explaining the reasons for a delay with any request for reconsideration of this determination so that the showing can be considered with the request for reconsideration.

In addition, the reinstatement provision of 35 U.S.C. 154(b)(3)(C) applies, by its terms, only to reductions under § 1.704(b) because the reductions under § 1.704 (c)(1) through (c)(11) are not based upon failure to reply to an Office action or notice within three months. Thus, reinstatement of reduced patent term adjustment under 35 U.S.C. 154(b)(3)(C) on the basis of a showing that the delay was in spite of all due care is relevant only if: (1) one of the delays specified in 35 U.S.C. 154(b)(1)(A) through (C) occurred during the application process processing; and (2) patent term adjustment accruing as a result of such delay survives the reductions under § 1.704 (c)(1) through (c)(11). Thus, the Office is requiring that applicants not address patent term adjustment until the Office makes its initial patent term adjustment determination in the notice of allowance to avoid unnecessary expenditures of resources by applicants and the Office in preparing and handling submissions that turn out to be irrelevant.

Comment 49: As to § 1.705(b), several comments asked how the procedure for a request for reconsideration of the term adjustment due to the patent issuing on a date other than the projected issue date will operate. One comment argued that the thirty-day time period was too short and that a three-month time period would be more suitable.

Response: The Office is restricted by the provisions of 35 U.S.C. 154(b)(4)(A) which provide that an applicant dissatisfied with a patent term adjustment determination has 180 days to file a civil action against the Office. In order for the Office to treat the request for reconsideration in sufficient time for the applicant to determine whether court review of the Office's determination is appropriate, the Office must require that the request for reconsideration be filed within thirty days of patent grant. The Office does, however, mail an Issue Notification about two weeks before the issue date of the patent and plans to revise the Issue Notification to include the patent term adjustment information that will be printed on the face of the patent, so applicants will (in most situations) have about forty-five days from the date of this Notice to prepare a request for reconsideration.

Comment 50: Also as to § 1.705(b), one comment asked if the revised patent term adjustment would be printed on the patent, and asked how a third party would obtain information about any revision to the patent term adjustment.

Response: Any petition requesting reconsideration of a patent term adjustment and a decision thereon would be placed into the patent file wrapper and would therefore be available to the public. In addition, the Office is considering establishing procedures where the Office will issue a certificate of correction to add or correct patent term adjustment information printed on the face of the patent, after a decision on a request for reconsideration of a patent term adjustment determination. After the certificate of correction has issued, the Office is considering publishing an Official Gazette Notice of the revised term adjustment determination for the patent.

Comment 51: As to § 1.705(c), one comment suggested that the Office should issue guidelines on how the ''in spite of all due care'' provisions of 35 U.S.C. 154(b)(3)(C) will be interpreted. Another comment argued that the term ''reasonable efforts'' is more liberal than the term ''due diligence'' under old 35 U.S.C. 154(b) which was abandoned by

Congress. The comment argued that events that should not be treated as a failure to engage in reasonable efforts to conclude prosecution include: (1) filing of responses after three months accompanied by a submission under the procedures of § 1.132 where reasonable efforts to prepare the submission are shown; (2) periods of time when applicant's attorney is engaged in *inter partes* matters relating to pending lawsuits and interferences and other matters on his/her professional calendar which are appropriately given priority; (3) illness, vacations of reasonable length, and other appropriate reasons for non-attention to an application that occur in everyday life of applicants and attorneys, and (4) time consumed in communications between the applicant, the applicant's foreign agent and the applicant's U.S. representative when the applicant does not reside in the United States.

Response: Filing a response outside of three months after an Office action is *per se* a failure to engage in reasonable efforts to conclude prosecution under 35 U.S.C. 154(b)(2)(C)(ii) unless applicant can establish that the delay was ''in spite of all due care.'' The Office ''shall reinstate all or part of the cumulative period of time of an adjustment reduced under [35 U.S.C. 154(b)(2)(C)] if the applicant * * * makes a showing that, in spite of all due care, the applicant was unable to respond within the 3-month period * * * .'' *See* 35 U.S.C. 154(b)(3)(C) (emphasis added). The ''due care'' of a reasonably prudent person standard has been applied in deciding petitions under the ''unavoidable delay'' standard of 35 U.S.C. 133. *See In re Mattullath,* 38 App. D.C. 497, 514–15 (1912)(''the word 'unavoidable' * * * is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business'') (quoting and adopting *Pratt,* 1887 Dec. Comm'r Pat. at 32–33); *see also Ray* v. *Lehman,* 55 F.3d 606, 609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (''in determining whether a delay * * * was unavoidable, one looks to whether the party * * * exercised the due care of a reasonably prudent person''). While the legislative history of the American Inventors Protection Act of 1999 is silent as to the meaning of the phrase ''in spite of all due care,'' the phrases ''all due care'' and ''unable to respond'' invoke a higher degree of care than the ordinary due care standard of 35 U.S.C. 133, as well as the ''reasonable efforts to conclude processing or examination [or prosecution] of an application'' standard of 35 U.S.C. 154(b)(2)(C)(i) and (iii). Therefore, applicants should not rely upon decisions relating to the ''unavoidable delay'' standard of 35 U.S.C. 133 as controlling in a request to reinstate reduced patent term adjustment on the basis of a showing that the applicant was unable to respond within the three-month period in spite of all due care.

Examples of showings that may establish that the applicant was unable to respond within the three-month period in spite of all due care are as follows: (1) a showing that the original three-month period was insufficient to obtain the test data necessary for an affidavit or declaration under § 1.132 that was submitted with a reply filed outside the original three-month period; (2) a showing that the applicant was unable to reply within the original three-month period due to a natural disaster; or (3) a showing that the applicant was unable to reply within the original three-month period due to illness or death of a sole practitioner of record who was responsible for prosecuting the application. Obviously, the patent term adjustment term reinstated would be limited to the period in which the showing establishes that applicant was acting with all due care to reply to the Office notice or action, but circumstances (outside applicant's control) made applicant unable to reply in spite of such due care.

An applicant will not be able to show that he or she was unable to respond within the three-month period ''in spite of all due care'' if the response was not filed within the three-month period due to reasons within the control of applicant or agencies within the applicant's control. Examples of circumstances that would not establish that the applicant was unable to respond within the three-month period in spite of all due care are: (1) an applicant's or representative's preoccupation with other matters (e.g., an *inter partes* lawsuit or interference) that is given priority over the application; (2) illness or death of the practitioner in charge of the application if the practitioner is associated (in a law firm) with other practitioners (since the other practitioners could have taken action to reply within the three-month period); (3) time consumed with communications between the applicant and his or her representative, regardless of whether the applicant resides in the United States or chooses to communicate with the United States representative via a foreign representative; (4) vacation or other non-attention to an application that results in a failure to reply within the three-month period; (5) applicant filing a reply on or near the last day of the three-month period using first class mail with a certificate of mailing under § 1.8, rather than by Express Mail under § 1.10 or facsimile (if permitted), and the reply is not received (filed) in the Office until after the three-month period; or (6) failure of clerical employees of applicant or applicant's representative to properly docket the Office action or notice for reply or perform other tasks necessary for reply within the three-month period.

Rarely is the power of attorney given to a single attorney and often many attorneys are given power of attorney in an application. An attorney in litigation, working on an interference or taking a vacation is generally aware of that fact before the event and should make plans for another to take over his work so that it is completed and filed in the Office within the three-month period. Thus, failure to reply within the three-month period in 35 U.S.C. 154(b)(2)(C)(ii) due to preoccupation with other matters (*e.g.*, an *inter partes* lawsuit or interference) given priority over the application, or vacation or other non-attention to an application, cannot be relied upon to show that applicant was unable to reply ''in spite of all due care'' under 35 U.S.C. 154(b)(3)(C).

As to communications between an applicant and others involved in preparing a reply, the attorney's engagement letter with his or her client should impress the importance of reply within three months of any Office action or notice. The letter should also carefully explain to the client that while extensions of time are generally available to reply to Office actions and notices, not only will applicant have to bear the cost of the extension but is likely to experience a reduction in any patent term adjustment as well.

Comment 52: As to § 1.705(d), one comment stated that there was no provision in the rules for the patent to be printed with the patent term adjustment information thereon. Another comment asked how the public would be notified of a successful request for reconsideration of the term adjustment due to the patent issuing on a day other than a date projected.

Response: Patents filed on or after June 8, 1995, are eligible for term adjustment for certain delays and the patent is printed with the term adjustment information printed thereon in the field below the inventor name. If for some reason the patent is not printed with the term adjustment or is printed with the incorrect adjustment, the Office procedure is to inform the patentee of

the error and to issue a Certificate of Correction if no objection is received. The Office plans to continue to print any term adjustment on the front page of the patent, and to issue a Certificate of Correction if the term adjustment is printed incorrectly.

Comment 53: One general comment was received that with patent term adjustment, applicants will be less motivated to take action to expedite prosecution of an application, and suggested that the term adjustment should be shortened if the applicant does not take action to ensure that the application is examined.

Response: The suggestion raises a valid objection which cannot be addressed with a specific rulemaking. Applicants often file status letters to determine if and when an application will be taken up for action. The time required to process and reply to a status letter takes away from the time that the Office has to process and reply to other papers and the Office does not want to create rules to encourage the filing of such papers.

Comment 54: One comment argued that § 1.705(f) should not exclude a third party from filing a submission or petition of the patent term adjustment. The comment argues that a potential Abbreviated New Drug Application (ANDA) applicant may not have another way of challenging the expiration date of the patent and upon filing a paragraph III certification, be forced to stay off the market for an unnecessary period of time, thereby depriving the public of lower cost drugs.

Response: If the patent claims a drug product approved by the Food and Drug Administration, the patent will be listed in the Prescription and OTC Drug Product, Patent and Exclusivity Data section of the Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book) as covering the drug product and the patent expiration date will be given. If the expiration date listed in the Orange Book is incorrect, the ANDA applicant could dispute the patent expiration date pursuant to 21 CFR 314.53(f). If the date is not corrected, the ANDA applicant could institute a declaratory judgment action with respect to the patent. Alternatively, the ANDA applicant could address the situation by filing a paragraph IV certification (see Food, Drug and Cosmetic Act, Section 505(j)(2)(A)(vii)(IV), 21 U.S.C. 355(j)(2)(A)(vii)(IV)), arguing that because the term adjustment is incorrect, the patent is unenforceable. See 21 CFR 314.94(a)(12)(i)(A)(4).

Pursuant to 35 U.S.C. 154(b)(4)(B) no third party may challenge or appeal a patent term adjustment determination prior to the grant of a patent. Moreover, the best time and place for the patent term adjustment determination to be challenged by a third party is thought to be during litigation between two interested parties near the expiration date of the patent, before consideration of the term adjustment.

Classification

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy, Small Business Administration, that the changes in this final rule will not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). This final rule implements the provisions of §§ 4401 and 4402 of the American Inventors Protection Act of 1999. The changes in this final rule provide procedures for the Office's patent term adjustment determination and for filing an application to request reconsideration of the Office's patent term adjustment determination.

The Office mails a notice of allowance in roughly 160,000 applications each year. The Office's patent term adjustment determination will be a calculation based upon time periods involving the dates of various actions by the Office and the applicant during the application process. Because of the number of actions by the Office and the applicant during the application process, the Office anticipates that there will be disagreement on at least one of these dates in roughly fifteen percent of applications (24,000). Based upon the percentage of applicants who are small entities (thirty percent), the Office expects that 7,200 small entities will file an application requesting reconsideration of a patent term adjustment determination each year. Since a small entity applicant who exercises reasonable due care or diligence should be able to reply to any Office action or notice within three months, the Office does not anticipate that any small entities will file a request for reinstatement of reduced patent term adjustment (based upon a showing that the applicant was unable to reply to an Office action or notice within three months in spite of all due care).

Filing an application requesting reconsideration of a patent term adjustment determination (as well as a request for reinstatement of reduced patent term adjustment) is optional. To obtain any benefit from an application requesting reconsideration of the Office's patent term adjustment determination, the applicant must plan to pay the three maintenance fees required by law (35 U.S.C. 41(b)) to maintain a patent in force until the end of the non-adjusted patent term as specified in 35 U.S.C. 154. The current first, second, and third maintenance fees are $415.00, $950.00, and $1,455.00, respectively. Since the fee ($200) for filing an application requesting reconsideration of the Office's patent term adjustment determination is less than one-tenth of the combined cost of these three maintenance fees (and the fee ($400) for filing a request for reinstatement of reduced patent term adjustment is less than one-sixth of the combined cost of these three maintenance fees), there will not be a significant economic impact on a substantial number of small entities due to the procedures for requesting reconsideration of the Office's patent term adjustment determination.

Executive Order 13132

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 (September 30, 1993).

Paperwork Reduction Act

This final rule involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this final rule has been reviewed and previously approved by OMB under OMB control number 0651–0020.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the United States Patent and Trademark Office submitted an information collection package to OMB for its review and approval. The United States Patent and Trademark Office submitted this information collection to OMB for its review and approval because this final rule adds the request for reconsideration of a patent term adjustment determination by the United States Patent and Trademark Office and the request for reinstatement of reduced patent term adjustment (based upon a showing that the applicant was unable to reply to an Office action or notice within three months in spite of all due care) provided for in 35 U.S.C. 154(b)(3) to that collection.

The title, description, and respondent description of the information collection is shown below with an estimate of the annual reporting burdens. Included in this estimate is the time for reviewing instructions, gathering, and maintaining the data needed, and completing and reviewing the collection of information. The principal impact of the changes in this final rule is to implement the changes to Office practice necessitated by § 4402 of the American Inventors Protection Act of 1999 (enacted into law by § 1000(a)(9), Division B, of Pub. L. 106–113).

OMB Number: 0651–0020.

Title: Patent Term Extension.

Form Numbers: None.

Type of Review: Approved through September of 2001.

Affected Public: Individuals or households, businesses or other for-profit, not-for-profit institutions, farms, Federal Government, and state, local, or tribal governments.

Estimated Number of Respondents: 26,857.

Estimated Time Per Response: 1.15 hour.

Estimated Total Annual Burden Hours: 30,902 hours.

Needs and Uses: The information supplied to the United States Patent and Trademark Office by an applicant requesting reconsideration of a patent term adjustment determination under 35 U.S.C. 154(b) (§ 1.702 *et seq.*) is used by the United States Patent and Trademark Office to determine whether its determination of patent term adjustment under 35 U.S.C. 154(b) is correct, and whether the applicant is entitled to reinstatement of reduced patent term adjustment. The information supplied to the United States Patent and Trademark Office by an applicant seeking a patent term extension under 35 U.S.C. 156 (§ 1.710 *et seq.*) is used by the United States Patent and Trademark Office, the Department of Health and Human Services, and the Department of Agriculture to determine the eligibility of a patent for extension and to determine the period of any such extension. The applicant can apply for patent term and interim extensions, petition the Office to review final eligibility decisions, withdraw patent term applications, and declare his or her eligibility to apply for a patent term extension.

Comments are invited on: (1) whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Special Program Law Office, United States Patent and Trademark Office, Washington, DC 20231, or to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503, Attention: Desk Officer for the United States Patent and Trademark Office.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, 37 CFR part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.18 is amended by revising its heading and adding paragraphs (d), (e) and (f) to read as follows:

§ 1.18 Patent post allowance (including issue) fees.

* * * * *

(d) [Reserved]

(e) For filing an application for patent term adjustment under § 1.705: $200.00.

(f) For filing a request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) in an application for patent term adjustment under § 1.705: $400.00.

3. The heading for Subpart F of part 1 is revised to read as follows:

Subpart F—Adjustment and Extension of Patent Term

4. The authority citation for Subpart F of part 1 is revised to read as follows:

Authority: 35 U.S.C. 2(b)(2), 154, and 156.

5. A new, undesignated center heading is added to Subpart F before § 1.701 to read as follows:

Adjustment of Patent Term Due to Examination Delay

6. Section 1.701 is amended by revising its heading and adding a new paragraph (e) to read as follows:

§ 1.701 Extension of patent term due to examination delay under the Uruguay Round Agreements Act (original applications, other than designs, filed on or after June 8, 1995, and before May 29, 2000).

* * * * *

(e) The provisions of this section apply only to original patents, except for design patents, issued on applications filed on or after June 8, 1995, and before May 29, 2000.

7. New §§ 1.702 through 1.705 are added to read as follows:

§ 1.702 Grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) *Failure to take certain actions within specified time frames.* Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application; or

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

(b) *Failure to issue a patent within three years of the actual filing date of the application.* Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of

the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

(c) *Delays caused by interference proceedings.* Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to interference proceedings under 35 U.S.C. 135(a).

(d) *Delays caused by secrecy order.* Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the application being placed under a secrecy order under 35 U.S.C. 181.

(e) *Delays caused by successful appellate review.* Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued pursuant to a decision reversing an adverse determination of patentability.

(f) The provisions of this section and §§ 1.703 through 1.705 apply only to original applications, except applications for a design patent, filed on or after May 29, 2000, and patents issued on such applications.

§ 1.703 Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(3) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(4) The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 1.192 was filed and ending on the date of mailing of any of an examiner's answer under § 1.193, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(5) The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first; and

(6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:

(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 1.193 in the application under secrecy order and ending on the date the secrecy order was removed;

(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and

(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 1.191 and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

(c) The period of adjustment under § 1.702(c) is the sum of the following periods, to the extent that the periods are not overlapping:

(1) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(2) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

(d) The period of adjustment under § 1.702(d) is the sum of the following periods, to the extent that the periods are not overlapping:

(1) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(2) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 1.193 in the application under secrecy order and ending on the date the secrecy order was removed;

(3) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and

(4) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151.

(e) The period of adjustment under § 1.702(e) is the sum of the number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 1.191 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

(f) The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of adjustment attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

(g) No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

§ 1.704 Reduction of period of adjustment of patent term.

(a) The period of adjustment of the term of a patent under §§ 1.703(a) through (e) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution (processing or examination) of the application.

(b) With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(1) Suspension of action under § 1.103 at the applicant's request, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date a request for suspension of action under § 1.103 was filed and ending on the date of the termination of the suspension;

(2) Deferral of issuance of a patent under § 1.314, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date a request for deferral of issuance of a patent under § 1.314 was filed and ending on the date the patent was issued;

(3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

(4) Failure to file a petition to withdraw the holding of abandonment or to revive an application within two months from the mailing date of a notice of abandonment, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date two months from the mailing date of a notice of abandonment and ending on the date a petition to withdraw the holding of abandonment or to revive the application was filed;

(5) Conversion of a provisional application under 35 U.S.C. 111(b) to a nonprovisional application under 35 U.S.C. 111(a) pursuant to 35 U.S.C. 111(b)(5), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date the application was filed under 35 U.S.C. 111(b) and ending on the date a request in compliance with § 1.53(c)(3) to convert the provisional application into a nonprovisional application was filed;

(6) Submission of a preliminary amendment or other preliminary paper less than one month before the mailing of an Office action under 35 U.S.C. 132 or notice of allowance under 35 U.S.C. 151 that requires the mailing of a supplemental Office action or notice of allowance, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the day after the mailing date of the original Office action or notice of allowance and ending on the date of mailing of the supplemental Office action or notice of allowance; or

(ii) Four months;

(7) Submission of a reply having an omission (§ 1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the

supplemental reply or other such paper was filed;

(9) Submission of an amendment or other paper after a decision by the Board of Patent Appeals and Interferences, other than a decision designated as containing a new ground of rejection under § 1.196(b) or statement under § 1.196(c), or a decision by a Federal court, less than one month before the mailing of an Office action under 35 U.S.C. 132 or notice of allowance under 35 U.S.C. 151 that requires the mailing of a supplemental Office action or supplemental notice of allowance, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the day after the mailing date of the original Office action or notice of allowance and ending on the mailing date of the supplemental Office action or notice of allowance; or

(ii) Four months;

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or

(ii) Four months; and

(11) Further prosecution via a continuing application, in which case the period of adjustment set forth in § 1.703 shall not include any period that is prior to the actual filing date of the application that resulted in the patent.

(d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

(e) Submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

§ 1.705 Patent term adjustment determination.

(a) The notice of allowance will include notification of any patent term adjustment under 35 U.S.C. 154(b).

(b) Any request for reconsideration of the patent term adjustment indicated in the notice of allowance, except as provided in paragraph (d) of this section, and any request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) must be by way of an application for patent term adjustment. An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:

(1) The fee set forth in § 1.18(e); and

(2) A statement of the facts involved, specifying:

(i) The correct patent term adjustment and the basis or bases under § 1.702 for the adjustment;

(ii) The relevant dates as specified in §§ 1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled;

(iii) Whether the patent is subject to a terminal disclaimer and any expiration date specified in the terminal disclaimer; and

(iv)(A) Any circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704; or

(B) That there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

(c) Any application for patent term adjustment under this section that requests reinstatement of all or part of the period of adjustment reduced pursuant to § 1.704(b) for failing to reply to a rejection, objection, argument, or other request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request must also be accompanied by:

(1) The fee set forth in § 1.18(f); and

(2) A showing to the satisfaction of the Commissioner that, in spite of all due care, the applicant was unable to reply to the rejection, objection, argument, or other request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request. The Office shall not grant any request for reinstatement for more than three additional months for each reply beyond three months from the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request.

(d) If the patent is issued on a date other than the projected date of issue and this change necessitates a revision of the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates a revised patent term adjustment due to the patent being issued on a date other than the projected date of issue, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within thirty days of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section.

(e) The periods set forth in this section are not extendable.

(f) No submission or petition on behalf of a third party concerning patent term adjustment under 35 U.S.C. 154(b) will be considered by the Office. Any such submission or petition will be returned to the third party, or otherwise disposed of, at the convenience of the Office.

8. A new, undesignated center heading is added to Subpart F before § 1.710 to read as follows:

Extension of Patent Term Due to Regulatory Review

Dated: September 5, 2000.

Q. Todd Dickinson,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 00–23263 Filed 9–15–00; 8:45 am]

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Federal Register

Monday,
September 18, 2000

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Parts 25 and 32

2000–2001 Refuge-Specific Hunting and Sport Fishing Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 25 and 32

RIN 1018–AG01

2000–2001 Refuge-Specific Hunting and Sport Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (we or the Service) are adding national wildlife refuges (refuges) to the list of areas open for hunting and/or sport fishing, along with pertinent refuge-specific regulations for such activities, and amending certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 2000–2001 season.

DATES: This rule is effective September 18, 2000.

FOR FURTHER INFORMATION CONTACT: Leslie A. Marler, (703) 358–2397; Fax (703) 358–2248.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966 (NWRSAA) closes national wildlife refuges to all uses until we open them. The Secretary of the Interior (Secretary) may open refuge areas to any use, including hunting and/or fishing, upon a determination that such uses are compatible with the purposes of the refuge. The action also must be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound fish and wildlife management and administration, and otherwise must be in the public interest. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the National Wildlife Refuge System (System) for the benefit of present and future generations of Americans.

We review refuge hunting and fishing programs annually to determine whether to include additional refuges or whether individual refuge regulations governing existing programs need modifications, deletions, or additions made to them. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitat may warrant modifications to ensure the continued compatibility of hunting and fishing programs and that these programs will not materially interfere with or detract from the fulfillment of the mission of the System or the purposes of the refuge.

You may find provisions governing hunting and fishing on national wildlife refuges in 50 CFR part 32. We regulate hunting and fishing on refuges to:

- Ensure compatibility with the purpose(s) of the refuge;
- Properly manage the fish and wildlife resource;
- Protect other refuge values; and
- Ensure refuge user safety.

On many refuges for which we decide to allow hunting and fishing, our general policy of adopting regulations identical to State hunting and fishing regulations is adequate in meeting these objectives. On other refuges, we must supplement State regulations with more restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined under the section entitled ''Statutory Authority.'' We issue refuge-specific hunting and sport fishing regulations when we open wildlife refuges to either migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations list the wildlife species that you may hunt or those species subject to sport fishing, seasons, bag limits, methods of hunting or fishing, descriptions of open areas, and other provisions as appropriate. You may find previously issued refuge-specific regulations for hunting and fishing in 50 CFR part 32. In this rulemaking, we are promulgating many of the amendments to these sections to standardize and clarify the existing language of these regulations.

Some refuges make seasonal information available in brochures or leaflets to supplement these refuge-specific regulations, which we provide for in 50 CFR 25.31.

Plain Language Mandate

In this rule the vast majority of the revisions to the individual refuge units are to comply with a Presidential mandate to use plain language in regulations and do not modify the substance of the previous regulations. These types of changes include using ''you'' to refer to the reader and ''we'' to refer to the Service and using the word ''allow'' instead of ''permit'' when we do not require the use of a permit for an activity.

Statutory Authority

The National Wildlife Refuge System Administration Act (NWRSAA) of 1966 (U.S.C. 668dd–668ee), and the Refuge Recreation Act (RRA) of 1962 (16 U.S.C. 460k–460k–4) govern the administration and public use of national wildlife refuges.

Recent amendments enacted by the National Wildlife Refuge System Improvement Act (NWRSIA) of 1997 amend and build upon the NWRSAA in a manner that provides an improved ''Organic Act'' for the System similar to those that exist for other public lands. It serves to ensure that we effectively manage the System as a national network of lands, waters, and interests for the protection and conservation of our Nation's wildlife resources. The NWRSAA states first and foremost that we focus the mission of the System on conservation of fish, wildlife, and plant resources and their habitat. This Act requires the Secretary, before initiating or allowing a new use of a refuge, or before expanding, renewing, or extending an existing use of a refuge, to determine that the use is compatible and promotes public safety. The NWRSIA establishes as the policy of the United States that wildlife-dependent recreation, when it is compatible, is a legitimate and appropriate public use of the System, through which the American public can develop an appreciation for fish and wildlife. The NWRSIA establishes six compatible wildlife-dependent recreational uses as the priority general public uses of the System. Those priority uses are: hunting, fishing, wildlife observation, wildlife photography, environmental education, and environmental interpretation.

The RRA authorizes the Secretary to administer areas within the System for public recreation as an appropriate incidental or secondary use only to the extent that doing so is practicable and not inconsistent with the primary purpose(s) for which Congress and the Service established the areas. This act requires that any recreational use of refuge lands be compatible with the primary purpose(s) for which we established the refuge and not inconsistent with other previously authorized operations.

The NWRSAA and RRA also authorize the Secretary to issue regulations to carry out the purposes of the acts and regulate uses.

We develop hunting and sport fishing plans for each refuge prior to opening it to hunting or fishing. In many cases, we develop refuge-specific regulations to ensure the compatibility of the programs with the purposes for which we established the refuge. We have ensured initial compliance with the NWRSAA and the RRA for hunting and sport fishing on newly acquired refuges through an interim determination of compatibility made at the time of acquisition. This policy ensures that we make the determinations required by

these acts prior to adding refuges to the lists of areas open to hunting and fishing in 50 CFR part 32. We ensure continued compliance by the development of Comprehensive Conservation Plans, long-term hunting and sport fishing plans, and by annual review of hunting and sport fishing programs and regulations.

In preparation for new openings, we include the following documents in the refuges' ''opening package'': an interim hunting and fishing management plan; a Section 7 determination pursuant to the Endangered Species Act that these openings will have no effect, or are not likely to have an adverse effect, on listed species or critical habitats; a letter of concurrence from the affected State(s); interim compatibility determinations; and refuge-specific regulations to administer the hunting and/or fishing programs. Upon review of these documents, we have determined that the opening of these national wildlife refuges to hunting and fishing is compatible with the principles of sound fish and wildlife management and administration and otherwise will be in the public interest.

