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# Presidential Documents

**Title 3—**

**The President**

**Proclamation 7345 of September 22, 2000**

## National Older Workers Employment Week, 2000

**By the President of the United States of America**

**A Proclamation**

As a Nation, we are growing older, and so is our workforce. Today, there are 49 million workers in America aged 45 years or older—approximately 35 percent of America's labor force—and by 2008, that number will grow to 62 million, or about 40 percent of the workforce. One in four Americans between the ages of 65 and 69 has at least a part-time job, and 80 percent of the ''baby boom'' generation intends to keep working past the age of 65. Increasingly, older Americans want to work, and for most, the opportunity to work adds not only to the length but also to the quality of their lives.

The abilities, experience, and strong work ethic of these older Americans are a precious resource for our Nation in today's strong economy. With the unemployment rate at its lowest level in more than a generation, businesses urgently need to hire more workers if they are to keep pace with the demand for their products and services. Too often overlooked or underutilized, older workers offer employers a broad and diverse pool of talent.

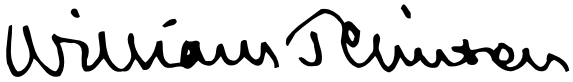
Recognizing the importance of older workers to our Nation and our economy, the Congress unanimously passed, and I was proud to sign into law, the Senior Citizens' Freedom to Work Act of 2000. This legislation eliminates the Social Security retirement earnings test, a provision that withheld benefits from Americans working beyond the age of 65. It allows older Americans to enjoy the extra income and personal fulfillment that work offers without being penalized, and it ensures that companies facing labor shortages will have a greater supply of experienced workers. The Act will also help our economy grow without inflation and encourage Americans to work longer, thus contributing more to the tax base and to the Social Security trust fund at precisely the time when the percentage of younger workers paying into the system will be decreasing.

Older Americans have contributed much to the life of our Nation and to the extraordinary growth and prosperity we enjoy today. We owe them our respect and gratitude; we also owe them the opportunity to continue working as long as they desire. Through laws such as the Older Americans Act, which I have called on the Congress to reauthorize and strengthen, the Age Discrimination Act, the Age Discrimination in Employment Act, and now the Senior Citizens' Freedom to Work Act, the United States Government guarantees that opportunity. And, through the Senior Community Service Employment Program at the Department of Labor and the Administration on Aging at the Department of Health and Human Services, older workers have access to the programs and services they need to continue making their own vital contributions to the American workplace.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 24 through September 30, 2000, as National Older Workers Employment Week. I urge employers across the Nation to recognize the energy and ability of older Americans and to develop new strategies for recruiting and utilizing older workers. I also encourage public officials responsible for job placement,

training, and related services to intensify their efforts throughout the year to assist older workers in finding suitable jobs and training.

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



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# Rules and Regulations

Federal Register

Vol. 65, No. 188

Wednesday, September 27, 2000

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.

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## MERIT SYSTEMS PROTECTION BOARD

### 5 CFR Part 1203

### Procedures for Review of Rules and Regulations of the Office of Personnel Management

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Final rule.

**SUMMARY:** The Merit Systems Protection Board (MSPB or the Board) is amending its rules of practice and procedure in this part to reflect a change in a statutory citation.

**EFFECTIVE DATE:** September 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Robert E. Taylor, Clerk of the Board, (202) 653–7200.

**SUPPLEMENTARY INFORMATION:** The Merit Systems Protection Board is amending its rules of practice and procedure for review of rules and regulations of the Office of Personnel Management to reflect a change in a statutory citation. Section 6(a)(2) of the Veterans Employment Opportunities Act of 1998 (Pub. L. 105–339) redesignated 5 U.S.C. 2302(b)(11), which makes it a prohibited personnel practice to take or fail to take a personnel action that would violate any law, rule, or regulation implementing or directly concerning the merit system principles, as 5 U.S.C. 2302(b)(12). That statutory provision is cited in the Board's regulations at 5 CFR 1203.11(b)(2), which describes the additional information that must be submitted with a request for review of an OPM regulation where that prohibited personnel practice is at issue. Therefore, the Board is amending its regulations at 5 CFR 1203.11(b)(2) to conform to the redesignated statutory provision.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

**List of Subjects in 5 CFR Part 1203**

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1203 as follows:

### PART 1203—PROCEDURES FOR REVIEW OF RULES AND REGULATIONS OF THE OFFICE OF PERSONNEL MANAGEMENT

1. The authority citation for part 1203 continues to read as follows:

**Authority:** 5 U.S.C. 1204(a), 1204(f), and 1204(h).

**§ 1203.11 [Amended]**

2. Amend § 1203.11 in paragraph (b)(2) by removing ''5 U.S.C. 2302(b)(11)'' and adding, in its place, ''5 U.S.C. 2302(b)(12)''.

Dated: September 21, 2000.