Response to Comments Received

In the July 10, 2000, issue of the **Federal Register** (65 FR 42318) we published a proposed rulemaking identifying the refuges and their proposed hunting and/or fishing programs and invited public comments. We reviewed and considered all substantive comments following a 30-day public comment period.

In all we received 10 letters (1 letter represented 21 individuals) on the proposed rule.

Comment: Nine commenters opposed the expansion of hunting and fishing programs on national wildlife refuges and wanted to leave wildlife refuges for the sanctuary of wildlife and humans. Included in these comments were requests to ''reduce the number of hunting licenses''and provide information that led to ''the planned increase'' of refuges open to hunting and fishing. One commenter believes there is an ''absence of thorough and accurate biological data on species inhabiting and migrating through the refuge'' to allow hunting.

Service Response: The Refuge System provides opportunities for compatible wildlife-dependent recreational activities. Hunting and fishing are integral parts of a comprehensive wildlife management program. The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (NWRSIA), identifies them as priority public uses of the System. The principal focus of the NWRSIA was to clearly establish a wildlife conservation mission for the System and provide managers clear direction and procedures for making determinations regarding wildlife conservation and public uses within the areas of the System. In passing the NWRSIA, Congress reaffirmed that the System was created to conserve fish, wildlife, and plants and their habitats and that this objective had been facilitated by providing Americans opportunities to participate in compatible wildlife-dependent recreation, including hunting and/or fishing on System lands. The NWRSIA established six wildlife-dependent uses as priority general public uses of the System, where compatible. These priority uses are: hunting, fishing, wildlife observation, wildlife photography, environmental education, and interpretation. The NWRSIA directs the Secretary to facilitate those uses.

When lands and waters are under consideration for addition to the System, the Refuge Manager will make an interim compatibility determination on any existing priority public uses. The record of decision establishing the refuge must document the completion of such determinations. The results of these determinations are in effect until the completion of a Comprehensive Conservation Plan (CCP). During the development of the CCP and implementation of the National Environmental Policy Act (NEPA) process, we accept and incorporate public comments into the hunting/fishing decision on the refuge. Refuge Managers plan efforts well in advance of any proposed changes in order to obtain as much involvement from groups and individuals as possible. This includes public meetings, workshops, news releases, and mailings to interested groups. The Refuge Manager consults with any affected Service Regional Office, State wildlife agencies, Tribes, and the public before opening a refuge to hunting or fishing. The decision to open a refuge to hunting or fishing depends on the provisions of laws and regulations applicable to the specific refuge and a determination by the Refuge Manager that opening an area to hunting will be compatible with the refuge purpose(s). This decision must also be consistent with the principles of sound wildlife management, applicable wildlife objectives, and otherwise be in the public interest (50 CFR 32.1). The Refuge Manager must submit a hunting or fishing plan that has undergone a public input process as required by NEPA to the Regional Office for approval. The Regional Director approves the plan before the rulemaking process begins. These hunting/fishing plans contain:

- Step-down hunting/fishing plans (compatibility determinations and a step-down plan of the refuge's CCP). The plan should be an appendix to the overall plan for providing public uses on refuges, providing documentation of the hunting/fishing allowed on a refuge, including the relationship of hunting/fishing to refuge purpose(s) goals, objectives, and the System mission;
- Appropriate NEPA documentation;
- Appropriate decision documentation;
- Section 7 evaluation;
- Copies of letters requesting State and, where appropriate, Tribal involvement and the results of the request;
- Draft news release; and
- Outreach plan.

Additionally, we review all hunting programs annually to determine if they may affect, adversely or beneficially, threatened or endangered species and their habitat. The Refuge Manager will initiate consultation as appropriate, in accordance with Section 7 of the Endangered Species Act and intra-Service consultation procedures.

The respective State issues hunting/fishing licenses, not the System or Refuge Managers. We require hunters/anglers to have all applicable Federal, State, and Tribal licenses or stamps in their possession when hunting/fishing on a refuge. We periodically adjust the hunting/fishing program to ensure that those allowed activities remain compatible, that the amount of take per hunter/angler is sustainable, and that the take does not affect the viability of a population.

Comment: We also received a letter from the LaCrosse County (Wisconsin) Conservation Alliance concerning wording changes in a waterfowl blind requirement for Upper Mississippi National Wildlife Refuge in Iowa. To avoid potential problems for law enforcement personnel as well as the waterfowl hunter, the Alliance believes we need to more clearly state that the individuals who bring manmade hunting blind material onto the refuge must remove what they brought.

Service Response: We agree and have changed our wording for the Upper Mississippi River National Wildlife Refuge to read (in part): ''At the end of each day's hunt, you must remove any manmade blind material you brought onto the refuge.'' Additionally, for consistency we are clarifying the wording concerning blinds for Lake

Umbagog National Wildlife Refuge in Maine and New Hampshire, Big Muddy National Wildlife Refuge in Missouri, and Edwin B. Forsythe National Wildlife Refuge in New Jersey.

Effective Date

This rule is effective upon publication. We have determined that any further delay in implementing these refuge-specific hunting and sport fishing regulations would not be in the public interest in that a delay would hinder the effective planning and administration of the hunting and fishing programs. We provided a 30-day comment period for the July 10, 2000, proposed rule. An additional 30-day delay would jeopardize holding the hunting and/or fishing programs this year or shorten their duration and thereby lessen the management effectiveness of this regulation. Therefore, we find good cause under 5 U.S.C. 553(d)(3) to make this rule effective upon publication.

We allow the following wildlife-dependent recreational activities for the first time:

Hunting of migratory game birds on:

- Mandalay National Wildlife Refuge, Louisiana
- Lake Umbagog National Wildlife Refuge, Maine and New Hampshire
- McNary National Wildlife Refuge, Oregon
- Balcones Canyonland National Wildlife Refuge, Texas
- Lower Rio Grande Valley National Wildlife Refuge, Texas
- Arid Lands National Wildlife Refuge Complex, Washington

Upland game hunting on:

- Cameron Prairie National Wildlife Refuge, Louisiana
- Lake Umbagog National Wildlife Refuge, Maine and New Hampshire
- McNary National Wildlife Refuge, Oregon
- Arid Lands National Wildlife Refuge Complex, Washington

Big game hunting on:

- Mandalay National Wildlife Refuge, Louisiana
- Lake Umbagog National Wildlife Refuge, Maine and New Hampshire
- San Andres National Wildlife Refuge, New Mexico
- McNary National Wildlife Refuge, Oregon and Washington
- Lower Rio Grande Valley National Wildlife Refuge, Texas
- Mackay Island National Wildlife Refuge, Virginia
- Arid Lands National Wildlife Refuge Complex, Washington

Sport fishing on:

- Atchafalaya National Wildlife Refuge, Louisiana
- Bayou Cocodrie National Wildlife Refuge, Louisiana
- Rachel Carson National Wildlife Refuge, Maine
- Sand Lake National Wildlife Refuge, South Dakota
- Trinity River National Wildlife Refuge, Texas
- Mackay Island National Wildlife Refuge, Virginia
- Arid Lands National Wildlife Refuge Complex, Washington

In accordance with NWRSAA and the RRA, we have determined that these openings are compatible and consistent with the primary purposes for which we established the respective refuges.

We remove Ankeny National Wildlife Refuge, Oregon, which had been open for migratory game bird hunting, from the list of refuges open for wildlife-dependent recreational activities.

We are correcting an administrative error that occurred when we inadvertently dropped ''Sport Fishing'' as an activity open to the public in Sand Lake National Wildlife Refuge in the State of South Dakota from 50 CFR 32.61. Sand Lake National Wildlife Refuge has been open to sport fishing since December 22, 1978.

We are making a technical correction to update 50 CFR 25.23 to reflect current information collection clearance numbers that the Office of Management and Budget (OMB) approved for: ''Special Use Permit Application on National Wildlife Refuges Outside Alaska'' (1018–0102, which expires December 31, 2001), and ''Special Use Permit Applications on National Wildlife Refuges In Alaska'' (1018–0014, which expires August 31, 2003).

We are removing Grand Bay National Wildlife Refuge, Alabama, from the list of proposed refuges open to hunting. Grand Bay did not complete its opening package in time for inclusion in the openings for the fall 2000 season.

We incorporate this regulation into Title 50 Code of Federal Regulations (50 CFR) parts 25 and 32. Part 25 contains the administrative provisions for the National Wildlife Refuge System. Part 32 contains general provisions and refuge-specific regulations for hunting and sport fishing on national wildlife refuges.

Regulatory Planning and Review

This document is not a significant rule subject to Office of Management and Budget review under Executive Order 12866. See explanation under Regulatory Flexibility Act.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. This rule is administrative, legal, technical, and procedural in nature and makes minor modification to existing refuge public use programs. The rule will allow hunting on nine refuges where we had prohibited hunting and allow fishing on seven refuges where we had prohibited that activity. We estimate that these changes will result in 9,440 additional visitor-hunting-days and 49,200 visitor-fishing-days. The appropriate measure for the net benefits of these changes is the additional net economic value experienced by the participants. The 1996 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation measured net economic values by activity and region. Applying these estimates to the number of additional activity-days permitted by this rule yields an estimate of the national benefits from increased hunting of $368,000 and from increased fishing of $1.6 million (both in 1999 dollars). These estimates are below the threshold for a significant rule.

b. This rule will not create inconsistencies with other agencies' actions. Before proposing regulations, we coordinate recreational use on national wildlife refuges with State governments as well as other Federal agencies having adjoining or overlapping jurisdiction. The regulation is consistent with, and not less restrictive than, other agencies' rules.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The provisions of this rule only apply to persons involved in wildlife-dependent public use, including regulated hunting and sport fishing, on national wildlife refuges, which is a privilege and not a right. User fees will not change as a result of this rule.

d. This rule will not raise novel legal or policy issues. This rule continues the practice of requiring public use of refuges to be compatible with the primary purpose of the refuge.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities such as businesses, organizations, and governmental jurisdictions in the area as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A final Regulatory Flexibility Analysis was not prepared, and a Small Entity Compliance Guide is not required.

This rulemaking will not have a significant economic impact on a

substantial number of small entities (refer to paragraph a. above for the net economic values). Congress created the National Wildlife Refuge System to conserve fish, wildlife, and plants and their habitats. They facilitated this conservation mission by providing Americans opportunities to visit and participate in compatible wildlife-dependent recreation, including hunting, fishing, wildlife observation, wildlife photography, environmental education, and environmental interpretation as priority public uses on national wildlife refuges and to better appreciate the value of, and need for, fish and wildlife conservation.

This rule is administrative, legal, technical, and procedural in nature and provides for minor changes to the methods of hunting and fishing permitted but does not stop the overall use allowed. This rule will not significantly change the number of visitors using refuges or their spending and, therefore, will have no significant impact on the local economies in their vicinity.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, as discussed in the Regulatory Planning and Review section above. This rule:

a. Does not have an annual effect on the economy of $100 million or more [This regulation will affect only visitors at national wildlife refuges. It will cause a slight change in the number of visitors using the refuge (9,440 additional visitor-hunting days and 49,200 visitor-fishing days).];

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

Since this rule applies to public use of federally owned and managed refuges, it does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This regulation will affect only visitors at national wildlife refuges and limit what they can do while they are on a refuge.

Federalism (Executive Order 13132)

As discussed in the Regulatory Planning and Review and Unfunded Mandates Reform Act sections above, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment under Executive Order 13132. In preparing this rule, we worked with State governments.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The regulation will clarify established regulations and result in better understanding of the regulations by refuge visitors.

Paperwork Reduction Act

This regulation does not contain any information collection requirements other than those already approved by the Office of Management and Budget under the Paperwork Reduction Act. OMB has approved the information collection and assigned control numbers 1018-0014 and 1018–0102. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Section 7 Consultation

In preparation for new openings, we include Section 7 consultation documents approved by the Services' Ecological Services program in the refuge's ''openings package'' for Regional review and approval from the Washington Office. We reviewed the changes in hunting and fishing regulations herein with regard to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543). For the national wildlife refuges proposed to open for hunting and/or fishing, the Service has determined that Bayou Cocodrie, Lake Umbagog, Lower Rio Grande, and McNary will not likely adversely affect and Rachel Carson, Atchafalaya, San Andres, and Mandalay will not affect the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat of such species within the System.

Arid Lands is opening with no Section 7 under an existing record of decision with the Department of Energy, who has primary jurisdiction.

We comply with Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) when developing Comprehensive Conservation Plans, management plans for public use of refuges, and prior to implementing any new or revised public recreation program on a refuge as identified in 50 CFR 26.32. We also make determinations required by the Endangered Species Act on a case-by-case basis before the addition of a refuge to the lists of areas open to hunting or fishing as contained in 50 CFR 32.7.

National Environmental Policy Act

We analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) and 516 DM 6, Appendix 1. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required.

A categorical exclusion from NEPA documentation covers this amendment of refuge-specific hunting and fishing regulations since it is technical and procedural in nature, and the environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis (516 DM 2, Appendix 1.10).

Prior to the addition of a refuge to the list of areas open to hunting and fishing in 50 CFR part 32, we develop hunting and fishing plans for the affected refuges. We incorporate these refuge hunting and fishing activities in the refuge CCPs and/or step-down management plans, pursuant to our refuge planning guidance in 602 FW 1–4. We prepare these plans in compliance with section 102(2)(C) of NEPA, and the Council on Environmental Quality's regulations for implementing NEPA in 40 CFR parts 1500–1508. We invite the affected public to participate in the review, development, and implementation of these plans.

Available Information for Specific Refuges

Individual refuge headquarters retain information regarding public use programs and the conditions that apply to their specific programs and maps of their respective areas. You may also obtain information from the Regional offices at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma, and Texas. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Box 1306, 500 Gold Avenue, Albuquerque, New Mexico 87103; Telephone (505) 248–7419.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1 Federal Drive, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612)-713–5401.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, Georgia 30345; Telephone (404) 679–7166.

Region 5—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589; Telephone (413) 253–8306.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 134 Union Blvd., Lakewood, Colorado 80228; Telephone (303) 236–8145.

Region 7—Alaska. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3545.

Primary Author

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List of Subjects

50 CFR Part 25

Administrative practice and procedure, Concessions, Reporting and recordkeeping requirements, Safety, Wildlife refuges.

50 CFR Part 32

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

For the reasons set forth in the preamble, we amend Title 50, Chapter I, subchapter C of the Code of Federal Regulations as follows:

PART 25—[AMENDED]

1. The authority citation for part 25 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i, 3901 *et seq.*; and Pub. L. 102–402, 106 Stat. 1961.

2. By revising § 25.23 to read as follows:

§ 25.23 What are the general regulations and information collection requirements?

The Office of Management and Budget has approved the information collection requirements contained in subchapter C, parts 25, 32, and 36 under 44 U.S.C. 3501 *et seq.* and assigned the following clearance numbers: Special Use Permit Applications on National Wildlife Refuges in Alaska (SUP–AK), clearance number 1018–0014; Special Use Permit Applications on National Wildlife Refuges Outside Alaska (SUP), clearance number 1018–0102. See § 36.3 of this subchapter for further information on Special Use Permit Applications on National Wildlife Refuges in Alaska. We are collecting the information to assist us in administering these programs in accordance with statutory authorities that require that recreational uses be compatible with the primary purposes for which the areas were established. We require the information requested in the application form for the applicant to obtain a benefit. We estimate the public reporting burden for the SUP application form to be 30 minutes per response. This includes time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments on the burden estimate or any other aspect of this form to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222 ARLSQ, Washington, DC 20240 (1018–0014 or 1018–0102).

PART 32—[AMENDED]

3. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd–668ee, and 715i.

§ 32.7 [Amended]

4. In § 32.7 by:

a. Revising the listing of ''Walnut Creek National Wildlife Refuge'' under the State of Iowa to read ''Neal Smith National Wildlife Refuge and placing it in alphabetical order;''

b. Alphabetically adding ''Lake Umbagog National Wildlife Refuge'' in the State of Maine;

c. Alphabetically adding ''Lake Umbagog National Wildlife Refuge'' in the State of New Hampshire;

d. Alphabetically adding ''San Andres National Wildlife Refuge'' in the State of New Mexico;

e. Removing ''Ankeny National Wildlife Refuge'' in the State of Oregon;

f. Revising the listing of ''Klamath Forest National Wildlife Refuge'' to read ''Klamath Marsh National Wildlife Refuge'' in the State of Oregon;

g. Alphabetically adding ''McNary National Wildlife Refuge'' in the State of Oregon;

h. Alphabetically adding ''Lower Rio Grande Valley National Wildlife Refuge'' in the State of Texas;

i. Alphabetically adding ''Trinity River National Wildlife Refuge'' in the State of Texas;

j. Alphabetically adding ''Mackay Island National Wildlife Refuge'' in the State of Virginia; and

k. Alphabetically adding ''Arid Lands National Wildlife Refuge'' in the State of Washington.

5. In § 32.23 Arkansas by revising paragraphs B. and D.1. of Wapanocca National Wildlife Refuge to read as follows:

§ 32.23 Arkansas.

* * * * *

Wapanocca National Wildlife Refuge

* * * * *

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, beaver, nutria, raccoon, and opossum on designated areas of the refuge subject to the following condition: We require permits.

* * * * *

D. Sport Fishing. * * *

1. We allow fishing from March 15 through October 31 from sunrise to sunset.

* * * * *

6. In § 32.24 California by:

a. Adding paragraphs A.5., A.6., B.6., and B.7. of Colusa National Wildlife Refuge;

b. Adding paragraphs A.8., A.9, B.6, and B.7. of Delevan National Wildlife Refuge;

c. Revising paragraph A.2., and adding paragraphs A.2.a., A.2.b. of Lower Klamath National Wildlife Refuge;

d. Adding paragraphs A.8., A.9., B.6., and B.7. of Sacramento National Wildlife Refuge;

e. Adding paragraphs A.5., A.6., B.5., and B.6. of Sutter National Wildlife Refuge; and

f. Revising paragraph A.2., adding paragraphs A.2.a. and A.2.b. of Tule Lake National Wildlife Refuge to read as follows:

§ 32.24 California.

* * * * *

Colusa National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

* * * * *

5. You may enter or exit only at designated locations.

6. Vehicles may stop only at designated parking areas. We prohibit the dropping of passengers or equipment or stopping between designated parking areas.

B. Upland Game Hunting. * * *

* * * * *

6. You may enter or exit only at designated locations.

7. Vehicles may stop only at designated parking areas. We prohibit the dropping of passengers or equipment or stopping between designated parking areas.

* * * * *

Delevan National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

* * * * *

8. You may enter or exit only at designated locations.

9. Vehicles may stop only at designated parking areas. We prohibit the dropping of passengers or equipment, or stopping between designated parking areas.

B. Upland Game Hunting. * * *

* * * * *

6. You may enter or exit only at designated locations.

7. Vehicles may stop only at designated parking areas. We prohibit the dropping of passengers or equipment, or stopping between designated parking areas.

* * * * *

Lower Klamath National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

* * * * *

2. Shooting hours end at 1:00 p.m. on all California portions of the refuge with the following exceptions:

a. The refuge manager may designate up to 6 afternoon special youth or disabled hunter waterfowl hunts per season; and

b. The refuge manager may designate up to 3 days per week of afternoon waterfowl hunting for the general public after December 1.

* * * * *

Sacramento National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

* * * * *

8. You may enter or exit only at designated locations.

9. Vehicles may stop only at designated parking areas. We prohibit the dropping of passengers or equipment or stopping between designated parking areas.

B. Upland Game Hunting. * * *

* * * * *

6. You may enter or exit only at designated locations.

7. Vehicles may stop only at designated parking areas. We prohibit the dropping of passengers or equipment or stopping between designated parking areas.

* * * * *

Sutter National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

* * * * *

5. You may enter or exit only at designated locations.

6. Vehicles may stop only at designated parking areas. We prohibit the dropping of passengers or equipment or stopping between designated parking areas.

B. Upland Game Hunting. * * *

* * * * *

5. You may enter or exit only at designated locations.

6. Vehicles may stop only at designated parking areas. We prohibit the dropping of passengers or equipment or stopping between designated parking areas.

* * * * *

Tule Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

* * * * *

2. Shooting hours end at 1:00 p.m. on all California portions of the refuge with the following exceptions:

a. The refuge manager may designate up to six afternoon special youth or disabled hunter waterfowl hunts per season; and

b. The refuge manager may designate up to 3 days per week of afternoon waterfowl hunting for the general public after December 1.

* * * * *

7. In § 32.27 Delaware by revising paragraphs A.5., A.7., B.3., the introductory text of paragraph C., paragraphs C.1., C.3., and C.4. and removing paragraphs A.8. and B.4 of Bombay Hook National Wildlife Refuge to read as follows:

§ 32.27 Delaware.

* * * * *

Bombay Hook National Wildlife Refuge

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A. Hunting of Migratory Game Birds. * * *

* * * * *

5. The maximum number of hunters permitted per blind is as follows:

West Waterfowl Area—4; South Waterfowl Area—3; Young Waterfowlers Area—2.

* * * * *

7. Waterfowl hunters may not possess more than 15 shotgun shells per day on the West and Young Waterfowlers Hunt Areas.

B. Upland Game Hunting. * * *

* * * * *

3. You may possess only approved nontoxic shot while in the field.

C. Big Game Hunting. We allow hunting of turkey and deer on designated areas of the refuge subject to the following conditions:

1. We require a refuge permit except on the South Upland Hunting Area.

* * * * *

3. We require a valid State permit for turkey hunting.

4. During firearms deer season, hunters must wear in a conspicuous manner as an outer layer on the head, chest, and back a minimum of 400 square inches (2,600 cm2) of solid-colored orange clothing or material.

* * * * *

8. In § 32.28 Florida by:

a. Revising paragraph D. of Chassahowitzka National Wildlife Refuge; and

b. Revising paragraphs A.1., A.5., and A.7. of Merritt Island National Wildlife Refuge to read as follows:

§ 32.28 Florida.

* * * * *

Chassahowitzka National Wildlife Refuge

* * * * *

D. Sport Fishing. We allow fishing on the refuge year round subject to the following condition: You must fish in accordance with State regulations.

* * * * *

Merritt Island National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. You must possess a valid refuge hunting permit at all times while

hunting on the refuge. In addition, we annually require a quota permit for hunt areas 1 and 4 from the beginning of the regular waterfowl season through December 31.

* * * * *

5. You must complete and carry proof of completing an approved hunter safety training course in all hunt areas.

* * * * *

7. The public may not enter the refuge between sunset and sunrise except: You may access the refuge for waterfowl hunting only after 4:00 a.m. each hunting day during waterfowl hunting season, and a valid refuge hunting permit must be in your possession.

* * * * *

9. In § 32.31 Idaho by:

a. Revising paragraph B. of Bear Lake National Wildlife Refuge;

b. Revising paragraph B. of Camas National Wildlife Refuge;

c. Revising paragraph B. of Kootenai National Wildlife Refuge; and

d. Revising paragraph B.2. of Minidoka National Wildlife Refuge to read as follows:

§ 32.31 Idaho.

* * * * *

Bear Lake National Wildlife Refuge

* * * * *

B. Upland Game Hunting. We allow hunting of partridge, grouse, and cottontail rabbits, including pygmy rabbits, on designated areas of the refuge subject to the following condition: You may possess only approved nontoxic shot while in the field.

* * * * *

Camas National Wildlife Refuge

* * * * *

B. Upland Game Hunting. We allow hunting of pheasant and grouse on designated areas of the refuge subject to the following condition:

You may possess only approved nontoxic shot while in the field.

* * * * *

Kootenai National Wildlife Refuge

* * * * *

B. Upland Game Hunting. We allow hunting of forest grouse on designated areas of the refuge subject to the following condition: You may possess only approved nontoxic shot while in the field.

* * * * *

Minidoka National Wildlife Refuge

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B. Upland Game Hunting. * * *

* * * * *

2. You may possess only approved nontoxic shot while in the field.

* * * * *

10. In § 32.32 Illinois by:

a. Revising paragraph D. of Chautauqua National Wildlife Refuge;

b. Revising paragraph A.4. and adding paragraph A.5. of Upper Mississippi River National Wildlife and Fish Refuge to read as follows:

§ 32.32 Illinois.

* * * * *

Chautauqua National Wildlife Refuge

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow fishing on Lake Chautauqua from January 15 through October 15. You may not fish in the Waterfowl Hunting Area during waterfowl hunting season.

2. You may not leave private boats in refuge waters overnight.

3. We restrict motorboats to ''slow speed/minimum wake.''

4. The public may not enter Weis Lake on the Cameron-Billsbach Unit of Chautauqua National Wildlife Refuge from October 16 through January 14, to provide sanctuary for migratory birds.

* * * * *

Upper Mississippi River National Wildlife and Fish Refuge

A. Hunting of Migratory Game Birds. * * *

* * * * *

4. On Pools 4 through 11, you may not place or leave decoys on the refuge during the time from ½ hour after the close of legal shooting hours, until 1 hour before the start of legal shooting hours.

5. This condition applies to Pools 4 through 11 only. We prohibit construction of permanent hunting blinds using manmade materials. At the end of each day's hunt, you must remove all manmade blind materials you brought onto the refuge. Any blinds containing manmade materials left on the refuge are subject to immediate removal and disposal. Manmade materials include, but are not limited to: wooden pallets, lumber, railroad ties, fence posts (wooden or metal), wire, nails, staples, netting, or tarps. We allow you to leave only seasonal blinds, made entirely of natural vegetation and biodegradable twines, on the refuge. We consider all such blinds public property and open to use by any person on a first-come basis. We allow you to gather only willow, grasses, marsh vegetation, and dead wood on the ground from the refuge for blind-building materials. We prohibit cutting or removing any other refuge trees or vegetation.

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11. In § 32.33 Indiana by revising paragraph D.1. of Muscatatuck National Wildlife Refuge to read as follows:

§ 32.33 Indiana.

* * * * *

Muscatatuck National Wildlife Refuge

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D. Sport Fishing. * * *

1. You may fish from the bank and from nonmotorized boats on Stanfield Lake from May 15 through October 15. You may not boat at other times. Stanfield Lake is open to ice fishing when ice conditions permit.

* * * * *

12. In § 32.34 Iowa by revising the heading of Walnut Creek National Wildlife Refuge to read as follows and placing the listing in alphabetical order:

§ 32.34 Iowa.

* * * * *

Neal Smith National Wildlife Refuge

* * * * *

13. In § 32.37 Louisiana by:

a. Revising Atchafalaya National Wildlife Refuge;

b. Revising paragraphs B., C., and D. of Bayou Cocodrie National Wildlife Refuge;

c. Revising Cameron Prairie National Wildlife Refuge;

d. Removing paragraphs D.3. and D.4. of Grand Cote National Wildlife Refuge;

e. Revising the introductory text of paragraph A. of Lacassine National Wildlife Refuge;

f. Revising the introductory text of paragraph C. of Lake Ophelia National Wildlife Refuge; and

g. Revising paragraphs A., C., and D. of Mandalay National Wildlife Refuge to read as follows:

§ 32.37 Louisiana.

* * * * *

Atchafalaya National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, snipe, and woodcock on designated areas of the refuge subject to the following conditions:

1. Hunting must be in accordance with Sherburne Wildlife Management Area regulations.

2. For the Indian Bayou Area, we require an Army Corps of Engineer permit.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, opossum, nutria, muskrat, mink, fox, bobcat, beaver, and otter on designated areas of the refuge subject to the following conditions:

1. Hunting must be in accordance with Sherburne Wildlife Management Area regulations.

2. For the Indian Bayou Area, we require an Army Corps of Engineer permit.

C. Big Game Hunting. We allow hunting of deer and turkey on designated areas of the refuge subject to the following conditions:

1. Hunting must be in accordance with Sherburne Wildlife Management Area regulations.

2. For the Indian Bayou Area, we require an Army Corps of Engineer permit.

D. Sport Fishing. We allow finfishing and shellfishing year round in accordance with Sherburne Wildlife Management Area regulations:

1. We require refuge permits for commercial shellfishing.

2. For the Indian Bayou Area, we require an Army Corps of Engineer permit for commercial shellfishing.

* * * * *

Bayou Cocodrie National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of squirrels, rabbit, raccoon, and coyote on designated areas of the refuge subject to the following condition: We require refuge permits.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require refuge permits.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. Each boat/vehicle entering the refuge must possess an entrance pass.

2. We allow fishing during daylight hours only.

3. We allow fishing on the Cross Bayou Cut and all tributaries that fill with water from Cocodrie Bayou during high water stages.

4. We prohibit camping.

5. We allow only cotton limb lines.

6. You may not use trotlines, slat traps, or nets while fishing.

* * * * *

Cameron Prairie National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds in designated areas of the refuge subject to the following conditions:

1. We require refuge permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the appropriate refuge brochure.

B. Upland Game Hunting. We allow upland game hunting in designated areas of the refuge subject to the following conditions:

1. We require refuge permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the appropriate refuge brochure.

C. Big Game Hunting. We allow hunting of white-tailed deer in designated areas of the refuge subject to the following conditions:

1. We require refuge permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the appropriate refuge brochure.

D. Sport Fishing. We allow sport fishing in designated areas of the refuge subject to the following condition: Any person entering, using, or occupying the refuge for fishing must abide by all terms and conditions in the appropriate refuge brochure.

* * * * *

Lacassine National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, duck, gallinules, and coots on designated areas of the refuge subject to the following conditions:

* * * * *

Lake Ophelia National Wildlife Refuge

* * * * *

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

* * * * *

Mandalay National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds in designated areas of the refuge subject to the following condition: Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge hunting brochure.

* * * * *

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hogs on designated areas of the refuge subject to the following condition: Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge hunting brochure.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following condition: Any person entering, using, or occupying the refuge for fishing must abide by all terms and conditions in the refuge fishing brochure.

* * * * *

14. In § 32.38 Maine by:

a. Alphabetically adding Lake Umbagog National Wildlife Refuge;

b. Revising paragraph D. of Rachel Carson National Wildlife Refuge; and

c. Revising paragraph D. of Sunkhaze Meadows National Wildlife Refuge to read as follows:

§ 32.38 Maine.

* * * * *

Lake Umbagog National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, geese, common snipe, sora, Virginia rail, common moorhen, and woodcock on designated areas of the refuge subject to the following conditions:

1. You may possess only approved nontoxic shot while in the field.

2. Designated permanent blinds will be available by reservation. We allow no other permanent blinds. You must remove your temporary blinds, boats, and decoys from the refuge following each day's hunt.

3. You must wear in a conspicuous manner on the outermost layer of the head, chest, and back, a minimum of 400 square inches (2,600 cm^2) of solid-colored hunter orange clothing or material, except when hunting ducks or geese.

4. We allow pre-hunt scouting, however, we will not allow dogs during pre-hunt scouts.

5. We prohibit dog training.

6. You must unload all firearms outside of legal State hunting hours.

7. We prohibit the use of all-terrain vehicles (ATV's).

8. The Refuge will be open to hunting during the hours stipulated under Maine hunting regulations, but no longer than from ½ hour before legal sunrise to ½ hour after legal sunset.

B. Upland Game Hunting. We allow hunting of coyote, fox, raccoon, woodchuck, red squirrel, eastern gray squirrel, porcupine, skunk, American crow, showshoe hare, ring-necked pheasant, ruffed grouse, and northern bobwhite in designated areas subject to the following conditions:

1. You may possess only approved nontoxic shot while in the field.

2. You may only use pursuit or trailing dogs to hunt coyote or snowshoe hare.

3. We allow hunting of snowshoe hare with dogs from November 20 to January 1.

4. We allow hunting of coyote with dogs from October 20 to November 9.

5. We allow a maximum of four dogs per hunter.

6. Dogs may only be on the refuge when the hunter is present.

7. You must equip dogs used to hunt coyote with operational radiotelemetry collars. You must be in possession of a working radiotelemetry receiver that can detect and track the frequency(ies) emitted by each radio collar used.

8. We do not allow hunting for coyote and raccoon from ½ hour after sunset to ½ hour before sunrise.

9. We allow pre-hunt scouting, however, we do not allow dogs during pre-hunt scouts.

10. We prohibit dog training.

11. You must wear in a conspicuous manner on the outermost layer of the head, chest, and back, a minimum of 400 square inches (2,600 cm^2) of solid-colored hunter orange clothing or material.

12. You must unload all firearms outside of legal State hunting hours.

13. We prohibit the use of all-terrain vehicles (ATV's).

14. The refuge will be open to hunting during the hours stipulated under Maine hunting regulations, but no longer than from ½ hour before legal sunrise to ½ hour after legal sunset.

C. Big Game Hunting. We allow hunting of white-tailed deer, moose, black bear, and wild turkey on designated areas of the refuge subject to the following conditions:

1. We allow bear hunting with dogs from October 20 to October 29.

2. You must equip dogs used to hunt bear with operational radiotelemetry collars. You must be in possession of a working radiotelemetry receiver that can detect and track the frequency(ies) emitted by each radio collar used.

3. We allow a maximum of four dogs per hunter.

4. Dogs may only be on the refuge when the hunter is present.

5. You must take the first bear you tree, except in the case of cubs or a sow with cubs.

6. You must report where you took the bear to the State of Maine.

7. We allow pre-hunt scouting, however, we will not allow dogs during pre-hunt scouts.

8. We prohibit dog training.

9. You may use only portable tree stands, and you must remove them from the refuge each day.

10. You must wear in a conspicuous manner on the outermost layer of the head, chest, and back a minimum of 400 square inches (2,600 cm^2) of solid-colored hunter orange clothing or material, except when hunting turkey.

11. You must unload all firearms outside of legal State hunting hours.

12. We prohibit the use of all-terrain vehicles (ATV's).

13. The refuge will be open to hunting during the hours stipulated under Maine hunting regulations, but no longer than from ½ hour before legal sunrise to ½ hour after legal sunset.

D. Sport Fishing. [Reserved]

* * * * *

Rachel Carson National Wildlife Refuge

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following condition: We allow fishing from sunrise to sunset.

Sunkhaze Meadows National Wildlife Refuge

* * * * *

D. Sport Fishing. You may fish on the waters of and from the banks of Baker Brook, Birch Stream, Buzzy Brook, Johnson Brook, Little Birch Stream, Little Buzzy Brook, Sandy Stream, and Sunkhaze Stream.

15. In § 32.40 Massachusetts by:

a. Revising paragraph D. of Monomoy National Wildlife Refuge;

b. Adding paragraph D.3. to Nantucket National Wildlife Refuge; and

c. Revising the introductory text of paragraph B and revising paragraph B.3. and adding paragraph B.4. to Oxbow National Wildlife Refuge to read as follows:

§ 32.40 Massachusetts.

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Monomoy National Wildlife Refuge

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D. Sport Fishing. We allow fishing in designated areas of the refuge subject to the following condition: In addition to daytime fishing, we allow fishing after sunset in accordance with State regulations.

Nantucket National Wildlife Refuge

* * * * *

D. Sport Fishing. * * *

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3. In addition to daytime fishing, we allow fishing after sunset in accordance with State regulations.

Oxbow National Wildlife Refuge

* * * * *

B. Upland Game Hunting. We allow hunting of upland game birds, turkey, and small game on designated areas of the refuge subject to the following conditions:

* * * * *

3. You may possess only approved nontoxic shot while in the field, except while hunting turkey.

4. Hunters will comply with all State hunting regulations.

* * * * *

16. In § 32.42 Minnesota by adding introductory text to paragraph A, revising the introductory text of paragraph B. and adding paragraphs B.2., B.3., and C.3. to Big Stone National Wildlife Refuge to read as follows:

§ 32.42 Minnesota.

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Big Stone National Wildlife Refuge

A. Hunting of Migratory Game Birds. You may not hunt any migratory game birds on the refuge. You may retrieve waterfowl taken outside the refuge boundary up to 100 yards (90 m) inside the refuge.

B. Upland Game Hunting. You may hunt partridge, pheasant, wild turkey, gray and fox squirrel, cottontail and jack rabbit, red and gray fox, raccoon, and striped skunk on designated areas of the refuge subject to the following conditions:

* * * * *

2. You may hunt fox, raccoon, and striped skunk only during open seasons for other small game species. You may not use dogs while raccoon hunting.

3. You may hunt only turkey if you have a valid State turkey hunting permit in your possession.

C. Big Game Hunting. * * *

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3. You may hunt only deer if you have a valid State permit in your possession.

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17. In § 32.44 Missouri by revising paragraphs A., B., and C. of Big Muddy National Wildlife Refuge to read as follows:

§ 32.44 Missouri.

* * * * *

Big Muddy National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on designated areas of the refuge subject to posted regulations and the following conditions:

1. Hunters may use only approved nontoxic shot while in the field.

2. You must remove all your blinds, boats, and decoys from the refuge following each day's hunt except for blinds made entirely of marsh vegetation. You may not cut woody vegetation on the refuge for blinds.

B. Upland Game Hunting. We allow hunting of upland game animals on designated areas of the refuge subject to

posted regulations and the following conditions:

1. You may use only approved nontoxic shot while hunting for upland game, except wild turkeys. You may use lead shot while hunting for wild turkey.

C. Big Game Hunting. We allow big game hunting on designated areas of the refuge subject to posted regulations and the following conditions:

1. You may not use tree spikes to help you climb trees or hunt on the refuge.

2. You must remove tree stands from the refuge within 24 hours of the close of the deer hunting season.

3. You may not hunt over or place on the refuge any salt or other mineral blocks.

* * * * *

18. In § 32.47 Nevada by:

a. Revising paragraphs A. and B. of Ash Meadows National Wildlife Refuge;

b. Revising paragraphs A., B., and D.1. of Pahranagat National Wildlife Refuge; and

c. Adding paragraph A.3. and revising the introductory text of paragraph D. and paragraph D.2. of Ruby Lake National Wildlife Refuge.

§ 32.47 Nevada.

Ash Meadows National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens, snipe, and doves in accordance with State and refuge-specific regulations on designated areas of the refuge subject to the following conditions:

1. We allow hunting only on designated days.

2. We allow only nonmotorized boats or boats with electric motors on the refuge hunting area during the migratory waterfowl hunting season.

B. Upland Game Hunting. We allow hunting of quail and rabbit in accordance with State and refuge-specific regulations on designated areas of the refuge subject to the following conditions:

1. We allow hunting of quail and rabbit only on designated days during the regular State season for quail.

2. We prohibit the discharging of rifles or handguns.

* * * * *

Pahranagat National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens, snipe, and doves in accordance with State and refuge-specific regulations on designated areas of the refuge subject to the following conditions:

1. We allow hunting only on designated days.

2. We allow only nonmotorized boats or boats with electric motors on the refuge hunting area during the migratory waterfowl hunting season.

B. Upland Game Hunting. We allow hunting of quail and rabbit in accordance with State and refuge-specific regulations on designated areas of the refuge subject to the following condition: We allow hunting of quail and rabbit only on designated days during the regular State season for quail.

* * * * *

D. Sport Fishing. * * *

1. We allow fishing year round with exception of North Marsh, which we close October 1 to February 1.

* * * * *

Ruby Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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3. The refuge is open to the public from 1 hour before sunrise to 2 hours after sunset.

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to Federal and State laws and the following conditions:

* * * * *

2. We allow fishing on dikes in the areas north of the Brown Dike and east of the Collection Ditch with the exception that you may fish by wading and from personal flotation devices (float tubes) in designated areas.

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19. In § 32.48 New Hampshire by alphabetically adding Lake Umbagog National Wildlife Refuge to read as follows:

§ 32.48 New Hampshire.

* * * * *

Lake Umbagog National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, geese, common snipe, and woodcock on designated areas of the refuge subject to the following conditions:

1. You may possess only approved nontoxic shot while in the field.

2. Designated permanent blinds will be available by reservation. We will allow no other permanent blinds. You must remove your temporary blinds, boats, and decoys from the refuge following each day's hunt.

3. You must wear in a conspicuous manner on the outermost layer of the head, chest, and back, a minimum of 400 square inches (2,600 cm^2) of solid-colored hunter orange clothing or material, except when hunting ducks or geese.

4. You must unload all firearms outside of legal State hunting hours.

5. We prohibit use of all-terrain vehicles (ATV's).

6. We allow pre-hunt scouting, however, we do not permit dogs during pre-hunt scouts.

7. We prohibit dog training.

8. The refuge will be open to hunting during the hours stipulated under New Hampshire hunting regulations, but no longer than from ½ hour before legal sunrise to ½ hour after legal sunset.

B. Upland Game Hunting. We allow hunting of coyote, fisher, fox, raccoon, woodchuck, red squirrel, porcupine, skunk, weasel, American crow, mink, muskrat, snowshoe hare, ring-necked pheasant, ruffed grouse, and northern bobwhite in designated areas subject to the following conditions:

1. You may possess only approved nontoxic shot while in the field.

2. You may only use pursuit or trailing dogs to hunt coyote or snowshoe hare.

3. We allow hunting of snowshoe hare from November 20 to January 1.

4. We allow hunting of coyote with dogs from October 20 to November 9.

5. We allow a maximum of four dogs per hunter.

6. Dogs may only be on the refuge when the hunter is present.

7. You must equip dogs used to hunt coyote with operational radiotelemetry collars. You must be in possession of a working radiotelemetry receiver that can detect and track the frequency(ies) emitted by each radio collar used.

8. We do not allow hunting for coyote and raccoon from ½ hour after sunset to ½ hour before sunrise.

9. We allow pre-hunt scouting, however, we will not allow dogs during pre-hunt scouts.

10. We prohibit dog training.

11. You must wear in a conspicuous manner on the outermost layer of the head, chest, and back, a minimum of 400 square inches (2,600 cm^2) of solid-colored hunter orange clothing or material.

12. You must unload all firearms outside of legal State hunting hours.

13. We prohibit the use of all-terrain vehicles (ATV's).

14. The refuge will be open to hunting during the hours stipulated under New Hampshire hunting regulations, but no longer than from ½ hour before legal sunrise to ½ hour after legal sunset.

C. Big Game Hunting. We allow hunting of white-tailed deer, moose, and black bear on designated areas of the refuge subject to the following conditions:

1. We allow hunting of bear with dogs from October 20 to November 9.

2. You must equip dogs used to hunt bear with operational radiotelemetry collars. You must be in possession of a working radiotelemetry receiver that can detect and track the frequency(ies) emitted by each radio collar used.

3. We allow a maximum of four dogs per hunter.

4. Dogs may only be on the refuge when the hunter is present.

5. You must take the first bear you tree, except in the case of cubs or a sow with cubs.

6. You must report where you took the bear to the State of New Hampshire.

7. We allow pre-hunt scouting, however, we do not allow dogs during pre-hunt scouts.

8. We prohibit dog training.

9. You may use only portable tree stands, and you must remove them from the refuge each day.

10. You must wear in a conspicuous manner on the outermost layer of the head, chest, and back, a minimum of 400 square inches (2,600 cm^2) of solid-colored hunter orange clothing or material.

11. You must unload all firearms outside of legal State hunting hours.

12. We prohibit the use of all-terrain vehicles (ATV's).

13. The refuge will be open to hunting during the hours stipulated under New Hampshire hunting regulations, but no longer than from ½ hour before legal sunrise to ½ hour after legal sunset.

D. Sport Fishing. [Reserved]

20. In § 32.49 New Jersey by revising paragraphs A., C.1., and D.1., revising the introductory text of paragraphs C. and D., and adding paragraph D.4 of Edwin B. Forsythe National Wildlife Refuge.

§ 32.49 New Jersey.

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Edwin B. Forsythe National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of waterfowl, coots, moorhens, and rails on designated areas of the refuge subject to the following conditions:

1. You must remove all your hunting blind materials, boats, and decoys at the end of each hunting day. We do not allow permanent and pit blinds.

2. We may restrict use of Hunting Unit 3 of the Brigantine Division to certified Young Waterfowl Program trainees for up to 30 days as posted.

3. You may not possess more than 25 shells per day in Hunting Units A, B, and C in the Barnegat Division. You may not possess more than 50 shells per day in Unit 1 of the Brigantine Division.

4. In Hunting Unit B of the Barnegat Division, we restrict hunting to designated sites, with each site limited to one party of hunters. We require a minimum of six decoys per site.

5. In Hunting Unit D of the Barnegat Division, we require a minimum of six decoys and do not allow jump shooting. Access is by boat only; we do not allow foot access.

6. Access is by boat only in all Units except the portion of Unit A that is south of West Creek Dock Road, in the Barnegat Division, and Unit 5 in the Brigantine Division. You may access these Units by foot or boat.

7. You may occupy no sites or Units before 4:00 a.m. Access is by boat only.

8. You may possess only approved nontoxic shot while in the field.

* * * * *

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

1. We require a State permit for the appropriate New Jersey Deer Management Zone. You must have this permit stamped and validated in person at the Refuge Headquarters.

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow saltwater fishing from the Holgate beach and Little Beach Island with the exception of those areas posted as closed. We may close the Holgate Unit and Little Beach Island to all public use during the migratory bird nesting season. We require a saltwater fishing permit to fish from Little Beach Island. You may obtain permits from the Refuge Headquarters.

* * * * *

4. We allow bank fishing and crabbing at designated areas. Contact the Refuge Headquarters for locations.

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21. In § 32.50 New Mexico by alphabetically adding San Andres National Wildlife Refuge to read as follows:

§ 32.50 New Mexico.

* * * * *

San Andres National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of oryx or gemsbok (*Oryx gazella*) on designated areas of the refuge subject to the following conditions:

1. We require hunters to check in and out of the hunt area.

2. We require hunters to attend unexploded ordnance (UXO) training prior to entering the hunt area.

3. We require State permits and payment of a hunt fee.

D. Sport Fishing. [Reserved]

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22. In § 32.51 New York by revising paragraphs A.1., B.1., C., and D.4, deleting paragraph A.3, and redesignating paragraphs A.4., A.5., A.6., A.7., and A.8. as paragraphs A.3., A.4., A.5., A.6. and A.7. of Iroquois National Wildlife Refuge to read as follows:

§ 32.51 New York.

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Iroquois National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. We require refuge permits.

* * * * *

B. Upland Game Hunting. * * *

1. We require refuge permits.

* * * * *

C. Big Game Hunting. We allow hunting of deer and turkeys on designated areas of the refuge subject to the following condition: We require refuge permits.

D. Sport Fishing. * * *

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4. We do not allow the use of boats or other flotation devices with the exception that you may use nonmotorized boats on Oak Orchard Creek east of Route 63.

* * * * *

23. In § 32.52 North Carolina by:

a. Revising paragraphs A.2., B.3., and C.3. of Pocosin Lakes National Wildlife Refuge; and

b. Revising paragraphs A. and B. of Roanoke River National Wildlife Refuge to read as follows:

§ 32.52 North Carolina.

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Pocosin Lakes National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. Firearms in transport by vehicle or boat under power must remain unloaded.

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B. Upland Game Hunting. * * *

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3. Firearms in transport by a vehicle or boat under power must remain unloaded.

* * * * *

C. Big Game Hunting. * * *

* * * * *

3. Firearms in transport by a vehicle or boat under power must remain unloaded.

* * * * *

Roanoke River National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks and coots on designated areas of the refuge subject to the following condition: We require refuge permits.

B. Upland Game Hunting. We allow hunting of squirrel, raccoon, and opossum on designated areas of the refuge subject to the following conditions:

1. We require refuge permits.

2. You may possess only approved nontoxic shot while in the field.

* * * * *

24. In § 32.53 North Dakota by:

a. Revising paragraphs B. and C. of Lake Zahl National Wildlife Refuge; and

b. Revising paragraph C. of Upper Souris National Wildlife Refuge to read as follows:

§ 32.53 North Dakota.

* * * * *

Lake Zahl National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of ring-necked pheasants, sharp-tailed grouse, and gray partridge on designated areas of the refuge subject to the following conditions:

1. You may possess only approved nontoxic shot while in the field.

2. The upland game bird season opens annually on the day following the close of the regular firearm deer season through the end of the State season.

3. Hunters may enter the refuge on foot only.

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge subject to the following conditions:

1. We allow archery hunting through the day before the opening of the State waterfowl season and allow it following the deer gun season.

2. We allow deer gun hunting concurrent with the State deer gun season.

3. Hunters may enter the refuge on foot only.

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Upper Souris National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of big game on designated areas of the refuge as per State law with certain restrictions as posted.

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25. In § 32.54 Ohio by revising paragraph D. of Cedar Point National Wildlife Refuge to read as follows:

§ 32.54 Ohio.

* * * * *

Cedar Point National Wildlife Refuge

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D. Sport Fishing. We allow sport fishing on designated areas of the refuge subject to the following conditions:

1. You may fish only during daylight hours during designated dates.

2. We do not allow boats or flotation devices.

* * * * *

26. In § 32.55 Oklahoma by:

a. Revising paragraph A.4., adding paragraph B.5, and revising paragraph D. of Little River National Wildlife Refuge; and

b. Adding paragraph C.4. and revising paragraphs B.2. and D.9. of Tishomingo National Wildlife Refuge to read as follows:

§ 32.55 Oklahoma.

* * * * *

Little River National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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4. You must possess a refuge permit.

* * * * *

B. Upland Game Hunting. * * *

* * * * *

5. You must possess a refuge permit.

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge.

1. We prohibit off-road vehicle use.

2. You must possess a refuge permit.

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Tishomingo National Wildlife Refuge

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B. Upland Game Hunting. * * *

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2. We allow only bows and arrows and shotguns using approved nontoxic shot.

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C. Big Game Hunting. * * *

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4. We prohibit baiting on the refuge and the Wildlife Management Unit.

D. Sport Fishing. * * *

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9. You may only take bait for personal use while fishing in the refuge in accordance with Oklahoma State law. We do not allow removal of bait from the refuge for commercial sales. You cannot release bait back into the water.

* * * * *

27. In § 32.56 Oregon by:

a. Removing Ankeny National Wildlife Refuge;

b. Revising paragraphs A.2. and B.2. and adding paragraphs A.7. and B.5. of Cold Springs National Wildlife Refuge;

c. Revising the heading of ''Klamath Forest National Wildlife Refuge'' to read ''Klamath Marsh National Wildlife Refuge;''

d. Revising paragraphs A.2. and B.2. of McKay Creek National Wildlife Refuge;

e. Adding McNary National Wildlife Refuge; and

f. Revising paragraph A. of William L. Finley National Wildlife Refuge to read as follows:

§ 32.56 Oregon.

* * * * *

Cold Springs National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. We allow hunting only on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

* * * * *

7. We allow hunting in the Memorial Marsh Unit by designated blind sites only.

B. Upland Game Hunting. * * *

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2. We allow hunting only on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

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5. We do not allow hunting of upland game birds until noon of each hunt day.

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Klamath Marsh National Wildlife Refuge

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McKay Creek National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. We allow hunting only on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

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B. Upland Game Hunting. * * *

* * * * *

2. We allow hunting only on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

* * * * *

McNary National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of doves on designated areas of the refuge subject to the following conditions:

1. You may possess only approved nontoxic shot while in the field.

2. We allow dove hunting on the State Line and Juniper Canyon Units on legal hunt days in accordance with State regulations.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to the following conditions:

1. You may possess only approved nontoxic shot while in the field.

2. We allow hunting on State Line and Juniper Canyon Units in accordance with State regulations.

C. Big Game Hunting. We allow deer hunting on designated areas of the refuge subject to the following conditions:

1. We allow shotguns and archery only.

2. We allow hunting on State Line and Juniper Canyon Units in accordance with State regulations.

D. Sport Fishing. [Reserved]

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William L. Finley National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

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28. In § 32.60 South Carolina by:

a. Revising paragraph D. of Cape Romain National Wildlife Refuge; and

b. Revising paragraphs C. and D. of Carolina Sandhills National Wildlife Refuge to read as follows:

§ 32.60 South Carolina.

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Cape Romain National Wildlife Refuge

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D. Sport Fishing. We allow fishing, crabbing, and shell fishing in accordance with State regulations, as specifically designated in refuge publications, and as posted. Except as posted, we close refuge islands at night. We do not allow shrimp baiting from refuge islands or above the low tide mark.

Carolina Sandhills National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer, turkey, and feral hogs on designated areas of the refuge subject to the following condition: We require refuge permits.

D. Sport Fishing. We allow fishing on all areas of the refuge, except Martins Lake and those areas marked by signs as closed to the public for fishing, subject to the following conditions:

1. We allow fishing from ½ hour before sunrise to ½ hour before sunset.

2. We allow nonmotorized boats and boats with electric motors. You must hand load and unload boats except at designated boat ramps.

3. We do not allow fish baskets, net, set hooks, and trotlines.

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29. In § 32.61 South Dakota by:

a. Revising paragraph B. of Pocasse National Wildlife Refuge; and

b. Revising paragraphs B. and D. of Sand Lake National Wildlife Refuge to read as follows:

§ 32.61 South Dakota.

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Pocasse National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of pheasant, sharp-tailed grouse, and Hungarian partridge on designated areas of the refuge subject to the following condition: You may possess only approved nontoxic shot while in the field.

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Sand Lake National Wildlife Refuge

* * * * *

B. Upland Game Hunting. We allow hunting of sharp-tailed grouse, Hungarian partridge, and pheasant on designated areas of the refuge.

* * * * *

D. Sport Fishing. We allow sport fishing in accordance with State law and as specifically designated in refuge publications.

30. In § 32.63 Texas by:

a. Revising paragraphs A., B., and C. of Balcones Canyonlands National Wildlife Refuge;

b. Alphabetically adding Lower Rio Grande Valley National Wildlife Refuge; and

c. Alphabetically adding Trinity River National Wildlife Refuge to read as follows:

§ 32.63 Texas.

* * * * *

Balcones Canyonlands National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning, white-wing, rock, and Eurasian-collared doves on designated areas of the refuge subject to the following conditions:

1. The length of the hunting season will be concurrent with the State season in September and October.

2. We allow hunting in designated areas, from noon to sunset, Saturdays and Sundays.

3. You may possess only approved nontoxic shot while in the field.

4. We require refuge permits and payment of a hunt fee by all hunters.

5. We prohibit dogs.

6. All hunters must be 10 years old or older. An adult 21 years of age or older must supervise hunters ages 10–17 (inclusive).