**Robert E. Taylor,**

*Clerk of the Board.*

[FR Doc. 00–24737 Filed 9–26–00; 8:45 am]

BILLING CODE 7400–01–U

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Parts 56 and 70

**[Docket No. PY–00–002]**

**RIN 0581–AB89**

### Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is increasing the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges are increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

**EFFECTIVE DATE:** October 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** David Bowden, Jr., Chief, Standardization Branch, (202) 720–3506.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*) authorizes official voluntary grading and certification on a user-fee basis of eggs, poultry, and rabbits. The AMA provides that reasonable fees be collected from users of the program services to cover, as nearly as practicable, the costs of services rendered.

The AMS regularly reviews these programs to determine if fees are adequate and if costs are reasonable. This rule will amend the schedule for fees and charges for grading services rendered to the egg, poultry, and rabbit industries to reflect the costs currently associated with them.

A recent review of the current fee schedule, effective October 1, 1999, revealed that anticipated revenue would not adequately cover increasing program costs. Without a fee increase, FY 2001 revenues for grading services are projected at $23.7 million, costs are projected at $24.9 million, and trust fund balances would be $11.3 million. With a fee increase, FY 2001 revenues are projected at $24.3 million, costs are projected at $24.9 million, and trust fund balances would be $11.9 million.

Employee salaries and benefits account for approximately 81 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 4.76 to 5.31 percent, depending on locality, became effective in January 2000 and has materially affected program costs. Another general and locality salary increase estimated at 3.7 percent is expected in January 2001. Also, from October 1999 through September 2001, salaries and fringe benefits of federally licensed State employees will have increased by about 6.7 percent.

The impact of these cost increases was determined for resident, nonresident, and fee services. To offset projected cost increases, the hourly resident and nonresident rate will be increased by approximately 4 percent and the fee rate will be increased by approximately 6 percent. The hourly rate for resident and nonresident service covers graders' salaries and benefits. The hourly rate for fee service covers graders' salaries and benefits, plus the cost of travel and supervision. The hourly rate for an appeal grading or review of a grader's decision covers the

time required to perform such service. Due to changes in the number of Poultry Program offices and the resulting reduction in costs, administrative charges that cover the cost of supervision for resident and nonresident service will remain unchanged as shown in the table below.

The following table compares current fees and charges with the revised fees and charges for egg, poultry, and rabbit grading as found in 7 CFR parts 56 and 70:

| Service | Current | Proposed |
|---|---|---|
| **Resident Service (egg, poultry, rabbit grading)** | | |
| Inauguration of service | 310 | 310 |
| Hourly charges: | | |
| Regular hours | 28.80 | 29.96 |
| Administrative charges—Poultry grading: | | |
| Per pound of poultry | .00035 | .00035 |
| Minimum per month | 225 | 225 |
| Maximum per month | 2,625 | 2,625 |
| Administrative charges—Shell egg grading: | | |
| Per 30-dozen case of shell eggs | .044 | .044 |
| Minimum per month | 255 | 225 |
| Maximum per month | 2,625 | 2,625 |
| Administrative charges—Rabbit grading: Based on 25 % of grader's salary: | | |
| Minimum per month | 260 | 260 |
| **Nonresident Service (egg, poultry grading)** | | |
| Hourly charges: | | |
| Regular hours | 28.80 | 29.96 |
| Administrative charges: Based on 25 % of grader's salary: | | |
| Minimum per month | 260 | 260 |
| **Fee and Appeal Service (egg, poultry, rabbit grading)** | | |
| Hourly charges: | | |
| Regular hours | 48.40 | 51.32 |
| Weekend and holiday hours | 55.76 | 59.12 |

**Comments**

Based on an analysis of costs to provide these services, a proposed rule to increase the fees for these services was published in the **Federal Register** (65 FR 37298) on June 14, 2000. Comments on the proposed rule were solicited from interested parties until July 14, 2000. The Agency received four comments during the 30-day comment period. They were from one producer, one processor, and two industry associations. All four opposed the fee increase.

The producer and the two associations expressed concern that the increase was coming at a time of economic hardship and suggested that the Agency increase efforts to reduce costs. One of the associations suggested that the increase be postponed for 6 months, then re-evaluated and re-calculated at that time. The processor indicated that it wanted to continue using the service, but could not if the cost became prohibitive.

Employee salaries and benefits account for approximately 81 percent of the total operating budget, and rates for these expenditures are set by various Federal and State governing bodies. Projected increases in these costs require the Agency to increase hourly rates to keep the programs operating on a sound financial basis. Further, as discussed earlier and shown in the previous table, while the hourly rates would increase, the administrative charges would remain unchanged. Due to changes in the number of Poultry Program offices and the resulting reduction in costs, administrative charges that cover the cost of supervision for resident and nonresident service will remain unchanged. Although the Agency seeks to minimize or negate any fee increases for the poultry, rabbit, and egg grading programs, it must operate these programs on a sound financial basis. Therefore, the Agency is implementing those increases, as proposed, to ensure the financial stability of its grading programs.

**Executive Order 12866**

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

**Regulatory Flexibility**

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.*), the AMS has considered the economic impact of this action on small entities. It is determined that its provisions would not have a significant economic impact on a substantial number of small entities.