7. We prohibit use or possession of alcohol.

8. We may immediately close the entire refuge or any portion thereof to hunting for the protection of resources, as determined by the refuge manager.

B. Upland Game Hunting. We allow hunting of turkey on designated areas of the refuge subject to the following conditions:

1. We allow hunting in November, December, and/or January.

2. We require hunters to check in and out of a hunt area.

3. We allow bows and arrows, shotguns, and rifles.

4. We may immediately close the entire refuge or any portion thereof to hunting for the protection of resources, as determined by the refuge manager.

5. Hunters must be at least 12 years of age. An adult 21 years of age or older must supervise hunters between the ages of 12 and 17 (inclusive).

6. The refuge will set bag limits.

7. We require hunters to visibly wear 400 square inches (2,600 cm^2) of hunter orange on the outermost layer of the head, chest and back, which must include a hunter orange hat or cap.

8. We require refuge permits and the payment of a hunt fee.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hogs on designated areas of the refuge subject to the following conditions:

1. We allow hunting in November, December, and/or January.

2. We require hunters to check in and out daily at designated check stations.

3. We allow bows and arrows, shotguns, and rifles.

4. We may immediately close to hunting the entire refuge or any portion thereof for the protection of resources as determined by the refuge manager.

5. Hunters must be at least 12 years of age. An adult 21 years of age or older must supervise hunters between the ages of 12 and 17 (inclusive).

6. The refuge will set bag limits.

7. We require hunters to wear 400 square inches (2,600 cm^2) of hunter orange on the outermost layer of the head, chest, and back, which must include a hunter orange hat or cap.

8. We require refuge permits and the payment of a hunt fee.

* * * * *

Lower Rio Grande Valley National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning, white-winged, and white-tipped doves in the months of September, October, and November on designated areas of the refuge, subject to the following conditions:

1. We require a refuge permit and payment of a fee.
2. We limit hunting to the months of September, October, and November in accordance with the State hunting season.
3. We allow only shotguns.
4. You may possess only approved nontoxic shot while in the field.
5. All hunters must be 12 years of age or older. An adult 21 years old or older must accompany hunters 12–17 years of age.
6. You may park at designated locations only.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer, feral hogs, and nilgai antelope on designated areas of the refuge subject to the following conditions:

1. We require a refuge permit and payment of a fee.
2. We will offer hunting during portions of the State hunting season.
3. We enforce a two-deer (one buck only) limit on white-tailed deer and no limit on feral hogs and nilgai antelope.
4. All hunters must be 12 years of age or older. An adult 21 years old or older must accompany hunters 12–17 years of age.
5. We will determine location and method of hunt each year.
6. You may park at designated locations only.
7. We prohibit the use of dogs and baiting for hunting.

D. Sport Fishing. [Reserved]

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Trinity River National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on Champion Lake subject to the following conditions:

1. We allow fishing only with pole and line, rod and reel, or hand-held line.
2. We do not allow the use of trotlines, setlines, bows and arrows, gigs, spears, or fish traps.
3. We do not allow use of frogs or turtles.
4. We allow fishing from sunrise to sunset.
5. We limit motors to a maximum of 10 horsepower. You may not fish or enter within 200 yards (180 m) of an established bird rookery from March through the end of May. Check at refuge headquarters for rookery location(s).

31. In § 32.65 Vermont by revising paragraphs A.1., A.2., A.4., A.5., C.1., C.4., and D. of Missisquoi National Wildlife Refuge to read as follows:

§ 32.65 Vermont.

* * * * *

Missisquoi National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. We require refuge permits to hunt in the Long Marsh Channel—Metcalfe Island Controlled Hunting Area, the Junior Waterfowl Hunting Area, and the Saxe's Pothole-Creek and Shad Island Pothole Hunting Area.
2. You may not possess more than 25 shells per day on the Long Marsh Channel-Metcalfe Island Controlled Hunting Area, the Junior Waterfowl Hunting Area, and the Saxe's Pothole-Creek and Shad Island Pothole Hunting Area.

* * * * *

4. Within any controlled hunting area, you must hunt within 100 feet (30 m) of the blind or blind stake for the area except to retrieve crippled birds.
5. You must hunt with one retriever per hunting party of up to two hunters per party within the Saxe's Pothole-Creek and Shad Island Pothole Hunting Area, the Long Marsh Channel-Metcalfe Island Hunting Area, and the Maquam Swamp Hunting Area.

* * * * *

C. Big Game Hunting. * * *

1. You may use only shotguns and muzzleloaders on that part of the refuge east of the Missisquoi River during the State regular season or on that part of the refuge north and east of Route 78 during the Youth Hunt.

* * * * *

4. You may use only portable tree stands. You may leave them in place during deer seasons with proper notation on the big game permit.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following condition: We allow fishing from refuge lands along Lake Champlain and the Missisquoi River, except from any refuge dike or from or within any refuge water management unit.

32. In § 32.66 Virginia by:

a. Adding paragraph D.3. of Back Bay National Wildlife Refuge;

b. Revising paragraph A. of Chincoteague National Wildlife Refuge; and

c. Alphabetically adding Mackay Island National Wildlife Refuge to read as follows:

§ 32.66 Virginia.

* * * * *

Back Bay National Wildlife Refuge

* * * * *

D. Sport Fishing. * * *

* * * * *

3. We require a refuge permit to fish in ''D'' Pool.

* * * * *

Chincoteague National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory waterfowl and rails on designated areas of the refuge subject to the following conditions:

1. We require a refuge permit to hunt in designated public hunting areas.
2. We allow guided hunting in designated areas of Wildcat Marsh with refuge-designated commercial guides.

* * * * *

Mackay Island National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge subject to the following condition: We require refuge permits.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow fishing only from sunrise to sunset from March 15 through October 15.
2. You must attend all fishing lines.
3. We do not allow airboats.

* * * * *

33. In § 32.67 Washington by:

a. Alphabetically adding Arid Lands National Wildlife Refuge Complex;

b. Revising paragraphs A.1., A.3., and C. of Columbia National Wildlife Refuge;

c. Revising McNary National Wildlife Refuge;

d. Removing paragraphs A.4. and B.4., paragraphs A.5, A.6., and B.5. as A.4., A.5., and B.4. and revising newly redesignated paragraphs A.4., A.5. and B.4. of Toppenish National Wildlife Refuge; and

e. Revising paragraphs A. and D. of Willapa National Wildlife Refuge to read as follows:

§ 32.67 Washington.

* * * * *

Arid Lands National Wildlife Refuge Complex

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on the Wahluke Wildlife Recreation Unit of the Complex subject to the following condition: You may possess only approved nontoxic shot while in the field.

B. Upland Game Hunting. We allow hunting of upland game on the Wahluke Wildlife Recreation Unit of the Complex subject to the following conditions:

1. You may possess only approved nontoxic shot while in the field.

2. We allow only shotguns.

C. Big Game Hunting. We allow hunting of big game on the Wahluke Wildlife Recreation Unit of the Complex subject to the following condition: We allow only shotgun, muzzle loader, and archery hunting.

D. Sport Fishing. We allow fishing on designated areas of the Wahluke Wildlife Recreation Unit of the Complex.

Columbia National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. In Marsh Unit 1 and Farm Units 226–227, we allow hunting only on Wednesdays, Saturdays, Sundays, and Federal holidays.

* * * * *

3. In Marsh Unit 1, concurrent with the State's designated Youth Day prior to the opening of the waterfowl season, an adult at least 18 years of age who is not hunting must accompany hunters under 16 years of age.

* * * * *

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge subject to the following conditions:

1. We allow only shotgun and archery hunting.

2. We allow hunting of deer only during State seasons that run concurrently with the State waterfowl season.

* * * * *

McNary National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, doves, and snipe on designated areas of the refuge subject to the following conditions:

1. On the McNary Division, we allow hunting by refuge permit only. On the first Saturday in December, only youth aged 10–17 and an accompanying adult aged 18 or over may hunt.

2. We allow dove hunting only on the Wallula, Two Rivers, Peninsula, State line, and Juniper Canyon Units on legal hunt days in accordance with State regulations.

3. We allow waterfowl hunting on the Wallula and Two Rivers Units 7 days a week during State waterfowl season.

4. We allow waterfowl hunting on the Peninsula Unit Friday through Monday during State waterfowl season subject to the following condition: Hunting on the east side of the Peninsula and in the goose pits is by assigned blinds on a first-come, first-served basis.

5. The refuge is open from 5:00 a.m. to 1½ hours after sunset. You may not leave decoys and other personal property on the refuge overnight.

6. You may not possess more than 25 approved nontoxic shells while in the field.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to the following conditions:

1. On the McNary Division, we allow hunting only on Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day. We do not allow hunting until noon of each hunt day. Hunting is for pheasant and quail only. On the first Saturday in December, only youth aged 10–17 and an accompanying adult aged 18 or over may hunt.

2. You may not possess more than 25 approved nontoxic shot shells while in the field.

3. We allow upland game hunting on the Wallula, Two Rivers, State line, and Juniper Canyon Units in accordance with State regulations.

4. We do not allow hunting on the Peninsula Unit until noon on legal goose hunting days.

C. Big Game Hunting. We allow hunting of deer only on the Wallula, Two Rivers, Peninsula, State line, and Juniper Canyon Units subject to the following condition: We allow shotguns and archery only in accordance with State regulations.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. On the McNary Division, visiting hours are from sunrise to sunset. We do not allow the use of boats and other flotation devices.

2. We allow fishing only with hook and line.

3. We allow fishing on the Wallula, Two Rivers, and Peninsula Units in accordance with State regulations.

* * * * *

Toppenish National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

* * * * *

4. Snipe hunters may possess only approved nontoxic shot while in the field.

5. On the Halvorson and Webb Units, you may hunt on Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day only. On the Robbins Road Unit, you may hunt on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day only. Pumphouse, Isiri, Petty, and Chambers Units are open 7 days a week during waterfowl season.

B. Upland Game Hunting. * * *

* * * * *

4. On the Halvorson and Webb Units, you may hunt on Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day only. On the Robbins Road Unit, you may hunt on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day only. Pumphouse, Isiri, Petty, and Chambers Units are open 7 days a week during waterfowl season.

* * * * *

Willapa National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, and coots on designated areas of Riekkola and Lewis Units, in accordance with State hunting regulations and subject to the following conditions:

1. Prior to entering the hunt area at the Riekkola Unit, we require you to obtain a refuge permit, pay a recreation user fee, and obtain a blind assignment.

2. At the Riekkola Unit, you may take ducks and coot only coincidental to hunting geese.

3. We allow hunting in the Riekkola Unit only from established blinds on Wednesdays and Saturdays.

4. You may possess no more than 25 approved nontoxic shells per day while in the field.

* * * * *

D. Sport Fishing. We allow sport fishing along the shoreline of Willapa Bay and Bear River on refuge-owned lands in accordance with State regulations.

34. In § 32.68 West Virginia by adding paragraph C.2. in Canaan Valley National Wildlife Refuge to read as follows:

§ 32.68 West Virginia.

* * * * *

C. Big Game Hunting. * * *

* * * * *

2. We allow shotgun and muzzle-loader hunting only with the possession of approved nontoxic shot size #4 or smaller for hunting of wild turkey. We prohibit rifle hunting.

* * * * *

35. In § 32.69 Wisconsin by revising paragraphs B.2., C.1., and C.2. of Necedah National Wildlife Refuge to read as follows:

§ 32.69 Wisconsin.

* * * * *

Necedah National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

* * * * *

2. During the spring turkey season, we allow unarmed hunters who have an unexpired spring turkey permit in their possession to scout the hunt area. We allow this scouting beginning on the Saturday immediately prior to the opening date listed on their State turkey hunting permit.

* * * * *

C. Big Game Hunting. * * *

1. You may not possess a loaded firearm or a nocked arrow on a bow within 50 feet (15 m) of the centerline of all public roads. Also, during the gun deer season, you may not possess a loaded firearm within 50 feet (15 m) of the center of refuge trails, nor may you discharge a gun from across, down, or alongside these trails.

2. You may not construct or use permanent blinds, stands, or ladders.

* * * * *

36. In § 32.71 United States Unincorporated Pacific Insular Possessions by revising paragraph D. of Johnston Atoll National Wildlife Refuge to read as follows:

§ 32.71 United States Unincorporated Pacific Insular Possessions.

Johnston Atoll National Wildlife Refuge

* * * * *

D. Sport Fishing. We allow fishing only in accordance with posted regulations (Conservation of Natural Resources and Protection of Fish and Wildlife on Johnston Atoll National Wildlife Refuge), which are available at refuge headquarters. Other special restrictions apply on this refuge, and we outline them in the regulations.

* * * * *

Dated: August 24, 2000.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00–23462 Filed 9–15–00; 8:45 am]

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Federal Register

Monday,
September 18, 2000

Part IV

Nuclear Regulatory Commission

Privacy Act of 1974; Republication of Systems of Records; Notices

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974; Republication of Systems of Records Notices

AGENCY: Nuclear Regulatory Commission.

ACTION: Republication of Systems of Records Notices.

SUMMARY: The Nuclear Regulatory Commission (NRC) has conducted a comprehensive review of all its Privacy Act Systems of Records. The NRC is revising and republishing all its systems of records (systems) notices as a result of this review. Two of the system notices include proposed revisions that require an advance period for public comment. One new system is being set up with records previously noticed under an already existing system. The remaining systems revisions are minor corrective and administrative changes that do not meet the threshold criteria established by the Office of Management and Budget (OMB) for either a new or altered system of records. These changes are in compliance with OMB Circular No. A–130, Appendix I.

EFFECTIVE DATES: The revisions to systems NRC–26 and NRC–40 and establishment of new system NRC–1 will become effective without further notice on October 30, 2000, unless comments received on or before that date cause a contrary decision. If changes are made based on NRC's review of comments received, a new final notice will be published.

All other revisions included in this republication are complete and accurate as of January 31, 2000.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications staff. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Copies of comments received may be examined at the NRC Public Document Room at 2120 L Street NW. (Lower level), Washington, DC, and are also available at the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* This site also enables you to submit comments. Comments may be uploaded as files (any format), if your Web browser supports that function. For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher, 301–415–5905; email: *cag@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Sandra S. Northern, Privacy Program Officer, Freedom of Information/Privacy Act Section, Information Services Branch, Information Management Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6879; email: *ssn@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Republication of NRC's Revised Systems of Records Notices

With the exception of 4 new and 6 revised systems of records, these notices were last published in the **Federal Register** on July 7, 1993 (58 FR 36455–36482). The new systems of records are as follows: NRC–41, Tort Claims and Personal Property Claims, was published in the **Federal Register** on May 8, 1996 (61 FR 20865), and became effective on June 17, 1996; NRC–42, Skills Assessment and Employee Profile Records, was published in the **Federal Register** on March 31, 1997 (62 FR 15207), and became effective on May 12, 1997; and, NRC–43, Employee Health Center Records, and NRC–44, Employee Fitness Center Records, were published together in the **Federal Register** on November 27, 1998 (63 FR 65620), and both became effective on January 6, 1999. The revised systems of records are as follows: NRC–3, Enforcement Actions Against Individuals, was published in the **Federal Register** on June 11, 1996 (61 FR 29578), and became effective on July 22, 1996; NRC–18, Office of the Inspector General (OIG) Investigative Records, was published in the **Federal Register** on July 26, 1995 (60 FR 38379), and became effective on September 5, 1995; NRC–21, Payroll Accounting Records, was published in the **Federal Register** on September 9, 1997 (62 FR 47525), and became effective on October 9, 1997; NRC–22, Personnel Performance Appraisals, was published in the **Federal Register** on October 30, 1997 (62 FR 58758), and became effective on October 30, 1997; NRC–32, Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records, was published in the **Federal Register** on March 25, 1998 (63 FR 14497), and became effective on May 4, 1998; and, NRC–40, Facility Security Access Control Records, was published in the **Federal Register** on August 23, 1995 (60 FR 43821), and became effective on October 2, 1995.

Three systems of records have been revoked, NRC–1, Shared Information Network (SINET)–NRC, NRC–12, Government Motor Vehicle Operators License Files-NRC, and NRC–29, Nuclear Documents System (NUDOCS)–NRC.

Proposed Revisions to Existing Systems of Records

NRC is proposing to amend the system notice for NRC–26, ''Administrative Services Files-NRC,'' (renamed NRC–26, ''Full Share Program Records-NRC,'') to authorize the collection of social security numbers. A social security number will be collected when an employee uses their photo identification badge to record receipt of a metro check. The bar code on the identification badge, which is scanned, holds the employee's social security number. Employees, when badged, signed a Privacy Act Statement informing them that their badges may be used for tracking applications within the NRC for other than security access purposes.

In addition, other minor changes are being made to sections of NRC–26 to make it more accurate and current.

NRC is also proposing to amend the system notice for NRC–40, ''Facility Security Access Control Records-NRC,'' to add ''digital image (picture) and badge number'' to the categories of records in the system. These records have been maintained as part of the photo identification badge information, but never noticed.

A new routine use is also being added to NRC–40 permitting the use of identification badge information for tracking applications within the NRC for other than security access purposes. This will allow the identification badge, which includes a bar code (social security number), to be scanned for not only access into secured areas, but also for tracking applications such as, but not limited to, systems that monitor the individual's receipt of government property or funds. Individuals who currently have the photo identification badge with a bar code have signed a Privacy Act Statement authorizing this use of the information.

Another routine use is being added to state that the information in this system may be used to control access to NRC classified information and to NRC spaces by human or electronic means. This routine use was noticed in the **Federal Register** on July 7, 1993 (58 FR 36481). When the system notice was revised on August 23, 1995 (60 FR 43821), this use was inadvertently omitted.

In addition, other minor changes are being made to sections of NRC–40 to make it more accurate and current.

NRC is establishing a new system of records entitled NRC–1, ''Parking Permit Records—NRC,'' to maintain parking

permit records previously, but erroneously, included under NRC–24, ''Government Property Accountability System—NRC.'' This system documents issuance of parking permits for NRC-controlled parking spaces at the headquarters garage. Information in this system is maintained to record amount paid and revenue collected for parking; determine priority for issuance of permits; and to contact permit holders in case of an emergency.

A report on the proposed revisions to NRC–26 and NRC–40 and the new system NRC–1 is being sent to the Office of Management and Budget (OMB), the Committee on Governmental Affairs of the U.S. Senate, and the Committee on Government Reform and Oversight of the U.S. House of Representatives as required by the Privacy Act and OMB Circular No. A–130, Appendix I, ''Federal Agency Responsibilities for Maintaining Records About Individuals.''

Privacy Act Systems Nuclear Regulatory Commission

NRC Systems of Records

1. Parking Permit Records—NRC.
2. Biographical Information Records—NRC.
3. Enforcement Actions Against Individuals—NRC.
4. Conflict of Interest Files—NRC.
5. Contracts Records Files—NRC.
6. Discrimination Cases—NRC.
7. Telephone Call Detail Records—NRC.
8. Employee Appeals, Grievances, and Complaints Records—NRC.
9. Equal Employment Opportunity Discrimination Complaint Files—NRC.
10. Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC.
11. General Personnel Records (Official Personnel Folder and Related Records)—NRC.
12. (Revoked.)
13. Incentive Awards Files—NRC.
14. Employee Assistance Program Files—NRC.
15. Employees on Standards Developing Bodies Files—NRC.
16. Facility Operator Licensees Record Files (10 CFR Part 55)—NRC.
17. Occupational Injuries and Illness Records—NRC.
18. Office of the Inspector General (OIG) Investigative Records—NRC.
19. Official Personnel Training Records Files—NRC.
20. Official Travel Records—NRC.
21. Payroll Accounting Records—NRC.
22. Personnel Performance Appraisals—NRC.
23. Office of Investigations Indices, Files, and Associated Records—NRC.
24. Government Property Accountability System—NRC.
25. Oral History Program—NRC.
26. Full Share Program Records—NRC.
27. Radiation Exposure Information and Reports System (REIRS) Files—NRC.
28. Recruiting, Examining, and Placement Records—NRC.
29. (Revoked.)
30. Manpower Resource Tracking System—NRC.
31. Correspondence and Records, Office of the Secretary—NRC.
32. Office of the Chief Financial Officer Financial Transactions and Dept Collection Management Records—NRC.
33. Special Inquiry File—NRC.
34. Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW) Correspondence Index, Text/Imaging Management System and Associated Records—NRC.
35. Drug Testing Program Records—NRC.
36. Employee Locator Records Files—NRC.
37. Information Security Files and Associated Records—NRC.
38. Mailing Lists—NRC.
39. Personnel Security Files and Associated Records—NRC.
40. Facility Security Access Control Records—NRC.
41. Tort Claims and Personal Property Claims Records—NRC.
42. Skills Assessment and Employee Profile Records—NRC.
43. Employee Health Center Records—NRC.
44. Employee Fitness Center Records—NRC.

These systems of records are those systems maintained by the NRC that contain personal information about individuals, and from which personal information can be retrieved by reference to an individual identifier.

The notice for each system of records states the name and location of the record system, the authority for and manner of its operation, the categories of individuals that it covers, the types of records that it contains, the sources of information in those records, and the proposed ''routine uses'' of each system of records. Each notice also includes the business address of the NRC official who will inform interested persons of the procedures whereby they may gain access to and correct records pertaining to themselves.

One of the purposes of the Privacy Act, as stated in section 2(b)(4) of the Act, is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to * * * disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information.'' The NRC intends to follow these principles in transferring information to another agency or individual as a ''routine use,'' including assurance that the information is relevant for the purposes for which it is transferred.

Prefatory Statement of General Routine Uses

The following routine uses apply to each system of records notice set forth below which specifically references this Prefatory Statement.

1. If a system of records maintained by the NRC to carry out its functions indicates a violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rules, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a Federal, State, local, or foreign agency, if necessary, to obtain information relevant to an NRC decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal, State, local, or foreign agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of discovery and in presenting evidence to a court,

magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of settlement negotiations.

5. Disclosure may be made, as a routine use, to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

6. A record from this system of records may be disclosed, as a routine use, to NRC-paid experts, consultants, and others under contract with the NRC, on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC contract. This access will be granted to an NRC contractor by a system manager only after satisfactory justification has been provided to the system manager.

NRC–1

SYSTEM NAME:

Parking Permit Records-NRC.

SYSTEM LOCATION:

Office of Administration, Administrative Services Center, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and contractors who apply for parking permits for NRC-controlled parking spaces.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records consist of the applications and the revenue collected for the headquarters buildings garage. The application includes the applicant's name, address, telephone number, length of service and vehicle information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3511, 41 CFR 101–20.104, Parking Facilities; Management Directive 13.4, ''Transportation Management,'' Part I, ''White Flint North Parking Procedures''.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To record amount paid and revenue collected for parking;

b. To contact permit holder in case of an emergency;

c. To determine priority for issue of permits; and

d. For the routine uses specified in paragraph numbers 1, 4, 5, and 6 in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Accessed by name, tag number and permit number.

SAFEGUARDS:

Paper records and backup disks are maintained in locked file cabinets under visual control of the Administrative Services Center. Computer files are maintained on a hard drive, access to which is password protected. Access to and use of these records are limited to those persons whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained for up to 3 years after a permit holder ceases to purchase a permit, then they are destroyed by shredding or in the regular trash disposal system. The automated records are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Services Center, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Applications submitted by NRC employees and contractors.

NRC–2

SYSTEM NAME:

Biographical Information Records—NRC.

SYSTEM LOCATION:

Office of Public Affairs, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commissioners, members of the Atomic Safety and Licensing Board Panel, Office of Commission Appellate Adjudication panel members, and senior NRC staff members.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, and other general biographical data relating to the Commissioners, members of the Atomic Safety and Licensing Board Panel, Office of Commission Appellate Adjudication panel members, and senior NRC staff members. Photographs of Commissioners are also contained in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2241, 5841, 5843(a), 5844(a), 5845(a), and 5849 (1994–1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to the press;

b. To provide information to other persons and agencies requesting this information; and

c. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in unlocked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until updated or association with NRC is discontinued, then destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Public Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of

Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by each individual and approved for use by the individual involved.

NRC–3

SYSTEM NAME:

Enforcement Actions Against Individuals—NRC.

SYSTEM LOCATION:

Primary system—Office of Enforcement, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems may exist, in whole or in part, at the NRC Regional Offices at the locations listed in Addendum I, Part 2, and in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in NRC-licensed activities who have been subject to NRC Enforcement Actions or who have been the subject of correspondence indicating that they are being, or have been, considered for enforcement action.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes, but is not limited to, individual enforcement actions, including Orders, Notices of Violations with and without Civil Penalties, Orders Imposing Civil Penalties, Letters of Reprimand, Demands for Information, and letters to individuals who are being considered for enforcement action or have been considered. Also included are responses to these actions and letters. In addition, the files may contain other relevant documents directly related to those actions and letters that have been issued. Files are arranged numerically by Individual Action (IA) number, which is assigned as individual enforcement actions are issued. In instances where only letters are issued, these letters also receive IA numbers. The system includes a computerized database from which information is retrieved by names of the individuals subject to the action and IA numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2114, 2167, 2201(i), and 2282 (1994–1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To respond to general information requests from the Congress;

b. To deter future violations, certain information in this system of records may be routinely disseminated to the public by means such as publishing in the **Federal Register** certain enforcement actions issued to individuals; making the information available at the NRC Web Site and/or NRC Public Document Room; and listing all individuals currently subject to an order that affects their participation in licensed activities in NUREG–0940, Part I, ''Enforcement Actions: Significant Actions Resolved, Individual Actions'' published semiannually. Copies of NUREG–0940, Part I, are sent to all power reactor licensees and major materials licensees, and are made available to other licensees and the general public on request;

c. When considered appropriate for disciplinary purposes, information in this system of records, such as enforcement actions and hearing proceedings, may be disclosed to a bar association, or other professional organization performing similar functions, including certification of individuals licensed by NRC or Agreement States to perform specified licensing activity;

d. Where appropriate to ensure the public health and safety, information in this system of records, such as enforcement actions and hearing proceedings, may be disclosed to a Federal or State agency with licensing jurisdiction;

e. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906; and

f. For the routine uses specified in paragraphs 1, 2, 3, 4, and 5 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders, on computer printouts, and on computer media.

RETRIEVABILITY:

Records are accessed by individual action file number or by the name of the individual.

SAFEGUARDS:

Records are maintained in lockable file cabinets or computer databases. Access to and use of these records is limited to those NRC employees whose official duties require access. Access to automated records requires use of proper password and user identification codes. Paper files are under visual control during duty hours.

RETENTION AND DISPOSAL:

Enforcement Action Case Files and related indexes are currently unscheduled and must be retained until a records disposition schedule for this material is approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure.''

RECORD SOURCE CATEGORIES:

Information in the records is primarily obtained from NRC inspectors and investigators and other NRC employees, individuals to whom a record pertains, authorized representatives for these individuals, and NRC licensees, vendors, other individuals regulated by the NRC, and persons making allegations to the NRC.

NRC–4

SYSTEM NAME:

Conflict of Interest Files—NRC.

SYSTEM LOCATION:

Primary system—Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are employees, special Government employees, former employees, advisory committee members, and consultants of NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to:

a. General biographical data (i.e., name, birth date, home address, position title, home and business telephone numbers, citizenship, educational history, employment history, professional society memberships, honors, fellowships received, publications, licenses, and special qualifications);

b. Financial status (i.e., nature of financial interests and in whose name held, creditors, character of indebtedness, interest in real property, monthly U.S. Civil Service Annuity, and status as Uniformed Services Retired Officer);

c. Certifications by employees that they and members of their families are in compliance with the Commission's stock ownership regulations;

d. Requests for approval of outside employment by NRC employees and NRC responses thereto;

e. Advice and determinations (i.e., no conflict or apparent conflict of interest, questions requiring resolution, steps taken toward resolution); and

f. Information pertaining to appointment (i.e., proposed period of NRC service, estimated number of days of NRC employment during period of service, proposed pay, clearance status, description of services to be performed and explanation of need for the services, justification for proposed pay, description of expenses to be reimbursed and dollar limitation, and description of Government-owned property to be in possession of appointee).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 CFR 2634–2640, 5801 (2000): 18 U.S.C. 201–209 (1999); Executive Order 12731 (October 17, 1990); Ethics in Government Act of 1978; as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide the Department of Justice, Office of Personnel Management, Office of Government Ethics, Office of Special Counsel, and/or Merit Systems Protection Board with information concerning an employee in instances where this office has reason to believe a Federal law may have been violated or where this office desires the advice of the Department, Office, or Board concerning potential violations of Federal law; and b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Paper records are maintained in file folders. Records are also maintained on computer media.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Records are maintained in locked file cabinets and in computer files that can only be accessed by the appropriate personnel.

RETENTION AND DISPOSAL:

Records are destroyed when 6 years old; except that documents needed in an ongoing investigation will be retained until no longer needed in the investigation. Computer files are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel for Legal Counsel, Legislation, and Special Projects, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies, or is derived from information he or she supplied, or comes from the office to which the individual is to be assigned, other NRC offices, or other persons such as attorneys.

NRC–5

SYSTEM NAME:

Contracts Records Files—NRC.

SYSTEM LOCATION:

Primary system—Division of Contracts and Property Management, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees substantially involved with contracting, such as Project Officers and Procurement Officials. Persons who are employed as NRC contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain personal information (such as technical qualifications, education, rates of pay, employment history) of contractors and their employees, and other contracting records. They also contain evaluations, recommendations, and reports of NRC procurement officials, assessment of contractor performance, Invoice Tracking Systems, and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3301; 42 U.S.C. 205, et al.; 31 U.S.C. 3511; 48 CFR Subpart 4.8; 41 CFR Chapter 201, Subchapter B, Parts 1–20; NRC Management Directive 3.53, Records Management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to the Federal Procurement Data Center, Department of Health and Human Services, Defense Contract Audit Agency, General Accounting Office, and other Federal agencies for audits and reviews; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and computer media.

RETRIEVABILITY:

Paper records are accessed by contract number, taxpayer identification number (TIN) and purchase order number; and are cross-referenced to the automated system that contains the name of the contractor, vendor, project officer, procurement official, or contract manager.

SAFEGUARDS:

Maintained in unlocked conserver files. Access to and use of these records are limited to those persons whose official duties require such access. Computer files are password protected.

RETENTION AND DISPOSAL:

Records for transactions of more than $25,000 are destroyed 6 years and 3 months after final payment. Transactions of $25,000 or less are destroyed 3 years after final payment. Records are destroyed through regular trash disposal system, except for confidential business (proprietary) information which is destroyed by shredding. Electronic records in the Contracts System are retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Contracts and Property Management, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal confidential business (proprietary) information.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the contractor or potential contractor or NRC employee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–6

SYSTEM NAME:

Discrimination Cases—NRC.

SYSTEM LOCATION:

Primary system—Office of Enforcement, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, and in enforcement coordinators' offices at NRC Regional Offices at the addresses listed on Addendum I, Part 2. The duplicate systems in the Regional Offices would ordinarily be limited to the cases filed in each Region.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints with the Department of Labor (DOL) concerning alleged acts of discrimination in violation of section 211 of the Energy Reorganization Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files arranged alphabetically by name to track complaints filed by individuals with DOL under section 211 of the Energy Reorganization Act. These files include documents related to, and provided by, the DOL including copies of complaints, correspondence between the parties, and decisions by the Regional Administrators of DOL's Occupational, Safety, and Health Administration, Administrative Law Judges, and the Administrative Review Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201, 2282; 42 U.S.C. 5851 (1994–1996); 10 CFR 30.7, 40.7, 50.7, 60.9, 61.9, 70.7, and 72.10 (2000).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in this system is stored in hard copy and on computer media.

RETRIEVABILITY:

Information is retrieved by the name of the individual who has filed a complaint with DOL.

SAFEGUARDS:

The files are maintained in an area for which access is controlled by keycard and limited to those with a need for access to the work area, and in a building to which access is controlled by a security guard force. These files are under visual control during duty hours. After duty hours, access to the building is controlled by a security guard force and access to each floor is controlled by keycard.

RETENTION AND DISPOSAL:

Discrimination Case Files are currently unscheduled and must be retained until a records disposition schedule for this material is approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedure.'' Information received from the Department of Labor is treated by DOL as public information and subject to disclosure under applicable laws.

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure.''

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, attorneys for these individuals, union representatives serving as advisors to these individuals, NRC licensees, NRC, and DOL.

NRC–7

SYSTEM NAME:

Telephone Call Detail Records—NRC.

SYSTEM LOCATION:

Office of the Chief Information Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals utilizing NRC telephones, including current and former NRC employees and contractors who make local or long-distance telephone calls and individuals who received telephone calls placed from NRC telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to use of the agency telephones to place local or long-distance calls, records indicating assignment of telephone numbers to employees, and records relating to the location of telephones.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 *et seq.*; 41 CFR 101–35.1, Use of Government Telephones; 41 CFR 101, Subchapter B, Management and Use of Information and Records; NRC Management Directive 3.53, Records Management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information ln these records may be used:

a. By individual employees of the agency to determine their individual responsibility for telephone calls; and

b. For the routine uses specified in paragraphs 1, 3, 5, and 6 of the Prefatory Statement.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures under 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 (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)(1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper files and on computer media.

RETRIEVABILITY:

Accessed by name, office, or telephone number.

SAFEGUARDS:

Maintained in locking file cabinets or locked rooms. Computer files are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records pertaining to employee phone use must be retained until scheduled under General Records Schedule 12–4, ''Telephone Use Records.'' Records pertaining to the location of telephone equipment, equipment requests, and phone service are destroyed when 3 years old. Records contained in the Telephone Directory System are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Information Technology Infrastructure Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Telephone assignment calls, call detail listings, NRC Form 15 ''Employee Locator Form,'' results of administrative inquiries relating to assignment of responsibility for placement of specific telephone calls, and certification of telephone bills.

NRC–8

SYSTEM NAME:

Employee Appeals, Grievances, and Complaints Records—NRC.

SYSTEM LOCATION:

Primary system—Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment, current and former NRC employees, and annuitants who have filed written complaints brought to the Office of Human Resource's attention or initiated grievances or appeal proceedings as a result of a determination made by the NRC, Office of Personnel Management, and/or Merit Systems Protection Board, or a Board or other entity established to adjudicate such grievances and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes all documents related to disciplinary actions, adverse actions, appeals, complaints, grievances, arbitrations, and negative determinations regarding within-grade salary increases. It contains information relating to determinations affecting individuals made by the NRC, Office of Personnel Management, Merit Systems Protection Board, arbitrators or courts of law. The records consist of the initial appeal or complaint, letters or notices to the individual, records of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimony of witnesses, investigative reports, instructions to an NRC office or division concerning action to be taken to comply with decisions, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3591 *et seq.*, 4303 *et seq.*, 7501 *et seq.* (1994); 42 U.S.C. 2201(d) (1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information to the Office of Personnel Management and/or Merit Systems Protection Board under applicable requirements related to grievances and appeals;

b. To provide appropriate data to union representatives and third parties (that may include the Federal Services Impasses Panel and Federal Labor Relations Authority) in connection with grievances, arbitration actions, and appeals; and

c. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, binders, index cards, floppy

disks, and a password-protected automated system.

RETRIEVABILITY:

These records are indexed annually by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Maintained in locked file cabinets and in a password-protected automated system available only to Labor Relations personnel. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records related to grievances, appeals, and adverse actions are destroyed seven years after the cases are closed, index cards are destroyed or deleted with the related records or sooner, if no longer needed, and computer files are destroyed after the period authorized for the related hard copy files or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Organization and Labor Relations, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, NRC, Office of Personnel Management and/or Merit Systems Protection Board officials; affidavits or statements from employees, union representatives, or other persons; testimony of witnesses; official documents relating to the appeal, grievance, or complaint; Official Personnel Folder; and other Federal agencies.

NRC–9

SYSTEM NAME:

Equal Employment Opportunity Discrimination Complaint Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Small Business and Civil Rights, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment and current and former NRC employees who have initiated EEO counseling and/or filed a complaint of discrimination with the Office of Small Business and Civil Rights.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains copies of written reports by counselors; the investigative file; administrative files including documentation of withdrawn and/or dismissed complaints; complainant's name, title, and grade; kind of discrimination alleged; description of action, decision, condition giving rise to the complaint and settlement agreements; description of remedial action; description of disciplinary action, if any; request for a hearing; procedural information regarding Alternative Dispute Resolution (ADR); record of hearing examiner's findings, analysis, and recommended decision; record of appeals examiner's finding, analysis, and recommended decision; final agency decision and notice of intent to file in Federal District Court, if any, and Federal court decisions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 206(d), as amended (1996); 29 U.S.C. 633a, as amended (1995); 29 U.S.C. 794(a) (1978); 42 U.S.C. 2000e–16, as amended (1998); 42 U.S.C. 5891 (1974); Executive Orders 11246, September 24, 1965; 11375, August 8, 1967; and 12086, October 5, 1978; 29 CFR part 1614 (1999); 10 CFR part 4 (2000).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information related to discrimination complaints to the Equal Employment Opportunity Commission and the Office of Personnel Management and/or Merit Systems Protection Board under applicable requirements; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, binders, and on computer media.

RETRIEVABILITY:

Accessed by name and docket number.

SAFEGUARDS:

Paper records are maintained in locked file cabinets. Computer records are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Official Discrimination Complaint Case Files are destroyed four years after the resolution of the case. Computer files are destroyed after the period authorized for the related hard copy files or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Small Business and Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, counselors, mediators, NRC, the Equal Employment Opportunity Commission, the Office of Personnel Management and/or Merit Systems Protection Board officials, affidavits or statements from employees, testimony of witnesses, and official documents relating to the complaints.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552(c)(3), (d), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–10

SYSTEM NAME:

Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC.

SYSTEM LOCATION:

Primary system—Freedom of Information/Privacy Act Section, Information Management Division, Office of the Chief Information Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have made FOIA or PA requests for NRC records.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains copies of the written requests from individuals or organizations made under the FOIA or PA, the NRC response letters, and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 552a (2000); 42 U.S.C. 2201 (1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. If an appeal or court suit is filed with respect to any records denied;

b. For preparation of reports required by 5 U.S.C. 552 and 5 U.S.C. 552a; and

c. For any of the routine uses specified in the Prefatory Statement. Some of the FOIA records are placed in the NRC Public Document Room and/or made available to the public on the NRC Web site, *http://www.nrc.gov*.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on microfiche, and in electronic computer readable form.

RETRIEVABILITY:

Accessed by unique assigned number for each request and by requester's name.

SAFEGUARDS:

Records are maintained in locked file cabinets that are kept in locked rooms. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained in hard copy or electronic record format for 2 years from date of reply if the request is granted, 6 years if denied, and 6 years from date of final determination, if appealed. The FOIA official files are on paper and in electronic form. FOIA/PA records are disposed of by placement in receptacles designated for classified and sensitive unclassified waste.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Information Services Branch, Information Management Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Requests are made by individuals or other requesters. The response to the request is based upon information contained in NRC records.

NRC–11

SYSTEM NAME:

General Personnel Records (Official Personnel Folder and Related Records)—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters and all Senior Executive Service (SES) personnel, Office of Human Resources, NRC, One and Two White Flint North, 11555 and 11545 Rockville Pike, Rockville, Maryland. For Regional personnel, at Regional Offices I–IV listed in Addendum I, Part 2.

Duplicate systems—Duplicate systems exist, in whole or in part at the locations listed in Addendum I, Parts 1 and 2 , and at the National Institutes of Health Computer Facility, Bethesda, Maryland. The duplicate systems maintained in a particular office, division, or branch may contain information of specific applicability to employees in that organization in addition to that information contained in the primary system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current NRC employees and those formerly employed by the NRC (and terminated through death, resignation, retirement, or separation).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain Personal Qualifications Statement (SF–171) and related documents such as information about an individual's birth date, social security number, veteran preference status, tenure, physical handicaps, past and present salaries, grades, position titles, training, test performances, minority group designator, life insurance, health benefits, beneficiaries, academic letters of recommendation, probationary period appraisals, and awards. This system also contains notification of personnel action (SF–50) and documents supporting the action taken, letters of commendation and reprimand, employee suggestion and evaluation of suggestion forms, documentation of charges and decisions on charges, medical records related to initial appointment, notices of reductions-in-force, and locator files. Some duplicate records may contain office-specific applications, personnel qualification statements (SF–171), resumes, conflict of interest correspondence, and other related personnel records in addition to those contained in the primary system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901 (1996); 42 U.S.C. 290dd–2; 42 U.S.C. 290ee–1 (2000); 42 U.S.C. 2201(d) (1996); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and/or Merit Systems Protection Board for making a decision when an NRC employee or former NRC employee questions the validity of a specific document in an individual's record;

b. To provide information to a prospective employer of a Government employee. Upon transfer of the employee to another Federal agency, the

information is transferred to such agency;

c. To update monthly the Office of Personnel Management systems concerning the Central Personnel Data File (CPDF), the Executive Inventory File, and security investigations index hires, and to update adverse actions and terminations records of the Merit Systems Protection Board;

d. To provide statistical reports to Congress, agencies, and the public on characteristics of the Federal work force;

e. To provide information to the Office of Personnel Management and/or Merit Systems Protection Board for review and audit purposes;

f. To provide members of the public with the names, position titles, grades, salaries, appointments (temporary or permanent), and duty stations of employees;

g. For medical records, to provide information to the Public Health Service in connection with Health Maintenance Examinations and to other Federal agencies responsible for Federal benefit programs administered by the Department of Labor (Office of Workmen's Compensation Programs) and the Office of Personnel Management; and

h. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, and computer media.

RETRIEVABILITY:

Records are indexed by any combination of name, birth date, social security number, or identification number.

SAFEGUARDS:

Official Personnel Folders are maintained in locking cabinets and related documents may be in unlocked file cabinets or an electromechanical file organizer. Access to and use of these records are limited to those persons whose official duties require such access. Computer files are password protected.

RETENTION AND DISPOSAL:

The Official Personnel Folder is sent to the next Federal employing office if the employee transfers, or to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal service. Correspondence and forms maintained on the left side of the Official Personnel Folder, such as letters of reprimand, indebtedness, and vouchers, are temporary records and are maintained for the periods of time specified in *The Guide to Personnel Recordkeeping*. Computer records are retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

For Headquarters and all NRC SES employees—Chief, Human Resources Services and Operations Programs, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For Region I–IV non-SES employees—The appropriate Regional Personnel Officer at the locations listed in Addendum I, Part 2.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies; is derived from information supplied by that individual; or is provided by agency officials, other Federal agencies, universities, other academic institutions, or persons, including references, private and Federal physicians, and medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5) and (6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(l), (e)(4)(G), (H), and (1), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–12 (Revoked.)
NRC–13

SYSTEM NAME:

Incentive Awards Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Human Resources, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees who merit special recognition for achievements either within or outside the employee's job responsibilities and for length of service to the Government. Awards include both NRC awards and awards of other agencies and organizations for which NRC employees are eligible.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains employee's name, title, office, grade, and salary; justification to support recommendation and authorization for cash award; monetary amount of cash award; actions by approving officials; record of individuals receiving awards; suggestions and evaluations of suggestions; citation to be used; and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4501–4513, 5336 (1994–2000).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management to process and approve nominations or awards;

b. By the Office of the Attorney General and the President of the United States in reviewing recommended awards;

c. To make reports to the Office of Personnel Management and/or Merit Systems Protection Board;

d. By other Government agencies to recommend whether suggestions should be adopted in instances where the suggestion made by an NRC employee affects the functions or responsibilities of the agencies; and

e. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and computer media.

RETRIEVABILITY:

Information is accessed by name, type of award, office, and year of award.

SAFEGUARDS:

Maintained in locking file cabinets and in a password-protected computer

system. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Records relating to meritorious and distinguished service awards made at the Commission level, excluding those in the Official Personnel Folder, are permanent;

b. Case files pertaining to NRC-sponsored awards, excluding those for departmental-level awards, are destroyed 2 years after approval or disapproval;

c. Correspondence pertaining to awards from other Federal agencies or non-Federal organizations are destroyed when 2 years old;

d. Length of service files are destroyed when 1 year old;

e. Letters of commendation and appreciation, excluding copies filed in the Official Personnel Folder, are destroyed when 2 years old;

f. Lists and indexes to agency award nominations are destroyed when superseded or obsolete; and

g. Computer files are continually updated and information deleted when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Human Resources Services and Operations, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC employees, other agencies and organizations, and Official Personnel Folders.

NRC–14

SYSTEM NAME:

Employee Assistance Program Files—NRC.

SYSTEM LOCATION:

Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees or family members who have been counseled by or referred to the Employee Assistance Program (EAP) for problems relating to alcoholism, drug abuse, job stress, chronic illness, family or relationship concerns, and emotional and other similar issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of NRC employees or their families who have participated in the Employee Assistance Program and the results of any counseling or referrals which may have taken place. The records contain information as to the nature of each individual's problem, subsequent treatment, and progress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 290dd–1 and 290dd–2 (2000).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For statistical reporting purposes; and

b. Any disclosure of information pertaining to an individual will be made in compliance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulation, 42 CFR part 2, as authorized by 21 U.S.C. 1175 and 42 U.S.C. 4582, as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Information accessed by the EAP identification number and name of the individual.

SAFEGUARDS:

Files are maintained in a safe under the immediate control of the Employee Assistance Program Manager.

RETENTION AND DISPOSAL:

Employee counseling files are destroyed 3 years after termination of counseling. Information contained in the related statistical database is destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Employee Assistance Program, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information compiled by the Manager, Employee Assistance Program, during the course of counseling with an NRC employee or members of the employee's family.

NRC–15

SYSTEM NAME:

NRC Employees on Standards Developing Bodies Files—NRC.

SYSTEM LOCATION:

Office of Nuclear Regulatory Research, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who participate on standards developing bodies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include name of each NRC employee on a standards developing body, name of standards developing body, name of employee's NRC office, and specified term of employee on standards body.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(b) (1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to persons or agencies requesting this information;

b. To satisfy the provision in OMB Circular A–119 for an agency-wide directory of employee participation on standards developing bodies; and

c. For the routine use specified in paragraph number 5 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer disks for desktop computer and as computer printouts.

RETRIEVABILITY:

Records are indexed by the employee's name, employee's office and standards body.

SAFEGUARDS:

Computer disks and computer printouts are maintained in an unlocked file cabinet.

RETENTION AND DISPOSAL:

Individual records are incorporated into system as received. Information is retained until the employee is no longer a member of the standards body or is no longer an NRC employee. Computer records are destroyed by computer deletion and paper copies are destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

NRC Standards Executive, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the Director, Office of Nuclear Regulatory Research (RES), the employee to whom it applies, or from his or her supervisor.

NRC–16

SYSTEM NAME:

Facility Operator Licensees Record Files (10 CFR Part 55)—NRC.

SYSTEM LOCATION:

Primary system—For power reactors, at the appropriate Regional Office at the address listed in Addendum I, Part 2; for nonpower reactor facilities at the Operator Licensing and Human Performance Section, Operator Licensing, Human Performance and Plant Support Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, in the Operator Licensing and Human Performance Section, Operator Licensing, Human Performance and Plant Support Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation, NRC, 11555 Rockville Pike, Rockville, Maryland and at the National Institutes of Health Computer Facility in Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals licensed under 10 CFR part 55, new applicants whose applications are being processed, and individuals whose licenses have expired.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information pertaining to 10 CFR part 55 applicants for a license, licensed operators, and individuals who previously held licenses. This includes applications for a license, license and denial letters, and related correspondence; correspondence relating to actions taken against a licensee; 10 CFR 50.74 notifications; certification of medical examination and related medical information; fitness for duty information; examination results and other docket information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2137 and 2201(i) (1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To determine if the individual meets the requirements of 10 CFR part 55 to take an examination or to be issued an operator's license;

b. To provide researchers with information for reports and statistical evaluations related to selection, training, and examination of facility operators;

c. To provide for examination and testing material and obtain results from contractors;

d. To provide facility management with sufficient information to enroll the individuals in the licensed operator requalification program; and

e. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper logs, paper in file folders, and computer media.

RETRIEVABILITY:

Records are accessed by name and docket number.

SAFEGUARDS:

Maintained in locked file cabinets or an area that is locked. Computer access requires password. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Reactor Operator Licensees Records: When case files have been inactive (*i.e.*, after latest license expiration/termination/revocation, application denial or withdrawal, or issuance of denial letter), retired after 3 years to the Federal Records Center; and destroyed after 10 years.

b. Operator Licensing Tracking System: Retained as long as system is operational. Destroyed 2 years after system terminates.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Operator Licensing and Human Performance Section, Operator Licensing, Human Performance and Plant Support Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual applying for a license, the Part 50 licensee, a licensed physician, members of the Operator Licensing and Human Performance Section, Operator Licensing, Human Performance and Plant Support Branch or Regional Operator licensing branches, and other NRC and contractor personnel.

NRC–17

SYSTEM NAME:

Occupational Injuries and Illness Records—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who report an occupational injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information regarding the location and descriptions of the injury or illness, treatment, and disposition as well as copies of Workman's Compensation claim forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902 (1996); 29 U.S.C. 657(c) (1994); Executive Orders 12196, February 26, 1980; 12223, June 30, 1980; 12608, September 9, 1987.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Agency Safety and Health Officer and/or the Chief, Human Resources Services and Operations, Office of Human Resources, to prepare periodic statistical reports on employees' health and injury status for transmission to and review by the Department of Labor;

b. For transmittal to the Secretary of Labor or an authorized representative under duly promulgated regulations;

c. For transmittal to the Office of Personnel Management and/or Merit Systems Protection Board as required to support individual claims; and

d. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Indexed by assigned employee case number or name under report category.

SAFEGUARDS:

Maintained in locked file cabinet under visual control of section employees. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Employee case files are destroyed when 5 years old. Computer files are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC Public Health Unit; NRC Headquarters and Regional Office feeder reports; and forms with original information largely supplied by employees concerned, supervisors, witnesses, medical personnel, etc.

NRC–18

SYSTEM NAME:

Office of the Inspector General (OIG) Investigative Records—NRC.

SYSTEM LOCATION:

Office of the Inspector General, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities referred to in complaints or actual investigative cases, reports, accompanying documents, and correspondence prepared by, compiled by, or referred to the OIG.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system comprises four parts: (1) An automated Text Management System containing reports of investigations and inspections closed since 1989 and brief descriptions of investigative cases open and pending in the OIG since 1989 that have not yet resulted, but will result, in investigative or inspection reports; (2) paper files of all OIG and predecessor Office of Inspector and Auditor (OIA) reports, correspondence, cases, matters, memoranda, materials, legal papers, evidence, exhibits, data, and work papers pertaining to all closed and pending investigations and inspections; (3) paper index card files of OIG and OIA cases closed from 1970 through 1989; and (4) an automated Allegations Tracking System that includes allegations referred to the OIG after 1985, whether or not the allegation progressed to an investigation or inspection, and dates that the investigation or inspection, if any, was opened and closed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, as amended, 5 U.S.C. App. 3 (2000); 42 U.S.C. 2035(c), 2201(c), and 5841(f) (1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, OIG may disclose information contained in a record in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To any Federal, State, local, tribal, or foreign agency, or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity when records from this system of records, either by themselves or in combination with any other information, indicate a violation or potential violation of law, whether administrative, civil, criminal, or regulatory in nature.

b. To public or private sources to the extent necessary to obtain information from those sources relevant to an OIG investigation, audit, inspection, or other inquiry.

c. To a Federal, State, local, tribal, or foreign agency, or a public authority or professional organization if necessary to obtain information relevant to a decision by NRC or the requesting organization concerning the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit, or other personnel action related to the record subject.

d. To a court, adjudicative body before which NRC is authorized to appear, Federal agency, individual or entity designated by NRC or otherwise empowered to resolve disputes, counsel or other representative, or witness or potential witness when it is relevant and necessary to the litigation if any of the parties listed below is involved in the litigation or has an interest in the litigation:

1. NRC, or any component of NRC;

2. Any employee of NRC where the NRC or the Department of Justice has agreed to represent the employee; or

3. The United States, where NRC determines that the litigation is likely to affect the NRC or any of its components.

e. To a private firm or other entity that OIG or NRC contemplates it will contract or has contracted for the purpose of performing any functions or analyses that facilitate or are relevant to an investigation, audit, inspection, inquiry, or other activity related to this system of records. The contractor, private firm, or entity needing access to the records to perform the activity shall maintain Privacy Act safeguards with respect to information. A contractor, private firm, or entity operating a system of records under 5 U.S.C. 552a(m) shall comply with the Privacy Act.

f. To another agency to the extent necessary for obtaining its advice on any matter relevant to an OIG investigation, audit, inspection, or other inquiry related to the responsibilities of the OIG.

g. To a member of Congress or to a congressional staff member in response to his or her inquiry made at the written request of the subject individual.

h. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure Pursuant to 5 U.S.C. 552a(b)(12):

Disclosure of information to a consumer reporting agency is not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Information contained in this system is stored manually on index cards, in files, and in various ADP storage media.

RETRIEVABILITY:

Information is retrieved from the Text Management System alphabetically by the name of an individual, by case number, or by subject matter. Information in the paper files backing up the Text Management System and older cases closed by 1989 is retrieved by subject matter and/or case number, not by individual identifier. Information is retrieved from index card files for cases closed before 1989 by the name or numerical identifier of the individual or entity under investigation or by subject matter. Information in the Allegations Tracking System is retrieved by allegation number, case number, or name.

SAFEGUARDS:

The automated Text Management System is accessible only on one terminal in the OIG, is password protected, and is accessible only to OIG investigative personnel. Paper files backing up the Text Management System and older case reports and work papers are maintained in approved security containers and locked filing cabinets in a locked room; associated indices, records, diskettes, tapes, etc., are stored in locked metal filing cabinets, safes, storage rooms, or similar secure facilities. Index card files for older cases (1970–1989) are under visual control during working hours and are available only to authorized investigative personnel who have a need to know and whose duties require access to the information. The Allegations Tracking System is double-password-protected and is available to only two OIG investigative employees on only one terminal.

RETENTION AND DISPOSAL:

a. Investigative Case Files:

1. Files containing information or allegations that are of an investigative nature but do not relate to a specific investigation—Destroy when 5 years old.

2. All other investigative files, except those that are unusually significant—Place in inactive file when case is closed. Cut off inactive file at end of fiscal year. Destroy 10 years after cutoff.

3. Significant cases (those that result in national media attention, congressional investigation, or substantive changes in agency policy or procedures). PERMANENT. Cut off closed cases annually. Transfer to National Archives of the United States 20 years after cut off.

b. Index/Indices. Destroy or delete with the related records or sooner if no longer needed.

c. Text Management System. Delete after 10 years or when no longer needed, whichever is later.

d. Allegation Tracking System. Destroy when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.'' Information classified under Executive Order 12356 will not be disclosed. Information received in confidence will be maintained under the Inspector General Act, 5 U.S.C. App. 3, and the Commission's Policy Statement on Confidentiality, Management Directive 8.8, ''Management of Allegations.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, the individual record subject; NRC officials and employees; employees of Federal, State, local, and foreign agencies; and other persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under 5 U.S.C. 552a(j)(2), the Commission has exempted this system of records from subsections (c)(3) and (4), (d)(1)–(4), (e)(1)–(3), (5), and (8), and (g) of the Act. This exemption applies to information in the system that relates to criminal law enforcement and meets the criteria of the (j)(2) exemption. Under 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–19

SYSTEM NAME:

Official Personnel Training Records Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for or were selected for either NRC or other Government/non-Government training courses or programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the individual's educational background and training courses, including applications for training, training requests, authorizations for training, evaluations, and other related personnel information (including, but not limited to, name, address, telephone number (home and office), social security number, position title, and grade) and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3396 (1994); 5 U.S.C. 4103 (2000); Executive Order 9397, November 22, 1943; Executive Order 11348, April 20, 1967, as amended by Executive Order 12107, December 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be:

a. Extracted from the records and made available to the Office of Personnel Management; other Federal, State, and local Government agencies; and educational institutions for use in training programs related to NRC employees; and

b. Disclosed for the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Official forms are maintained on paper in file folders; computerized training data is maintained in the Automated Training System. The original training request and completion certifications are filed in the Official Personnel Folder (NRC–11).

RETRIEVABILITY:

Information is accessed by name, or social security number, or course number.

SAFEGUARDS:

Paper is maintained in locked file cabinets. Access to and use of these records is limited to those persons whose official duties require such access. Records are also maintained in a password-protected computer system.

RETENTION AND DISPOSAL:

Paper forms are retained for 5 years, then destroyed by shredding. Information in the ADP training file is maintained until no longer needed for statistical and historical reference.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Human Resources Development, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom it applies, the employee's supervisor, and training groups, agencies, or educational institutions and learning activities.

NRC–20

SYSTEM NAME:

Official Travel Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Accounting and Finance, Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, prospective NRC employees, consultants, and invitational travelers for NRC programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain Request and Authorization for Official Travel forms and Travel Vouchers which include individual's name and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701 (2000); 31 U.S.C. 1104, 1108, 3511, 716, 3512, 3701, 3711, 3717, 3718 (1996–2000); Federal Travel Regulations, 41 CFR parts 301–304; Federal Property Management Regulations, 41 CFR part 101–71; Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For transmittal to the U.S. Treasury for payment;

b. For transmittal to the Department of State or an embassy for passports or visas; and

c. For any of the routine uses specified in the Prefatory Statement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure Pursuant to 5 U.S.C. 552a(b)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders, on computer media, and on magnetic tape.

RETRIEVABILITY:

Records are accessed by name, social security number, authorization number, and voucher payment schedule number.

SAFEGUARDS:

Maintained in locked file cabinets in same room as users. For ADP records, an identification number, a password, and assigned access to specific programs are required in order to retrieve information.

RETENTION AND DISPOSAL:

Paper records are retained for 6 years and 3 months after period covered by account, then destroyed through regular trash disposal system. Electronic records are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Travel Management Branch, Division of Accounting and Finance, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information is provided by the individual, the organizational component approving the travel, outside transportation agents, and rate books for cost information.

NRC–21

SYSTEM NAME:

Payroll Accounting Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Accounting and Finance, Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, special Government Employees, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pay, leave, and allowance histories, which includes, but is not limited to, an individual's name and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 104–193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996; 5 U.S.C. 6334 (1996); 31 U.S.C. 716, 1104, 1108, 1114, 3325, 3511, 3512, 3701, 3711, 3717, 3718 (1996–2000); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. For transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and consultants and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes including the withholding and reporting of Thrift Savings Plan deductions to the Department of Agriculture's National Finance Center;

b. For reporting tax withholding to Internal Revenue Service and appropriate State and local taxing authorities;

c. For FICA deductions to the Social Security Administration;

d. For dues deductions to labor unions;

e. For withholding for health insurance to the insurance carriers and the Office of Personnel Management;

f. For charity contribution deductions to agents of charitable institutions;

g. For annual W–2 statements to taxing authorities and the individual;

h. For transmittal to the Office of Management and Budget for review of budget requests;

i. For withholding and reporting of retirement, re-employed annuitants, and life insurance information to the Office of Personnel Management;

j. For transmittal of information to State agencies for unemployment purposes;

k. For transmittal to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System and Federal Tax Offset System for use in locating individuals and identifying their income sources to establish paternity, establish and modify orders of support, and for enforcement action;

l. For transmittal to the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement;

m. For transmittal to the Office of Child Support Enforcement for release to the Department of Treasury for purpose of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return;

n. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906; and

o. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in computerized form, on microfiche, and in paper copy. Computerized form includes information stored in memory, on disk and magnetic tape, and on computer printouts.

RETRIEVABILITY:

Information is accessed by name and social security number.

SAFEGUARDS:

Records in the primary system of records are maintained in buildings where access is controlled by a security guard force. File folders, microfiche, tapes, and disks, including backup data, are maintained in secured locked rooms after working hours. All records are in areas where access is controlled by keycard and is limited to NRC and contractor personnel and to others who need the information to perform their official duties. Access to computerized records requires use of proper passwords and user identification codes.

RETENTION AND DISPOSAL:

a. Individual employee pay record for each employee and consultant maintained in the electronic PAY/PERS system is updated as required under General Records Schedule (GRS) 2–1.a.

b. Individual employee pay records containing pay data on each employee and consultant maintained in the Annual and Quarterly Employee History Records on microfiche are transferred to the National Personnel Records Center and destroyed when 56 years old.

c. Copies of non-current payroll data maintained on microfiche are destroyed 15 years after close of pay year in which generated under GRS 2–2.

d. Employee and Consultant Payroll Records:

1. U.S. savings bond authorizations are destroyed when superseded or after separation of employee under GRS 2–14.a.

2. Combined Federal Campaign allotment authorizations are destroyed after Government Accounting Office (GAO) audit or when 3 years old, whichever is sooner, under GRS 2–15.a.

3. Union dues and savings allotment authorizations are destroyed after GAO audit or when 3 years old, whichever is sooner, under GRS 2–15.b.

4. Payroll Change Files consisting of records used to change or correct an individual's pay transaction are destroyed after GAO audit or when 3 years old, whichever is sooner, under GRS 2–23.a.

5. Tax Files consisting of State and Federal withholding tax exemption certificates, such as Internal Revenue Service (IRS) Form W–4 and the equivalent State form are destroyed 4 years after the form is superseded or obsolete or upon separation of employee under GRS 2–13.a.

6. Agency copy of employee wages and tax statements, such as IRS Form W–2 and State equivalents, are destroyed when 4 years old under GRS 2–13.b.

7. Leave record prepared upon transfer or separation of employee maintained in the Payroll office is destroyed when 3 years old under GRS 2–9.b.

e. Time and attendance source records maintained by Time and Attendance clerks and certifying officials are destroyed after GAO audit or when 6 years old, whichever is sooner, under GRS 2–7.

f. Electronic time and attendance input records maintained in the PAY/PERS system are destroyed after GAO audit or when 6 years old, whichever is sooner, under GRS 2–8.

g. Payroll system reports providing fiscal information on agency payroll consisting of hardcopy and microfiche reports generated by the PAY/PERS system are destroyed when 3 years old, excluding the long-term Employee History Reports, under GRS 2–22.c.

h. Payroll system reports serving as error reports, ticklers, system operation reports are destroyed when related actions are completed or when no longer needed, not to exceed 2 years, under GRS 2–22.a.

i. Official notice of levy or garnishment (IRS Form 668A or equivalent), change slip, work papers, correspondence, release and other forms, and other records relating to charge against retirement funds or attachment of salary for payment of back income taxes or other debts of Federal employees are destroyed 3 years after garnishment is terminated under GRS 2–18.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Operations Branch, Division of Accounting and Finance, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedure'' and comply with NRC's Privacy Act regulations regarding verification of identity contained in 10 CFR part 9.

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure'' and comply with NRC's Privacy Act regulations regarding verification of identity contained in 10 CFR part 9.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from sources, including but not limited to the individual to whom it pertains, the Office of Human Resources and other NRC officials, and other agencies and entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–22

SYSTEM NAME:

Personnel Performance Appraisals—NRC.

SYSTEM LOCATION:

Primary system—Part A: For Headquarters personnel, Office of Human Resources, NRC, 11545 and 11555 Rockville Pike, Rockville, Maryland. For Regional personnel, at Regional Offices I–IV listed in Addendum I, Part 2.

Part B: Office of Human Resources, NRC, 11545 and 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems: Duplicate systems exist in whole or in part at the locations listed in Addendum I, except for Part B, which is stored only at Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees other than contractor employees, Commissioners, or temporary personnel employed for less than 1 year.

Part A: Senior Level System employees, GG–1 through GG–15 employees, hourly wage employees, scientific and technical schedule employees, and administratively determined rate employees.

Part B: Senior Executive Service and equivalent employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains performance appraisals, including current elements and standards, and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 4301, *et seq.*; 5 U.S.C 4311 *et seq.* (1994–2000); 42 U.S.C. 2201(d), 5841 (1994); and 5 CFR 293.404(a) (2000).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the

Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. By agency management and the Office of Human Resources for personnel functions; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in computerized form and in paper copy in locking file cabinets. Computerized form includes information stored in memory, on disk and magnetic tape, and on computer printouts. Summary ratings are stored in a computer system protected by password and user identification codes.

RETRIEVABILITY:

Records are accessed by name. Some computer records are accessed by name and social security number.

SAFEGUARDS:

Records are maintained in areas where access is controlled by keycard and is limited to NRC and contractor personnel and to others who need the information to perform their official duties. Access to the two Headquarters buildings in Rockville, Maryland, is controlled by a security guard force. Paper records are maintained in folders in locking file cabinets. Access to computerized records requires use of proper passwords and user identification codes.

RETENTION AND DISPOSAL:

Part A: Records are normally retained for 4 years, then destroyed by incineration under General Records Schedule (GRS) 1–23.a(4). If an employee separates, the records are forwarded to the next Government agency employer or to the National Personnel Records Center under GRS 1–23.a(3)(a).

Part B: Retained for 5 years, or until the fifth annual appraisal is completed, whichever is later, then destroyed by incineration under GRS 1–23.b(3). If the employee separates, the records are forwarded to the next Government agency employer or to the National Personnel Records Center under GRS 1–23.b(2)(a).

Electronic records: Deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later under GRS 20–3.a.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Human Resources Services and Operations, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For Regional personnel, at Regional Offices I–IV listed in Addendum I, Part 2.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedure'' and comply with NRC's Privacy Act regulations regarding verification of identity contained in 10 CFR part 9.

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure'' and comply with NRC's Privacy Act regulations regarding verification of identity contained in 10 CFR part 9.

RECORD SOURCE CATEGORIES:

Part A: Individual to whom record pertains and employee's supervisors.

Part B: Individual to whom record pertains and employee's supervisors and any documents and sources used to develop critical elements and performance standards for that Senior Executive Service position.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–23

SYSTEM NAME:

Office of Investigations Indices, Files, and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Office of Investigations, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities referred to in potential or actual cases and matters of concern to the Office of Investigations and correspondents on subjects directed or referred to the Office of Investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of alphabetical and numerical index files bearing individual names and identifiers, and a numerical index of case numbers. These indices provide access to associated records that are arranged by subject matter, title, or identifying number(s) or letter(s). The system incorporates the records of all Office of Investigations correspondence, cases, memoranda, materials including, but not limited to, investigative reports, confidential source information, correspondence to and from the Office of Investigations, memoranda, fiscal data, legal papers, evidence, exhibits, technical data, investigative data, work papers, and management information data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2035(c), 2201(c) (1996), and 5841(f) (1994).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency or to an individual or organization if the disclosure is reasonably necessary to elicit information or to obtain the cooperation of a witness or an informant.

b. A record in the system of records relating to a case or matter falling within the purview of the Office of Investigations may be disclosed as routine use to the referring agency, group, organization, or individual of the status of the case or matter or of any decisions or determinations that have been made.

c. A record in the system of records relating to an individual held in custody pending arraignment, trial, or sentence, or after conviction, may be disclosed as a routine use to a Federal, State, local, or foreign prison, probation, parole, or pardon authority, to any agency or individual concerned with the maintenance, transportation, or release of such an individual.

d. A record in the system of records relating to a case or matter may be disclosed as a routine use to a foreign country under an international treaty or convention entered into and ratified by the United States.

e. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to the agency.

f. A record in the system of records may be disclosed for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in this system is manually stored on index cards, in files, and in various ADP storage media.

RETRIEVABILITY:

Information is retrieved from indices by the name or identifier of the individual or entity, and from the files by number(s) and/or letter(s) assigned and appearing in the indices.

SAFEGUARDS:

The index is maintained in approved security containers and locking filing cabinets; and the indices, associated records, disks, tapes, etc., are located in locking metal filing cabinets, safes, storage rooms, or similar secure facilities. All records are under visual control during duty hours and are available only to authorized personnel who have a need to know and whose duties require access to the information.

RETENTION AND DISPOSAL:

a. Investigation Case Files:

1. Significant headquarters official case files (received media attention, were of significant interest to Congress, involved extensive litigation, etc.) are retained by the Government permanently. Hold in office for 2 years after closing, then retire to the Office of the Chief Information Officer. Transfer closed case files in 10-year blocks to the National Archives.

2. Other headquarters official case files—Hold in office 2 years after closing, then retire to the Office of the Chief Information Officer. Destroy 10 years after cases are closed.

3. Regional office or investigator working files—Retained in regional files for 6 months. At the end 6 months, they are forwarded to headquarters and combined with the headquarters files.

b. Index/Indices—Destroy or delete with related records or sooner if no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Investigations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORDS ACCESS PROCEDURES:

Same as ''Notification procedure.'' Information classified under Executive Order 12356 will not be disclosed. Information received in confidence will be maintained under the Commission's Policy Statement on Confidentiality, Management Directive 8.8, ''Management of Allegations'' (formerly NRC Manual Chapter 0517), and the procedures covering confidentiality in Chapter 7 of the Office of Investigations Procedures Manual and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officials and employees; Federal, State, local, and foreign agencies; and other persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–24

SYSTEM NAME:

Government Property Accountability System—NRC.

SYSTEM LOCATION:

Primary System—Property and Acquisition Oversight Branch, Division of Contracts and Property Management, Office of Administration, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland;

Duplicate Systems—Duplicate systems exist, in whole or in part, at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and contractors who have custody of Government property.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about Government property (including, but not limited to, supplies, furnishings, automobiles, audio/visual equipment, library materials, telecommunications equipment, record/nonrecord holdings, and computer hardware/software) such as type, make, model, tag number, serial number, stock number, location, title, etc. and information about the custodians of the property such as name, social security number, office, office location, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b), (c) and 487(a) (1992); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To maintain an inventory and accountability of Government property;

b. To provide information for clearances of employees who separate from the NRC; and

c. For any of the routine uses specified in paragraph numbers 1, 3, 5, and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper records, NRC forms, magnetic tape, automated systems, and in locked file cabinets, with history and audit files.

RETRIEVABILITY:

Accessed by name, social security number, NRC tag number, office, office location, and stock number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Computer records are password protected.

RETENTION AND DISPOSAL:

The hardcopy records are retained for up to 3 years after an individual's responsibility for the assigned equipment terminates; then they are destroyed by shredding or in the regular trash disposal system. The major automated records are destroyed when

no longer needed, or at the same time as the hardcopy records, whichever is later. Minor automated tracking systems are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Property and Acquisition Oversight Branch, Division of Contracts and Property Management, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001;

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the NRC form signed by the individual having custody of the property, or from reports and memoranda received by the System Manager.

NRC–25

SYSTEM NAME:

Oral History Program—NRC.

SYSTEM LOCATION:

Office of the Secretary, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, former employees, and other individuals who volunteer to be interviewed for the purpose of providing information for a history of the nuclear regulatory program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of interviews on magnetic tape and transcribed scripts of the interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2161(b) (1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For incorporation in publications on the history of the nuclear regulatory program; and

b. To provide information to historians and other researchers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on magnetic tape and transcripts.

RETRIEVABILITY:

Information is accessed by the name of the interviewee.

SAFEGUARDS:

Maintained in locked file room. Access to and use of these records are limited to those authorized by the Historian or a designee.

RETENTION AND DISPOSAL:

Transcripts are retained permanently. Tapes are retained until no longer needed then erased and reused.

SYSTEM MANAGER(S) AND ADDRESS:

NRC Historian, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from interviews granted on a voluntary basis to the Historian and his or her staff.

NRC–26

SYSTEM NAME:

Full Share Program Records—NRC.

SYSTEM LOCATION:

Office of Administration, Administrative Services Center, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC Federal Government employees who apply for subsidized mass transit costs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records consist of applications to participate in the program. This application includes the applicant's name, home address, duty station, duty telephone number, badge number, and information regarding employee's commuting schedule and mass transit system(s) used. The social security number is collected when an individuals photo identification badge is scanned to record receipt of their metro check.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 132; 31 U.S.C. 3511 (1996); 41 CFR 101–201.104–3(a) (1999); Executive Order 9397, November 22, 1943; Executive Order 13150, Federal Workforce Transportation; Qualified Transportation Fringe Benefits, 65 FR 4388, January 27, 2000; NRC Management Directive 3.53, Records Management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide statistical reports to the city, county, State, and Federal Government agencies;

b. To provide the basis for program approval and issue monthly subsides; and

c. For the routine uses specified in paragraph numbers 1, 4, 5, and 6 in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer disk.

RETRIEVABILITY:

Accessed by name and NRC badge number.

SAFEGUARDS:

Paper records and backup disks are maintained in locked file cabinets under visual control of the Administrative Services Center. Computer files are maintained on a hard drive, access to which is password protected. Access to and use of these records are limited to those persons whose official duties require access.

RETENTION AND DISPOSAL:

Records are destroyed when 3 years old under General Records Schedule 9–

7. Paper copies are destroyed by shredding. Computer files are destroyed by deleting the record from the file.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Services Center, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC employees.

NRC–27

SYSTEM NAME:

Radiation Exposure Information and Reports System (REIRS) Files—NRC.

SYSTEM LOCATION:

Primary system—Science Applications International Corporation (SAIC), 165 Mitchell Road, Oak Ridge, Tennessee 37830.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals monitored for radiation exposure while employed by or visiting or temporarily assigned to certain NRC-licensed facilities; individuals who are exposed to radiation or radioactive materials in incidents required to be reported under 10 CFR 20.2201–20.2204 and 20.2206 by all NRC licensees; individuals who may have been exposed to radiation or radioactive materials offsite from a facility, plant installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to an individual's name, sex, social security number, birth date, period of employment, place and period date of exposure; name and license number of individual's employer; name and number of licensee reporting the information; radiation doses or estimates of exposure received during this period, type of radiation, part(s) or organ(s) exposed, and nuclide(s) involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, and 2201(o) (1996); 10 CFR 20.2106, 20.2201–20.2204, and 20.2206 (2000); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide data to other Federal and State agencies involved in monitoring and/or evaluating radiation exposure received by individuals as enumerated in the paragraph ''Categories of individuals covered by the system'';

b. To return data provided by licensee upon request; and

c. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are computerized and maintained in a centralized database management system. Backup tapes of the database are generated and maintained at a secure, off site location for disaster recovery purposes. During the processing and data entry, paper records are temporarily stored in designated business offices that are locked when not in use and are accessible only to authorized personnel. Upon completion of data entry and processing, the paper records are stored in an off site security storage facility accessible only to authorized personnel.

RETRIEVABILITY:

Records are accessed by individual name, social security number, and by licensee name or number.

SAFEGUARDS:

Information maintained at SAIC is accessible only to the Office of Nuclear Regulatory Research, individuals that have been authorized for access by NRC, and SAIC employees that are directly involved in the REIRS project. Reports kept by the Office of Nuclear Regulatory Research are in file cabinets and bookcases in a secured building. A log is maintained of both telephone and written requests for information.

The data maintained in the REIRS database are protected from unauthorized access by several means. The database server resides in a protected environment with physical security barriers under key-card access control. Accounts authorizing access to the server and databases are maintained by the SAIC REIRS system administrator. In addition, SAIC maintains a computer security ''firewall'' that further restricts access to the SAIC computer network. Authorization for access must be approved by NRC, SAIC project management, and SAIC computer security. Transmittal of data via the Internet is protected by data encryption.

RETENTION AND DISPOSAL:

a. Original paper documents from which all data are entered into REIRS are destroyed 2 years after input into REIRS;

b. Original paper documents from which only selected data are entered into REIRS are retained permanently;

c. Log books are retained permanently;

d. Paper documents generated for QC purposes are destroyed 2 years after input into REIRS; and

e. Floppy disks and compact disks are destroyed 2 years after input into REIRS.

SYSTEM MANAGER(S) AND ADDRESS:

REIRS Project Manager, Radiation Protection & Health Effects Branch, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from licensees required to report radiation exposure information; the subject individual; the individual's employer; the person in charge of the

facility where the individual has been assigned; or NRC Form 5, Occupational Exposure Record for a Monitoring Period.

NRC–28

SYSTEM NAME:

Recruiting, Examining, and Placement Records—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Office of Human Resources, NRC, One and Two White Flint North, 11555 and 11545 Rockville Pike, Rockville, Maryland. For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for Federal employment with the NRC. NRC employees in the upward mobility and COOP program.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain general application information relating to the education, training, employment history, earnings, past performance, criminal convictions, if any, honors, awards or fellowships, military service, veteran preference status, birth date, social security number, home address and telephone numbers of persons who have applied for Federal employment with the NRC (SF–171, resumes, and similar documents). The records also contain personnel qualification statements, job descriptions, self-evaluation forms, examination results, supervisory evaluation forms, performance appraisals, upward mobility counselor's reports, training guides, course plans, interviewer evaluation forms, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301, 5101, 7201 (1994–2000); 42 U.S.C. 2000e (1999); 42 U.S.C. 2201(d) (1996); Executive Order 9397, November 22, 1943; Executive Order 11478, August 8, 1969 as amended by Executive Order 11590, April 23, 1971; Executive Order 12106, December 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information to agencies related to transfer or consideration of employment;

b. To prepare reports for transmittal to the Office of Personnel Management and/or Merit Systems Protection Board; and

c. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained primarily on paper, forms, and lists in file folders. Also, certain data is maintained on computer media.

RETRIEVABILITY:

Records are indexed by name and an identification number assigned to each individual.

SAFEGUARDS:

Maintained in unlocked file cabinets and in a password- protected automated system. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Applications and related correspondence are destroyed when 2 years old;

b. Registers of eligibles are destroyed 5 years after an individual's eligibility terminates;

c. Canceled and ineligible applications are returned to the applicant or are destroyed 90 days after date of action;

d. Eligible applications are destroyed upon termination of the register unless brought forward to new register or placed on inactive register;

e. Electronic records contained in the Applicant Review System are destroyed when 2 years old or when no longer needed, whichever is later; and

f. General correspondence records are destroyed when 3 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Human Resources Services and Operations, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For applicants to the Honor Law Graduate Program—Chief, Program Support Branch, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information supplied by that individual, individual's current and previous supervisor within and outside NRC, upward mobility and COOP counselors and program coordinator, with the exception of reports from medical personnel on physical qualifications, results of examinations, preemployment evaluation data furnished by references and educational institutions whose names were supplied by applicant, and information from other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–29 (Revoked.)
NRC–30

SYSTEM NAME:

Manpower Resource Tracking System—NRC.

SYSTEM LOCATION:

Primary system—Office of the Chief Information Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2, and at the National Institutes of Health Computer Facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the number of regular and

nonregular hours worked, the nature of the work, and work load projections, scheduling and project assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(d), 2201(p) (1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. As a project management tool in various management records throughout the NRC; and

b. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper and in computer files, computer records, on tapes, and disks.

RETRIEVABILITY:

Accessed by name, project, program, or activity numbers; docket number; Technical Assignment Control System (TACS); or planned accomplishment numbers.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Automated system records are password protected.

RETENTION AND DISPOSAL:

Retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it pertains, individual's supervisors, and NRC management.

NRC–31

SYSTEM NAME:

Correspondence and Records, Office of the Secretary—NRC.

SYSTEM LOCATION:

Primary system—Office of the Secretary, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The majority of records in this system consist of internal NRC memoranda between NRC employees and the Chairman, a Commissioner, or the Secretary in the ordinary course of carrying out the official business of the NRC. Records also include correspondence from Members of Congress and their staffs including constituent referrals and White House correspondence referred to the NRC for response as well as correspondence from representatives of industries and other groups affected by NRC regulations, and the general public. Correspondence may identify an individual's social security number, birth date, address, and employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information concerning all subjects which directly or indirectly relate to the fulfillment of NRC's statutory mandate. Records include information dealing with the policy, legal, administrative, and adjudicatory functions of the NRC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1995).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in file folders, on computer media, and on microfiche.

RETRIEVABILITY:

Records may be accessed by subject matter headings, author's last name, addressee's last name, activity number, date of document, and date of receipt of document or file location.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Classified materials are maintained in approved safes, and unclassified records are maintained in file cabinets and rolling file equipment. Computer files are password protected.

RETENTION AND DISPOSAL:

Paper records and the related computer indexes are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant for Correspondence and Records, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.'' Some information is classified under Executive Order 12356 and will not be disclosed.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from communications to the Commission and responses thereto.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–32

SYSTEM NAME:

Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records—NRC.

SYSTEM LOCATION:

Primary system—Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the

locations listed in Addendum I, Parts 1 and 2. Other NRC systems of records contain payment and/or collection transaction records and background information that may duplicate some of the records in this system. These other systems include, but are not limited to:

NRC–5, Contracts Records Files—NRC;

NRC–7, Telephone Call Detail Records—NRC;

NRC–10, Freedom of Information Act (FOIA) and Privacy Act (PA) Requests—NRC;

NRC–18, Office of the Inspector General Investigative Records—NRC;

NRC–19, Official Personnel Training Records Files—NRC;

NRC–20, Official Travel Records—NRC;

NRC–21, Payroll Accounting Records—NRC;

NRC–24, Government Property Accountability System—NRC; and

NRC–41, Tort Claims and Personal Property Claims—NRC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals the NRC owes/owed money to or who receive/received a payment from NRC and those who owe/owed money to the United States. Individuals receiving payments include, but are not limited to, current and former employees, contractors, consultants, vendors, and others who travel or perform certain services for NRC. Individuals owing money include, but are not limited to, those who have received goods or services from NRC for which there is a charge or fee (NRC licensees, applicants for NRC licenses, Freedom of Information Act requesters, etc.) and those who have been overpaid and owe NRC a refund (current and former employees, contractors, consultants, vendors, etc.).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in the system includes, but is not limited to, names, addresses, telephone numbers, Social Security Numbers (SSN), Taxpayer Identification Numbers (TIN), Individual Taxpayer Identification Numbers (ITIN), fee categories, application and license numbers, contract numbers, vendor numbers, amounts owed, background and supporting documentation, correspondence concerning claims and debts, credit reports, and billing and payment histories. The overall agency accounting system contains data and information integrating accounting functions such as general ledger, funds control, travel, accounts receivable, accounts payable, equipment, and appropriation of funds. Although this system of records contains information on corporations and other business entities, only those records that contain information about individuals that is retrieved by the individual's name or other personal identifier are subject to the Privacy Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a(b)(12) (2000); 5 U.S.C. 5514 (2000); 15 U.S.C. 1681a(f) (1993); 26 U.S.C. 6103(m)(2) (1999); 31 U.S.C. 37, subchapters I and II; 31 U.S.C. 3701(a)(3) (1996); 31 U.S.C. 3711; 31 U.S.C. 3716; 31 U.S.C. 3717; 31 U.S.C. 3718; 31 U.S.C. 3720A (2000); 42 U.S.C. 2201 (1996); 42 U.S.C. 5841 (1994); Cash Management Improvement Act Amendments of 1992 (Pub. L. 102–589); Debt Collection Improvement Act of 1996 (Pub. L. 104–134); 4 CFR parts 101–105; 10 CFR parts 15, 16, 170, 171 (2000); Executive Order 9397, November 22, 1943; section 201 of Executive Order 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To debt collection contractors (31 U.S.C. 3718) or to other Federal agencies such as the Department of the Treasury (Treasury) for the purpose of collecting and reporting on delinquent debts as authorized by the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996;

b. To Treasury; the Defense Manpower Data Center, Department of Defense; the United States Postal Service; government corporations; or any other Federal, State, or local agency to conduct an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, to identify and locate individuals, including Federal employees, who are delinquent in their repayment of certain debts owed to the U.S. Government, including those incurred under certain programs or services administered by the NRC, in order to collect debts under common law or under the provisions of the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996 which include by voluntary repayment, administrative or salary offset, and referral to debt collection contractors.

c. To the Department of Justice, United States Attorney, Treasury, or other Federal agencies for further collection action on any delinquent account when circumstances warrant.

d. To credit reporting agencies/credit bureaus for the purpose of either adding to a credit history file or obtaining a credit history file or comparable credit information for use in the administration of debt collection. As authorized by the DCIA, NRC may report current (not delinquent) as well as delinquent consumer and commercial debt to these entities in order to aid in the collection of debts, typically by providing an incentive to the person to repay the debt timely. Proposed revisions to the Federal Claims Collection Standards (FCCS) published in the **Federal Register** on December 31, 1997, direct agencies to report information on delinquent debts to the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS). NRC will report this information to CAIVRS if this requirement is contained in the final rule amending the FCCS.

e. To any Federal agency where the debtor is employed or receiving some form of remuneration for the purpose of enabling that agency to collect a debt owed the Federal Government on NRC's behalf by counseling the debtor for voluntary repayment or by initiating administrative or salary offset procedures, or other authorized debt collection methods under the provisions of the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996. Under the DCIA, NRC may garnish non-Federal wages of certain delinquent debtors so long as required due process procedures are followed. In these instances, NRC's notice to the employer will disclose only the information that may be necessary for the employer to comply with the withholding order.

f. To the Internal Revenue Service (IRS) by computer matching to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by NRC against the taxpayer under 26 U.S.C. 6103(m)(2) and under 31 U.S.C. 3711, 3717, and 3718 or common law. Redisclosure of a mailing address obtained from the IRS may be made only for debt collection purposes, including to a debt collection agent to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996, except that redisclosure of a mailing address to a reporting agency is for the limited purpose of obtaining a credit

report on the particular taxpayer. Any mailing address information obtained from the IRS will not be used or shared for any other NRC purpose or disclosed by NRC to another Federal, State, or local agency which seeks to locate the same taxpayer for its own debt collection purposes.

g. To refer legally enforceable debts to the IRS or to Treasury's Debt Management Services to be offset against the debtor's tax refunds under the Federal Tax Refund Offset Program.

h. To prepare W–2, 1099, or other forms or electronic submittals, to forward to the IRS and applicable State and local governments for tax reporting purposes. Under the provisions of the DCIA, NRC is permitted to provide Treasury with Form 1099–C information on discharged debts so that Treasury may file the form on NRC's behalf with the IRS. W–2 and 1099 Forms contain information on items to be considered as income to an individual, including certain travel related payments to employees, payments made to persons not treated as employees (*e.g.*, fees to consultants and experts), and amounts written-off as legally or administratively uncollectible, in whole or in part.

i. To banks enrolled in the Treasury Credit Card Network to collect a payment or debt when the individual has given his or her credit card number for this purpose.

j. To another Federal agency that has asked the NRC to effect an administrative offset under common law or under 31 U.S.C. 3716 to help collect a debt owed the United States. Disclosure under this routine use is limited to name, address, SSN, TIN, ITIN, and other information necessary to identify the individual; information about the money payable to or held for the individual; and other information concerning the administrative offset.

k. To Treasury or other Federal agencies with whom NRC has entered into an agreement establishing the terms and conditions for debt collection cross servicing operations on behalf of the NRC to satisfy, in whole or in part, debts owed to the U.S. Government. Cross servicing includes the possible use of all debt collection tools such as administrative offset, tax refund offset, referral to debt collection contractors, and referral to the Department of Justice. The DCIA requires agencies to transfer to Treasury or Treasury-designated Debt Collection Centers for cross servicing certain nontax debt over 180 days delinquent. Treasury has the authority to act in the Federal Government's best interest to service, collect, compromise, suspend, or terminate collection action under existing laws under which the debts arise.

l. Information on past due, legally enforceable nontax debts more than 180 days delinquent will be referred to Treasury for the purpose of locating the debtor and/or effecting administrative offset against monies payable by the government to the debtor, or held by the government for the debtor under the DCIA's mandatory, government-wide Treasury Offset Program (TOP). Under TOP, Treasury maintains a database of all qualified delinquent nontax debts, and works with agencies to match by computer their payments against the delinquent debtor database in order to divert payments to pay the delinquent debt. Treasury has the authority to waive the computer matching requirement for NRC and other agencies upon written certification that administrative due process notice requirements have been complied with.

m. For debt collection purposes, NRC may publish or otherwise publicly disseminate information regarding the identity of delinquent nontax debtors and the existence of the nontax debts under the provisions of the Debt Collection Improvement Act of 1996.

n. To the Department of Labor (DOL) and the Department of Health and Human Services (HHS) to conduct an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, to match NRC's debtor records with records of DOL and HHS to obtain names, name controls, names of employers, addresses, dates of birth, and TINs. The DCIA requires all Federal agencies to obtain taxpayer identification numbers from each individual or entity doing business with the agency, including applicants and recipients of licenses, grants, or benefit payments; contractors; and entities and individuals owing fines, fees, or penalties to the agency. NRC will use TINs in collecting and reporting any delinquent amounts resulting from the activity and in making payments.

o. If NRC decides or is required to sell a delinquent nontax debt under 31 U.S.C. 3711(i), information in this system of records may be disclosed to purchasers, potential purchasers, and contractors engaged to assist in the sale or to obtain information necessary for potential purchasers to formulate bids and information necessary for purchasers to pursue collection remedies.

p. If NRC has current and delinquent collateralized nontax debts under 31 U.S.C. 3711(i)(4)(A), certain information in this system of records on its portfolio of loans, notes and guarantees, and other collateralized debts will be reported to Congress based on standards developed by the Office of Management and Budget , in consultation with Treasury.

q. To Treasury in order to request a payment to individuals owed money by the NRC.

r. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

s. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures Pursuant to 5 U.S.C. 552a(b)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(a)(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3)(1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is stored on paper and microfiche, and in computer media.

RETRIEVABILITY:

Information is retrieved a number of ways, including by name, SSN, TIN, license or application number, contract or purchase order number, invoice number, voucher number, and vendor code.

SAFEGUARDS:

Records in the primary system are maintained in a building where access is controlled by a security guard force. Records are kept in lockable file rooms or at user's workstations in an area where access is controlled by keycard and is limited to NRC and contractor personnel who need the records to perform their official duties. The records are under visual control during duty hours. Access to automated data requires use of proper password and user identification codes by NRC or contractor personnel.

RETENTION AND DISPOSAL:

Paper records are destroyed when six years and three months old under GRS 6–1.a except that administrative claims files, for which collection action is terminated without extension, are

destroyed when ten years and three months old under GRS 6–10.b. Computer files are deleted after the expiration of the retention period authorized under the GRS for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER:

Director, Division of Accounting and Finance, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORDS ACCESS PROCEDURES:

Same as ''Notification Procedures.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedures.''

RECORD SOURCE CATEGORIES:

Record source categories include, but are not limited to, individuals covered by the system, their attorneys, or other representatives; NRC; collection agencies or contractors; employing agencies of debtors; and Federal, State and local agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

NRC–33

SYSTEM NAME:

Special Inquiry File—NRC.

SYSTEM LOCATION:

Primary system—Special Inquiry Group, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals possessing information regarding or having knowledge of matters of potential or actual concern to the Commission in connection with the investigation of an accident or incident at a nuclear power plant or other nuclear facility, or an incident involving nuclear materials or an allegation regarding the public health and safety related to the NRC's mission responsibilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index file bearing individual names. The index provides access to associated records which are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of all Commission correspondence, memoranda, audit reports and data, interviews, questionnaires, legal papers, exhibits, investigative reports and data, and other material relating to or developed as a result of the inquiry, study, or investigation of an accident or incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(c), (i) and (o) (1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information relating to an item which has been referred to the Commission or Special Inquiry Group for investigation by an agency, group, organization, or individual and may be disclosed as a routine use to notify the referring agency, group, organization, or individual of the status of the matter or of any decision or determination that has been made;

b. To disclose a record as a routine use to a foreign country under an international treaty or convention entered into and ratified by the United States;

c. To provide records relating to the integrity and efficiency of the Commission's operations and management and may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations; and

d. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on microfiche, disks, tapes, and paper in file folders. Documents are maintained in secured vault facilities.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

These records are located in locking metal filing cabinets or safes in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Paper and microfiche records and related alphabetical indexes are retained permanently. Electronic records are also retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Records Manager, Special Inquiry Group, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.'' Information classified under Executive Order 12356 will not be disclosed. Information received in confidence will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officials and employees; Federal, State, local, and foreign agencies; NRC licensees; nuclear reactor vendors and architectural engineering firms; other organizations or persons knowledgeable about the incident or activity under investigation; and relevant NRC records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–34

SYSTEM NAME:

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW) Correspondence Index, Text/Imaging Management System and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Advisory Committee on Reactor Safeguards and Advisory Committee on Nuclear Waste, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the National Institutes of Health Computer Facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons providing information to or requesting information from the ACRS or ACNW, individuals who correspond with the ACRS and ACNW, and individuals who provide technical information to ACRS and ACNW.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to incoming requests and correspondence from individuals and replies thereto and a listing of technical information by authors' names.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1995).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Indexing is maintained on computer media and individual materials are located in ACRS and ACNW files in file folders, electronic text/imaging system, and on microfilm.

RETRIEVABILITY:

Indexed by one or more of the following categories: author and addressee's name, subject title using the Key Word Out of Context (KWOC) index, and issuing organization or agency; and documents are, in whole or in part, full-text indexed.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Automated records are password protected; paper records are located within a controlled area with door combination-lock access, or are stored in locked file containers.

RETENTION AND DISPOSAL:

ACRS and ACNW program correspondence and project files are retained permanently. Computer indexes and related microfilm are retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Information Systems Specialist, Operations Support Branch, Advisory Committee on Reactor Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Records contain information prepared by private individuals or organizations, Government agencies and their contractors, companies, and other groups such as the American National Standards Institute (ANSI).

NRC–35

SYSTEM NAME:

Drug Testing Program Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Facilities and Security, Office of Administration, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems may exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and at contractor testing laboratories at collection/evaluation facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees, applicants, consultants, licensees, and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information regarding the drug testing program; requests for and results of initial, confirmatory and followup testing, if appropriate; additional information supplied by NRC employees, employment applicants, consultants, licensees, or contractors in challenge to positive test results; and written statements or medical evaluations of attending physicians and/or information regarding prescription or nonprescription drugs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 7301 (note) (2000); 42 U.S.C. 290dd–2 (2000); Executive Order 12564, September 15, 1986; Pub.L. 100–71, ''Supplemental Appropriations Act of 1987,'' Amendment No. 416, July 11, 1987; Pub.L. 100–440, section 628, September 22, 1988; Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used by the Division of Facilities and Security and NRC management:

a. To identify substance abusers within the agency;

b. To initiate counseling and/or rehabilitation programs;

c. To take personnel actions;

d. To take personnel security actions; and

e. For statistical purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on index cards, and on computer media. Specimens are maintained in appropriate environments.

RETRIEVABILITY:

Records are indexed and accessed by name, social security number, testing position number, specimen number, drug testing laboratory accession number, or a combination thereof.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access, with records maintained and used with the highest regard for personal privacy. Records in the Division of Facilities and Security are stored in an approved security container under the immediate control of the Director, Division of Facilities and Security, or designee. Records at other NRC locations and in laboratory/collection/evaluation facilities will be stored under appropriate security measures so that access is limited and controlled.

RETENTION AND DISPOSAL:

Employee acknowledgment of notice forms are destroyed when employee separates from testing designated position. Selection and scheduling records, chain of custody records, and test results are destroyed when three years old, except for records used in disciplinary actions which are destroyed four years after the case is closed. Collection and handling record books are destroyed three years after date of last entry. Electronic records of the Employee Drug Testing System are deleted when no longer needed. Index cards are destroyed with related records or sooner if no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC employees, employment applicants, consultants, and contractors who have been identified for drug testing who have been tested; physicians making statements regarding medical evaluations and/or authorized prescriptions for drugs; NRC contractors for processing including, but not limited to, specimen collection, laboratories for analysis, and medical evaluations; and NRC staff administering the drug testing program to ensure the achievement of a drug-free workplace.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–36

SYSTEM NAME:

Employee Locator Records Files—NRC.

SYSTEM LOCATION:

Primary system—Part 1: Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Part 2: Office of the Chief Information Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Part 3: Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Part 4: Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Part 5: Incident Response Operations, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, contractors, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to name, address (home and business), telephone numbers (home, business, and pager), social security number, organization, persons to be notified in case of emergency, and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1995); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for:

a. Notification (of individual identified by employee) in case of an emergency;

b. Notification of employee regarding matters of official business;

c. Verification of accuracy of and update of payroll systems files on employee home addresses and zip codes;

d. Conducting statistical studies, and

e. The routine use specified in paragraph number 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained within computerized systems and on hardcopy listings.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Electronic records are password protected. Paper copies of records are maintained in locked files. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until 3 months after association with NRC is discontinued, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Part 1: Director, Office of Human Resources; Part 2: Chief Information Officer; Part 3: Director, Office of Administration; Part 4: Chief Financial Officer; Part 5: Director, Incident Response Operations, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, general personnel records, and other related records.

NRC–37

SYSTEM NAME:

Information Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Facilities and Security, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including present or former NRC employees, contractors, consultants, licensees, and other cleared persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding:

a. Personnel who are authorized access to specified levels, categories and types of information, the approving authority, and related documents; and

b. Names of individuals who classify and/or declassify documents (*e.g.*, for the protection of information relating to the U.S. national defense and foreign relations) as well as information identifying the document.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C 2165 (2000) and 2201(i) (1996); Executive Order 12958, April 17, 1995.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on index cards, and on computer media.

RETRIEVABILITY:

Indexed and accessed by name and/or assigned number.

SAFEGUARDS:

Maintained in locked buildings, containers, or security areas under guard and/or alarm protection, as appropriate. Records are processed only on systems approved for processing classified information or accessible through password protected systems for unclassified information. The classified systems are stand alone systems located within secure facilities or with removable hard drives that are either stored in locked security containers or in alarmed vaults cleared for open storage of TOP SECRET information.

RETENTION AND DISPOSAL:

a. Classified documents, administrative correspondence, document receipts, destruction certificates, classified document inventories, and related records—retained 2 years, then destroyed by shredding;

b. Top Secret Accounting and Control files: Registers—retained 5 years after documents shown on form are downgraded, transferred, or destroyed by shredding; Accompanying forms—retained until related document is downgraded, transferred, or destroyed by shredding.

c. Automated records are updated monthly and quarterly, and are maintained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.'' Some information is classified under Executive Order 12958 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Persons, including NRC employees, contractors, consultants, and licensees, as well as information furnished by other Government agencies or their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of NRC regulations.

NRC–38

SYSTEM NAME:

Mailing Lists—NRC.

SYSTEM LOCATION:

Primary System—Reproduction and Distribution Services Section, Publishing Services Branch, Information Management Division, Office of the Chief Information Officer, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals with an interest in receiving information from the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Mailing lists include primarily the individual's name and address. Some lists also include title, occupation, and institutional affiliation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1995).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For distribution of documents to persons and organizations listed on the mailing list; and

b. For the routine use specified in paragraph number 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape, paper, and microfiche.

RETRIEVABILITY:

Records are accessed by company name, individual name, and file code identification number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Automated records are password protected.

RETENTION AND DISPOSAL:

Documents requesting changes are destroyed through the regular trash disposal system after appropriate revision of the mailing list or after 3 months, whichever is sooner; lists are retained until canceled or revised, then destroyed through the regular trash disposal system. Computer files are deleted after canceled or revised or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Reproduction and Distribution Services Section, Publishing Services Branch, Information Management Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC staff, NRC licensees, and individuals expressing an interest in NRC activities and publications.

NRC–39

SYSTEM NAME:

Personnel Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Facilities and Security, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems may exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and the Department of Energy, Germantown, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees, employment applicants, consultants, contractors, and licensees; other Government agency personnel (e.g., General Services Administration personnel), other persons who have been considered for a personnel clearance, special nuclear material access authorization, unescorted access to NRC buildings or nuclear power plants, NRC building access, access to Federal automated information systems or data, or participants in the criminal history program; aliens who visit NRC's facilities; and actual or suspected violators of laws administered by NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to personnel, including name, address, date and place of birth, social security number, citizenship, residence history, employment history, foreign travel, foreign contacts, education, personal references, organizational membership, and security clearance history. These records also contain copies of personnel security investigative reports from other agencies (primarily from the Office of Personnel Management or the Federal Bureau of Investigation), summaries of investigative reports, results of Federal agency indices checks, records necessary for participation in the criminal history program, reports of personnel security interviews, clearance actions information (e.g., grants and terminations), access approval/disapproval actions related to NRC building access or unescorted access to nuclear plants, or access to Federal automated information systems or data, violations of laws, reports of security infraction, ''Request for Visit or Access Approval'' (Form NRC–277), and other related personnel security processing documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 318 (1992); 42 U.S.C. 2165 (2000) and 2201(i) (1996); Executive Order 9397, November 22, 1943; Executive Order 10450, April 27, 1953; Executive Order 12958, April 17, 1995; Executive Order 12968, August 2, 1995; Executive Order 10865, February 20, 1960; 10 CFR part 11 (2000); Pub. L. 99–399, ''Omnibus Diplomatic Security and Antiterrorism Act of 1986''; OMB Circular No. A–130, December 12, 1985; 5 CFR parts 731 and 732 and authorities cited therein; Pub. L. 99–500, October 18, 1986 (Continuing Appropriations).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used by the Division of Facilities and Security and on a need-to-know basis by appropriate NRC officials, Hearing Examiners, Personnel Security Review Panel members, Office of Personnel Management, Federal Bureau of Investigation, and other Federal agencies:

a. To determine clearance or access authorization eligibility;

b. To determine eligibility for access to NRC buildings or access to Federal automated information systems or data;

c. To certify clearance or access authorization;

d. To maintain the NRC personnel security program;

e. To provide licensees criminal history information needed for their unescorted access or access to safeguard information determinations; and

f. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on tape, computer media, and microfiche.

RETRIEVABILITY:

Indexed and accessed by name, social security number, docket number, or case file number or a combination thereof.

SAFEGUARDS:

File folders and computer printouts are maintained in security or controlled areas under guard and/or alarm protection, as appropriate. Automated records are password protected.

RETENTION AND DISPOSAL:

a. Personnel security clearance/access authorization files—destroy case files upon notification of death or 5 years from date of termination of access authorization or final administrative action;

b. Request for Visit or Access Approval—maximum security areas retained 5 years after final entry or after date of document, as appropriate; Other areas: Retained 2 years after final entry or after date of document, then destroyed by approved method of destruction; and

c. Other security clearance/access authorization administration files—retained 2 years after final entry or after date of document, then destroyed by approved method of destruction; and

d. Criminal history record computer files are deleted when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.'' Some information is classified under Executive Order 12958 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent the disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Persons including NRC applicants, employees, contractors, consultants, licensees, visitors and others, as well as information furnished by other Government agencies or their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–40

SYSTEM NAME:

Facility Security Access Control Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Facilities and Security, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems may exist, in whole or in part, at the locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including current and former NRC employees, consultants, contractors, other Government agency personnel, and approved visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding NRC personal identification badges for access to NRC-controlled space, which includes, but is not limited to, an individual's name, social security number, digital image, badge number, citizenship, employer, purpose of visit, person visited, and date and time of visit.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2165 (2000) and 2201(i), (k) and (p) (1996); 5 CFR part 2634; Executive Order 9397, November 22, 1943; Executive Order 12958, April 20, 1995.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used to control access to NRC classified information and to NRC spaces by human or electronic means.

Information (identification badge) may also be used for tracking applications within the NRC for other than security access purposes.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, NRC may disclose information and digital image contained in a record in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper forms, in logs, and files, and on computer media.

RETRIEVABILITY:

Information is indexed and accessed by individual's name, social security number, identification badge number, employer's name, date of visit, or sponsor's name.

SAFEGUARDS:

All records are maintained in NRC-controlled space that is secured after normal duty hours or in security areas under guard presence. Automated records are protected by password.

RETENTION AND DISPOSAL:

a. Records and forms related to NRC identification badges are retained in files and destroyed when superseded or obsolete.

b. Manual visitor logs are retained in cabinets and destroyed 2 years after date of entry.

c. The automated access control system reflects access to controlled areas and employee/contractor/visitor identification information. These records are disposed of after the retention period for those records identified in a. and b., or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure.''

RECORD SOURCE CATEGORIES:

Persons including NRC employees, contractors, consultants, employees of other Government agencies, and visitors.

NRC–41

SYSTEM NAME:

Tort Claims and Personal Property Claims—NRC.

SYSTEM LOCATION:

Primary system—Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, in the Office of the Chief Financial Officer (OCFO), NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, and at the locations listed in Addendum I, Parts 1 and 2. Other NRC systems of records, including but not limited to, NRC–18, ''Office of the Inspector General Investigative Records—NRC,'' and NRC–32, ''OCFO Financial Transactions and Debt Collection Management Records—NRC,'' may contain some of the information in this system of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed claims with NRC under the Federal Tort Claims Act or the Military Personnel and Civilian Employees' Claims Act and individuals who have matters pending before the NRC that may result in a claim being filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information relating to loss or damage to property and/or personal injury or death in which the U.S. Government may be liable. This information includes, but is not limited to, the individual's name, home address and phone number, work address and phone number, claim forms and supporting documentation, police reports, witness statements, medical records, insurance information, investigative reports, repair/replacement receipts and estimates, litigation documents, court decisions, and other information necessary for the evaluation and settlement of claims and pre-claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.*; The Military Personnel and

Civilian Employees' Claims Act of 1964, as amended, 31 U.S.C. 3721.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, NRC may disclose information contained in a record in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To third parties, including claimants' attorneys, insurance companies, witnesses, potential witnesses, local police authorities where an accident occurs, and others who may have knowledge of the matter to the extent necessary to obtain information that will be used to evaluate, settle, refer, pay, and/or adjudicate claims.

b. To the Department of Justice (DOJ) when the matter comes within their jurisdiction, such as to coordinate litigation or when NRC's authority is limited and DOJ advice or approval is required before NRC can award, adjust, compromise, or settle certain claims.

c. To the appropriate Federal agency or agencies when a claim has been incorrectly filed with NRC or when more than one agency is involved and NRC makes agreements with the other agencies as to which one will investigate the claim.

d. The Department of the Treasury to request payment of an award, compromise, or settlement of a claim.

e. Information contained in litigation records is public to the extent that the documents have been filed in a court or public administrative proceeding, unless the court or other adjudicative body has ordered otherwise. This public information, including information concerning the nature, status, and disposition of the proceeding, may be disclosed to any person, unless it is determined that release of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

f. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure Pursuant to 5 U.S.C. 552a(b)(12):

Disclosure of information to a consumer reporting agency is not considered a routine use of records. Disclosures may be made from this system of records to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(a)(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system of records is stored on paper, in log books, and on computer media.

RETRIEVABILITY:

Information is indexed and accessed by the claimant's name and/or claim number.

SAFEGUARDS:

The paper records and log books are stored in locked file cabinets or locked file rooms and access is restricted to those agency personnel whose official duties and responsibilities require access. Automated records are protected by password.

RETENTION AND DISPOSAL:

a. Tort claims and employee claims are destroyed six years and three months after payment or disallowance under General Records Schedule (GRS) 6–10.a.

b. Claims affected by a court order or subject to litigation are destroyed after the related action is concluded, or when six years and three months old, whichever is later, under GRS 10–6.c.

c. Log books are destroyed or deleted when no longer needed under GRS 23–8.

d. Copies of memoranda contained on electronic media are deleted when no longer needed under GRS 20–13.

e. Copies of tort claims and personal property claims that become part of NRC's Litigation Case File are retained by the Government permanently under NRC Schedule (NRCS) 2–13.4.

SYSTEM MANAGER:

Assistant General Counsel for Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure.''

RECORD SOURCE CATEGORIES:

Information is obtained from a number of sources, including but not limited to, claimants, NRC employees involved in the incident, witnesses or others having knowledge of the matter, police reports, medical reports, investigative reports, insurance companies, and attorneys.

NRC–42

SYSTEM NAME:

Skills Assessment and Employee Profile Records—NRC.

SYSTEM LOCATION:

Primary system—Office of the Chief Information Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems may exist, in whole or in part, at the NRC's Headquarters, regional, and other offices listed in Addendum I, Parts 1 and 2. This system of records may contain some of the information contained in other system of records. These other systems may include, but are not limited to:

NRC–11, General Personnel Records (Official Personnel Folder and Related Records)—NRC;

NRC–13, Incentive Awards Files—NRC;

NRC–19, Official Personnel Training Records Files—NRC;

NRC–22, Personnel Performance Appraisals—NRC; and

NRC–28, Recruiting, Examining, and Placement Records—NRC.

CATEGORIES OF INDIVIDUALS COVERED:

Current, prospective, and former NRC employees, experts, consultants, contractors, and employees of other Federal agencies and State, local, and foreign governments and private entities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Specific information maintained on individuals includes individual skills assessments that identify the knowledge

and skills possessed by the individual and the level of skills possessed, and may include a skills profile containing, but not limited to, their name; date of birth; social security number; service computation date; series and grade; address and phone number; education; training; work and skills experience; special qualifications; licenses and certificates held; honors and awards; career interests, goals and objectives; and availability for travel or geographic relocation. Individual training plans, when developed, may also be maintained in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 104–106, National Defense Authorization Act for Fiscal Year 1996, sec. 5125, Agency Chief Information Officer, February 10, 1996; 5 USC 3396 (1994); 5 USC 4103 (2000); 42 USC 2201 (1996); Executive Order 9397, November 22, 1943; Executive Order 11348, February 20, 1967, as amended by Executive Order 12107, December 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records will be to assess the knowledge and skills needed to perform the functions assigned to individuals and their organizations. It will specifically be used by the Chief Information Officer (CIO) to carry out the provisions of Section 5125(c)(3) of the National Defense Authorization Act for Fiscal Year 1996 that requires the CIO to assess the requirements established for agency personnel regarding knowledge and skill in information resources management and the adequacy of the requirements for achieving performance goals established for information resources management; assess the extent to which certain positions and personnel meet the requirements; develop strategies and specific plans for hiring, training, and professional development to rectify deficiencies in meeting the requirements; and report to the head of the agency the progress made in improving information resources management.

Information in the system may be used by the CIO to prepare skills profiles of employees reporting to the CIO, including those in the Office of Information Resources Management; to assess the skills of the CIO staff in light of the functions performed by the CIO organization; to develop an organizational training plan/program; to prepare individual training plans; to develop recruitment plans; and to assign personnel. Other offices may maintain similar kinds of records relative to their specific duties, functions, and responsibilities.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, which includes disclosure to other NRC employees who have a need for the information in the performance of their duties, NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the information was collected under the following routine uses:

a. To employees and contractors of other Federal, State, local, and foreign agencies or to private entities in connection with joint projects, working groups, or other cooperative efforts in which the NRC is participating.

b. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSITION OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in computerized form and in paper copy. Computerized form includes information stored in memory, on disk, and on computer printouts.

RETRIEVABILITY:

Information may be retrieved in a number of ways, including but not limited to the individual's name, social security number, position title, office, or skill level; various skills, knowledge, training, education, or work experience; or subject or key words developed for the system.

SAFEGUARDS:

Records are maintained in buildings where access is controlled by a security guard force. Records are maintained in areas where access is controlled by keycard and is limited to NRC and contractor personnel and to others who need the records to perform their official duties. Access to computerized records requires use of proper password and user identification codes.

RETENTION AND DISPOSAL:

System input records are destroyed after the information is converted to electronic medium and verified under General Records Schedules 20–2.a and b. System data maintained electronically are currently unscheduled and must be retained until a records disposition schedule for this information is approved by the National Archives and Records Administration. Hard copy records documenting skills requirements, assessments, strategies, and plans for meeting the requirements are currently unscheduled and must be retained until a records disposition schedule for this information is approved by the National Archives and Records Administration.

SYSTEM MANAGER AND ADDRESS:

Director, Planning and Resource Management Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification Procedure'' and comply with NRC's Privacy Act regulations regarding verification of identity and record access procedures contained in NRC's Privacy Act regulations, 10 CFR Part 9.

CONTESTING RECORD PROCEDURE:

Same as ''Notification Procedure'' and comply with NRC's Privacy Act regulations regarding verification of identity and contesting record procedures contained in NRC's Privacy Act regulations, 10 CFR Part 9.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from a number of sources, including but not limited to the individual to whom it pertains, information derived from that supplied by the individual, other systems of records, supervisors and other NRC officials, contractors, and other agencies or entities.

NRC–43

SYSTEM NAME:

Employee Health Center Records—NRC.

SYSTEM LOCATION:

Primary system—NRC Employee Health Center, One White Flint North,

11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems may exist, in whole or in part, at the NRC's regional and other offices listed in Addendum I, Parts 1 and 2, and/or at any other health care facilities operating under a contract or agreement with NRC for health-related services. This system may contain some of the information maintained in other systems of records, including NRC–11, ''General Personnel Records (Official Personnel Folder and Related Records)—NRC,'' NRC–17, ''Occupational Injuries and Illness Records—NRC,'' and, when in effect, NRC–44, ''Employee Fitness Center Records—NRC.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, consultants, contractors, other Government agency personnel, and anyone on NRC premises who requires emergency or first-aid treatment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of records developed as a result of voluntary employee use of health services provided by the Health Center, and of emergency health services rendered by Health Center staff to individuals for injuries and illnesses suffered while on NRC premises. Specific information maintained on individuals includes, but is not limited to, their name, date of birth, and Social Security number; medical history and other biographical data; test reports and medical diagnoses based on employee health maintenance physical examinations or health screening programs (tests for single medical conditions or diseases); history of complaint, diagnosis, and treatment of injuries and illness rendered by the Health Center staff; immunization records; records of administration by Health Center staff of medications prescribed by personal physicians; medical consultation records; statistical records; daily log of patients; and medical documentation such as personal physician correspondence and test results submitted to the Health Center staff by the employee. Forms used to obtain or provide information include the following:

(1) Employee Health Record.
(2) Immunization/Health Profile.
(3) Problem List.
(4) Progress Notes.
(5) Consent for Release of Medical Information.
(6) Against Medical Advice (AMA) Release.
(7) Patient Treatment Record.
(8) Injection Record.
(9) Allergy.
(10) Respirator Certification Form.
(11) Pre-travel Questionnaire.
(12) Flu Vaccine Form.
(13) Pneumonia Vaccine Form.
(14) TB Test Form.
(15) Office of Workers' Compensation Programs (OWCP) Occupational Injury Form.
(16) Medical History.
(17) Medical Examination.
(18) Prostate Symptoms Questionnaire.
(19) Proctosigmoidoscopy Form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901 (1996); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To refer information required by applicable law to be disclosed to a Federal, State, or local public health service agency concerning individuals who have contracted certain communicable diseases or conditions in an effort to prevent further outbreak of the disease or condition.

b. To disclose information to the appropriate Federal, State, or local agency responsible for investigation of an accident, disease, medical condition, or injury as required by pertinent legal authority.

c. To disclose information to the Office of Workers' Compensation Programs in connection with a claim for benefits filed by an employee.

d. To Health Center staff and medical personnel under a contract or agreement with NRC who need the information in order to schedule, conduct, evaluate, or follow up on physical examinations, tests, emergency treatments, or other medical and health care services.

e. To refer information to private physicians designated by the individual when requested in writing.

f. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on microfiche, on computer media, and on file cards, logs, x-rays, and other medical reports and forms.

RETRIEVABILITY:

Records are retrieved by the individual's name, date of birth, and Social Security number, or any combination of those identifiers.

SAFEGUARDS:

Records in the primary system are maintained in a building where access is controlled by a security guard force and entry to each floor is controlled by keycard. Records in the system are maintained in lockable file cabinets with access limited to agency or contractor personnel whose duties require access. The records are under visual control during duty hours. Access to automated data requires use of proper password and user identification codes by authorized personnel.

RETENTION AND DISPOSAL:

Records documenting an individual employee's medical history, physical condition, and visits to Government health facilities, for nonwork-related purposes, are maintained for six years from the date of the last entry as are records on consultants, contractors, other Government agency personnel, and anyone on NRC premises who requires emergency or first-aid treatment under Government Records Schedule (GRS) 1–19. Health Center control records such as logs or registers reflecting daily visits are destroyed three months after the last entry if the information is summarized on a statistical report under GRS 1–20a and two years after the last entry if the information is not summarized under GRS 1–20b. Employees are given copies of their records if requested upon separation from the agency.

SYSTEM MANAGER(S) AND ADDRESSES:

Employee Assistance Program Manager, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington,

DC 20555–0001; comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR Part 9; and provide their full name, any former name(s), date of birth, and Social Security number.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedures.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedures.''

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from a number of sources including, but not limited to, the individual to whom it pertains; laboratory reports and test results; NRC Health Center physicians, nurses, and other medical technicians or personnel who have examined, tested, or treated the individual; the individual's coworkers or supervisors; other systems of records; the individual's personal physician(s); NRC Fitness Center staff; other Federal agencies; and other Federal employee health units.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

NRC–44

SYSTEM NAME:

Employee Fitness Center Records—NRC.

SYSTEM LOCATION:

Primary system—NRC Fitness Center, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems may exist, in whole or in part, at the NRC's regional and other offices listed in Addendum I, Parts 1 and 2, and/or at other facilities operating under a contract or agreement with NRC for fitness-related services. This system may contain some of the information maintained in other systems of records, including NRC–32, ''Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records-NRC.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who apply for membership in the Fitness Center as well as current and inactive Fitness Center members.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes employees' applications to participate in NRC's Fitness Center, information on individuals' degree of physical fitness and their fitness activities and goals, and various forms, memoranda, and correspondence related to Fitness Center membership and financial/payment matters. Specific information contained in the application for membership includes the employee applicant's name, gender, age, Social Security number, height, weight, and medical information, including a history of certain medical conditions; the name of the individual's personal physician and any prescription or over-the-counter drugs taken on a regular basis; and the name and address of a person to be notified in case of emergency. Forms used to obtain or provide information include the following:

(1) Application Package.
(2) Release of Medical Information/Physician's Statement.
(3) Fitness Assessment.
(4) Pre-exercise Health Screening.
(5) Account Logs.
(6) Terminated Memberships.
(7) New Memberships.
(8) Monthly Dues Collected.
(9) Accident Report.
(10) ''Dear Participant'' Letter.
(11) Refund Request.
(12) Regional Employee Sign-in Log.
(13) Member of the Month.
(14) User Evaluation Form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901(1996) ; Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To the individual listed as an emergency contact, in the event of an emergency.

b. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 or 2906.

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures Pursuant to 5 U.S.C. 552a(b)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(a)(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer media and in paper form in logs and files.

RETRIEVABILITY:

Information is indexed and accessed by an individual's name and/or Social Security number.

SAFEGUARDS:

Records in the primary system are maintained in a building where access is controlled by a security guard force. Access to the Fitness Center is controlled by keycard and bar code verification. Records in paper form are stored alphabetically by individuals' names in lockable file cabinets maintained in the NRC Fitness Center where access to the records is limited to agency and Fitness Center personnel whose duties require access. The records are under visual control during duty hours. Automated records are protected by screen saver. Access to automated data requires use of proper password and user identification codes. Only authorized personnel have access to areas in which information is stored.

RETENTION AND DISPOSAL:

Fitness Center records are currently unscheduled and must be retained until the National Archives and Records Administration approves a records disposition schedule for this material.

SYSTEM MANAGER(S) AND ADDRESS:

Safety and Health Program Manager, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR Part 9.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedures.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedures.''

RECORD SOURCE CATEGORIES:

Information in this system of records is principally obtained from the individuals upon whom the records are maintained. Other sources of information include, but are not limited to, the NRC Fitness Center Director and other staff, physicians retained by the NRC, the individuals' personal physicians, and other systems of records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Addendum I—List of U.S. Nuclear Regulatory Commission Locations

Part 1—NRC Headquarters Offices

a. Gelman Building, 2120 L Street, NW., Washington, DC 20003–1527.

b. One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738.

c. Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852–2738.

d. Warehouse, 5008 Boiling Brook Parkway, Rockville, Maryland 20852–2738.

Part 2—NRC Regional Offices

a. NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415.

b. NRC Region II, Atlanta Federal Center, 23 T85, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3415.

c. NRC Region III, 801 Warrenville Road, Lisle, Illinois 60532–4351.

d. NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011–8064.

e. High-Level Waste Management Office, 1551 Hillshire Drive, Las Vegas, Nevada 89134.

f. NRC Technical Training Center, 5746 Marlin Road, Suite 200, Chattanooga, Tennessee 37411–5677.

Dated at Rockville, Maryland, this 11th day of September, 2000.

For the Nuclear Regulatory Commission.

Stuart Reiter,

Acting Chief Information Officer.

[FR Doc. 00–23787 Filed 9–15–00; 8:45 am]

BILLING CODE 7590–01–P

Federal Register

Monday,
September 18, 2000

Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Federal Acquisition Regulation (FAR); Elimination of the Paper Copy of the Federal Acquisition Regulation (FAR); Looseleaf Edition; Notice

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

National Aeronautics and Space Administration

Federal Acquisition Regulation (FAR); Elimination of the Paper Copy of the Federal Acquisition Regulation (FAR); Looseleaf Edition

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: This notice is to advise users that beginning January 1, 2001, the General Services Administration (GSA) will no longer seek publication of a paper copy of the Federal Acquisition Regulation (FAR). Instead, GSA will actively publish the FAR only on the Internet. The URL for GSA's FAR website is: *http://www.arnet.gov/far/*

DATES: Elimination of the printing and distribution of the paper copy is effective January 1, 2001. Any current or renewed subscriptions will continue until this date.

FOR FURTHER INFORMATION CONTACT: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW. Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405, (202) 501–4755.

SUPPLEMENTARY INFORMATION: In addition to providing free access to the FAR in HTML and PDF formats, the FAR website also provides electronic copies of Federal Acquisition Circulars (FACs). GSA will continue to provide these electronic looseleaf materials even after it stops seeking publication of the paper FAR. FAC contents on the website are identical to the contents of looseleaf materials that the Government Printing Office (GPO has provided by subscription.

Many Internet browsers display the materials GSA provides on its FAR website. If your does, you have choices. You can reference the FAR only on the Internet, or you can produce your own looseleaf FAR on paper by downloading and printing electronics FACs as GSA posts them to the FAR website. Otherwise, after January 1, 2001, you must seek some other source of the printed looseleaf.

Agency publications liaisons should provide this information to their FAR users. Consider whether to submit requisitions for FY 2001 subscribing anew to the FAR looseleaf. Along with your internal notifications, we will notify all on GPO's subscriber distribution list, agency procurement executives, and small agency councils of these changes.

The Superintendent of Documents at the Government Printing Office has indicated that it will continue publication of the Federal Acquisition Regulation in looseleaf format. Current subscribers will be provided with more specific information by the Superintendent of Documents as soon as it is available. To contact the Superintendent of Documents directly, you may call (202) 512–1706.

Dated: September 11, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 00–23847 Filed 9–15–00; 8:45 am]

BILLING CODE 6820–34–M

Federal Register

Monday,
September 18, 2000

Part VI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 32 and 52

Federal Acquisition Regulation; Financing Policies; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 32 and 52

[FAR Case 2000–007]

RIN 9000–AI92

Federal Acquisition Regulation; Financing Policies

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to permit the use of performance-based payments type of financing on fixed-price contracts prior to definitization, and to establish a standard time period of 30 days that contractors have to pay their vendors after the contractors have billed the Government for incurred vendor costs.

DATES: Interested parties should submit comments in writing on or before November 17, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2000–007@gsa.gov.

Please submit comments only and cite FAR case 2000–007 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jeremy Olson, at (202) 501–0692. Please cite FAR case 2000–007.

SUPPLEMENTARY INFORMATION:

A. Background

The Councils published a final rule in the **Federal Register** at 65 FR 16276, March 27, 2000, under FAR Case 1998–400, Progress Payments and Related Financing Policies. The rule revised the policies and procedures related to contract financing to make them easier to understand and to minimize the burdens imposed on contractors and contracting officers. This proposed FAR rule supplements the final rule.

The proposed rule—

(1) Revises the requirement at FAR 32.1003(b) to permit performance-based payments type of financing on fixed-price contracts prior to definitization;

(2) Completely removes the ''paid cost rule'' restriction from the payment clauses at FAR 52.216–26, Payments of Allowable Costs Before Definitization, and FAR 52.232–7, Payments under Time-and-Materials and Labor-Hour Contracts. The ''paid cost rule'' is the requirement that a large business must actually pay (not just incur) costs for supplies and services purchased directly for the contract and financing payments to subcontractors before including the payments in its billings to the Government. The intent of the final rule under FAR case 1998–400 was to remove this restriction from all the payments clauses if contractors met certain conditions. Inadvertently, this restriction was not removed in its entirety from FAR 52.216–26(d)(2) and FAR 52.232–7(b)(3). The proposed rule corrects for this oversight;

(3) Establishes a standard time period that contractors have to pay their vendors after the contractors have billed the Government for incurred vendor costs. As indicated in paragraph (2) above, the final rule under FAR case 1998–400 revised the FAR to permit a large business to include, in its billings, certain costs that it had incurred but not actually paid, if the following conditions are met: the unpaid amounts are paid (1) in accordance with the terms and conditions of a subcontract or invoice; and (2) ordinarily prior to the submission of the contractor's next payment request to the Government.

A large business prime contractor is allowed to submit cost vouchers on a cost-reimbursement contract every 14 days, but can bill no more frequently than every 30 days when billing progress payments on a fixed-price contract. Therefore, contractors may need to maintain several systems and procedures to accommodate the timing differences for payments to vendors, depending on whether the costs are billed on a cost-reimbursement or fixed-price type prime contract. To eliminate the timing differences, the proposed FAR rule revises the second condition to establish a single standard time period of 30 days; and

(4) It makes several editorial changes.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities have a dollar value less than the simplified acquisition threshold, and, therefore, do not have the progress payment or performance-based payment type of financing. In addition, the ''paid cost rule'' restriction does not apply to small entities. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR parts 32 and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2000–007), in correspondence.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 32 and 52

Government procurement.

Dated: September 12, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 32 and 52 be amended as set forth below:

1. The authority citation for 48 CFR part 32 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 32—CONTRACT FINANCING

2. Revise paragraph (b)(2) of section 32.504 to read as follows:

32.504 Subcontracts under prime contracts providing progress payments.

* * * * *

(b) * * *

(2) Not later than 30 days after the submission of the contractor's progress payment request to the Government.

* * * * *

3. Revise the introductory text and paragraph (b) of section 32.1003 to read as follows:

32.1003 Criteria for use.

The contracting officer may only use performance-based payments if the following conditions are met:

* * * * *

(b) The contract is a fixed-price type contract; and

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Revise the date of the clause, the introductory text of paragraph (b)(1)(ii), and paragraph (b)(1)(ii)(A) of section 52.216–7 to read as follows:

52.216–7 Allowable Cost and Payment.

* * * * *

Allowable Cost and Payment (Date)

* * * * *

(b) *Reimbursing costs.* (1) * * *

* * * * *

(ii) When the Contractor is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for—

(A) Supplies and services purchased directly for the contract and associated financing payments to subcontractors, provided payments will be made—

(1) In accordance with the terms and conditions of a subcontract or invoice; and

(2) Not later than 30 days after the submission of the Contractor's payment request to the Government;

* * * * *

5. Revise the date of the clause, the introductory text of paragraphs (d) and (d)(2), and paragraph (d)(2)(i) of section 52.216–26 to read as follows:

52.216–26 Payments of Allowable Costs Before Definitization.

* * * * *

Payments of Allowable Costs Before Definitization (Date)

* * * * *

(d) *Allowable costs.* For the purpose of determining allowable costs, the term ''costs'' includes—

(1) * * *

(2) When the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for—

(i) Supplies and services purchased directly for the contract and associated financing payments to subcontractors, provided payments will be made—

(A) In accordance with the terms and conditions of a subcontract or invoice; and

(B) Not later than 30 days after the submission of the Contractor's payment request to the Government;

* * * * *

6. In section 52.232–7 revise the date of the clause and paragraphs (b)(3), (b)(4)(ii), and (b)(4)(ii)(B) to read as follows:

52.232–7 Payments Under Time-and-Materials and Labor-Hour Contracts.

* * * * *

Payments Under Time-and-Materials and Labor-Hour Contracts (Date)

* * * * *

(b) * * *

(3) The Government will reimburse the Contractor for supplies and services purchased directly for the contract when the Contractor—

(i) Has made payments of cash, checks, or other forms of payment for such purchased supplies or services; or

(ii) Will make such payments—

(A) In accordance with the terms and conditions of a subcontract or invoice; and

(B) Not later than 30 days after the submission of the Contractor's payment request to the Government.

(4) * * *

* * * * *

(ii) The Government will limit reimbursable costs in connection with subcontracts to the amounts paid for supplies and services purchased directly for the contract when the Contractor has made or will make payments of cash, checks, or other forms of payment to the subcontractor—

* * * * *

(B) Not later than 30 days after the submission of the Contractor's payment request to the Government.

* * * * *

7. Revise the date of the clause and paragraph (a)(2) of section 52.232–16 to read as follows:

52.232–16 Progress Payments.

* * * * *

Progress Payments (Date)

* * * * *

(a) * * *

(2) The amount of financing and other payments for supplies and services purchased directly for the contract are limited to the amounts that have been paid by cash, check, or other forms of payment, or that will be paid to subcontractors—

(i) In accordance with the terms and conditions of a subcontract or invoice, and

(ii) Not later than 30 days after the submission of the Contractor's payment request to the Government.

* * * * *

[FR Doc. 00–23912 Filed 9–15–00; 8:45 am]

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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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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 3519/P.L. 106–264

Global AIDS and Tuberculosis Relief Act of 2000 (Aug. 19, 2000; 114 Stat. 748)

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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)	(869–038–00001–3)	6.50	Apr. 1, 2000
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
7 Parts:			
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
210–299	(869–042–00010–2)	54.00	Jan. 1, 2000
300–399	(869–042–00011–1)	29.00	Jan. 1, 2000
400–699	(869–042–00012–9)	41.00	Jan. 1, 2000
700–899	(869–042–00013–7)	37.00	Jan. 1, 2000
900–999	(869–042–00014–5)	46.00	Jan. 1, 2000
1000–1199	(869–042–00015–3)	18.00	Jan. 1, 2000
1200–1599	(869–042–00016–1)	44.00	Jan. 1, 2000
1600–1899	(869–042–00017–0)	61.00	Jan. 1, 2000
1900–1939	(869–042–00018–8)	21.00	Jan. 1, 2000
1940–1949	(869–042–00019–6)	37.00	Jan. 1, 2000
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	(869–038–00039–1)	17.00	[4] Jan. 1, 2000
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	(869–042–00048–0)	32.00	Apr. 1, 2000
200–239	(869–042–00049–8)	38.00	Apr. 1, 2000
240–End	(869–042–00050–1)	49.00	Apr. 1, 2000
18 Parts:			
1–399	(869–042–00051–0)	54.00	Apr. 1, 2000
400–End	(869–042–00052–8)	15.00	Apr. 1, 2000
19 Parts:			
1–140	(869–042–00053–6)	40.00	Apr. 1, 2000
141–199	(869–042–00054–4)	40.00	Apr. 1, 2000
200–End	(869–042–00055–2)	20.00	Apr. 1, 2000
20 Parts:			
1–399	(869–042–00056–1)	33.00	Apr. 1, 2000
400–499	(869–042–00057–9)	56.00	Apr. 1, 2000
500–End	(869–042–00058–7)	58.00	[7] Apr. 1, 2000
21 Parts:			
1–99	(869–042–00059–5)	26.00	Apr. 1, 2000
100–169	(869–042–00060–9)	30.00	Apr. 1, 2000
170–199	(869–042–00061–7)	29.00	Apr. 1, 2000
200–299	(869–042–00062–5)	13.00	Apr. 1, 2000
300–499	(869–042–00063–3)	20.00	Apr. 1, 2000
500–599	(869–042–00064–1)	31.00	Apr. 1, 2000
600–799	(869–038–00065–0)	10.00	Apr. 1, 2000
800–1299	(869–042–00066–8)	38.00	Apr. 1, 2000
1300–End	(869–042–00067–6)	15.00	Apr. 1, 2000
22 Parts:			
1–299	(869–042–00068–4)	54.00	Apr. 1, 2000
300–End	(869–042–00069–2)	31.00	Apr. 1, 2000
23	(869–042–00070–6)	29.00	Apr. 1, 2000
24 Parts:			
0–199	(869–042–00071–4)	40.00	Apr. 1, 2000
200–499	(869–042–00072–2)	37.00	Apr. 1, 2000
500–699	(869–042–00073–1)	20.00	Apr. 1, 2000
700–1699	(869–042–00074–9)	46.00	Apr. 1, 2000
1700–End	(869–042–00075–7)	18.00	[5] Apr. 1, 2000
25	(869–042–00076–5)	52.00	Apr. 1, 2000
26 Parts:			
§§ 1.0-1–1.60	(869–042–00077–3)	31.00	Apr. 1, 2000
§§ 1.61–1.169	(869–042–00078–1)	56.00	Apr. 1, 2000
§§ 1.170–1.300	(869–042–00079–0)	38.00	Apr. 1, 2000
§§ 1.301–1.400	(869–042–00080–3)	29.00	Apr. 1, 2000
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-042-00082-0)	36.00	Apr. 1, 2000
§§ 1.501–1.640	(869–042–00083–8)	32.00	Apr. 1, 2000
§§ 1.641–1.850	(869–042–00084–6)	41.00	Apr. 1, 2000
§§ 1.851–1.907	(869–042–00085–4)	43.00	Apr. 1, 2000
§§ 1.908–1.1000	(869–042–00086–2)	41.00	Apr. 1, 2000
§§ 1.1001–1.1400	(869–042–00087–1)	45.00	Apr. 1, 2000
§§ 1.1401–End	(869–042–00088–9)	66.00	Apr. 1, 2000
2–29	(869–042–00089–7)	45.00	Apr. 1, 2000
30–39	(869–042–00090–1)	31.00	Apr. 1, 2000
40–49	(869–042–00091–9)	18.00	Apr. 1, 2000
50–299	(869–042–00092–7)	23.00	Apr. 1, 2000
300–499	(869–042–00093–5)	43.00	Apr. 1, 2000
500–599	(869–042–00094–3)	12.00	Apr. 1, 2000
600–End	(869–042–00095–1)	12.00	Apr. 1, 2000
27 Parts:			
1–199	(869–042–00096–0)	59.00	Apr. 1, 2000

Title	Stock Number	Price	Revision Date
200–End	(869–042–00097–8)	18.00	Apr. 1, 2000
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	(869–042–00100–1)	33.00	July 1, 2000
100–499	(869–038–00101–2)	13.00	July 1, 1999
500–899	(869–038–00102–1)	40.00	[7] July 1, 1999
900–1899	(869–042–00103–6)	24.00	July 1, 2000
1900–1910 (§§ 1900 to 1910.999)	(869–042–00104–4)	46.00	[6] July 1, 2000
1910 (§§ 1910.1000 to end)	(869–042–00105–2)	28.00	[6] July 1, 2000
1911–1925	(869–038–00106–3)	18.00	July 1, 1999
1926	(869–042–00107–9)	30.00	[6] July 1, 2000
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	(869–042–00110–9)	33.00	July 1, 2000
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	(869–042–00118–4)	31.00	July 1, 2000
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	(869–042–00126–5)	10.00	July 1, 2000
36 Parts			
1–199	(869–042–00127–3)	24.00	July 1, 2000
200–299	(869–042–00128–1)	24.00	July 1, 2000
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	(869–042–00133–8)	28.00	July 1, 2000
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	(869–042–00143–5)	12.00	July 1, 2000
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	(869–042–00150–8)	25.00	July 1, 2000
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	(869–042–00157–5)	23.00	[6] July 1, 2000
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	(869–042–00047–1)	53.00	Jan. 1, 2000
Complete 1999 CFR set		951.00	1999
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
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.

[4] No amendments to this volume were promulgated during the period January 1, 1999, through January 1, 2000. The CFR volume issued as of January 1, 1999 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 1999, through April 1, 2000. The CFR volume issued as of April 1, 1999 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1999, through July 1, 2000. The CFR volume issued as of July 1, 1999 should be retained.

[7] 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.