There are about 400 users of Poultry Programs' grading services. These official plants can pack eggs, poultry, and rabbits in packages bearing the USDA grade shield when AMS graders are present to certify that the products meet the grade requirements as labeled. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201). These entities are under no obligation to use grading services as authorized under the Agricultural Marketing Act of 1946.

The AMS regularly reviews its user fee financed programs to determine if the fees are adequate. The most recent review determined that the existing fee schedule would not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. Without a fee increase, FY 2001 revenues for grading services are projected at $23.7 million, costs are projected at $24.9 million, and trust fund balances would be $11.3 million. With a fee increase, FY 2001 revenues are projected at $24.3 million, costs are

projected at $24.9 million, and trust fund balances would be $11.9 million.

This action will raise the fees charged to users of grading services. The AMS estimates that overall, this rule will yield an additional $0.5 million during FY 2001. The hourly rate for resident and nonresident service will increase by approximately 4 percent and the fee rate will increase by approximately 6 percent. The impact of these rate changes in a poultry plant will range from less than 0.002 to 0.02 cents per pound of poultry handled. In a shell egg plant, the range will be less than 0.009 to 0.09 cents per dozen eggs handled.

**Civil Justice Reform**

This action has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

**Paperwork Reduction**

The information collection requirements that appear in the sections to be amended by this action have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act (44 U.S.C. Chapter 35) as follows: § 56.52(a)(4)—No. 0581–0128; and § 70.77(a)(4)—No. 0581–0127.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of the action until 30 days after publication in the **Federal Register**. The revised fees need to be implemented on an expedited basis in order to avoid further financial losses in the grading program. The effective date of the fee increase will be set to coincide with the billing cycle that begins on the first day of the first month after date of publication in the **Federal Register**.

**List of Subjects**

*7 CFR Part 56*

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

*7 CFR Part 70*

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, Title 7, Code of Federal Regulations, parts 56 and 70 are amended as follows:

## PART 56—GRADING OF SHELL EGGS

1. The authority citation for part 56 continues to read as follows:

**Authority:** 7 U.S.C. 1621–1627.

2. Section 56.46 is revised to read as follows:

**§ 56.46 On a fee basis.**

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $51.32 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $59.12 per hour. Information on legal holidays is available from the Supervisor.

## PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

3. The authority citation for part 70 continues to read as follows:

**Authority:** 7 U.S.C. 1621–1627.

4. Section 70.71 is revised to read as follows:

**§ 70.71 On a fee basis.**

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $51.32 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $59.12 per hour. Information on legal holidays is available from the Supervisor.

Dated: September 21, 2000.

**Kathleen A. Merrigan,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 00–24778 Filed 9–26–00; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 989

**[Docket No. FV00–989–5 IFR]**

## Raisins Produced From Grapes Grown in California; Decreased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule decreases the assessment rate established for the Raisin Administrative Committee (Committee) for the 2000–01 and subsequent crop years from $8.50 to $6.50 per ton of free tonnage raisins acquired by handlers, and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. The Committee locally administers the Federal marketing order which regulates the handling of raisins produced from grapes grown in California (order). Authorization to assess raisin handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The crop year runs from August 1 through July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Effective September 28, 2000. Comments received by November 27, 2000, will be considered prior to issuance of a final rule.

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

**FOR FURTHER INFORMATION CONTACT:** Maureen T. Pello, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order

Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

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

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California raisin handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable raisins beginning on August 1, 2000, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule decreases the assessment rate established for the Committee for the 2000–01 and subsequent crop years from $8.50 to $6.50 per ton of free tonnage raisins acquired by handlers, and reserve tonnage raisins released or sold to handlers for use in free tonnage outlets. The order authorizes volume control provisions that establish free and reserve percentages of raisins acquired by handlers. Free tonnage raisins may be sold by handlers to any outlet, and reserve tonnage raisins are held by handlers for the account of the Committee or released or sold to handlers for sale to free tonnage outlets. Reserve raisins held for the account of the Committee are not assessable. With projected assessable tonnage about 23,300 tons higher than last year's assessable tonnage, sufficient income should be generated at the lower assessment rate for the Committee to meet its anticipated expenses. This action was unanimously recommended by the Committee at a meeting on August 15, 2000.

Sections 989.79 and 989.80, respectively, of the order provide authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California raisins. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

A continuous assessment rate of $5.00 per ton was in effect for the 1996–97 and 1997–98 crop years. Due to short crops in 1998–99 and 1999–2000, the assessment rate for those years was raised to $8.50 per ton.

Regarding the 2000–01 crop year, the Committee recommended decreasing the assessment rate to $6.50 per ton of assessable raisins to cover recommended administrative expenditures of $2,145,000. This compares to budgeted expenses of $2,482,000 for the 1999–2000 crop year. Major expenditures include $660,500 for export program administration and related activities, $477,700 for salaries, $476,300 for contingencies, and $160,000 for compliance activities. Budgeted expenses for these items in 1999–2000 were $549,500, $425,000, $506,250, and $200,000, respectively.

The recommended $6.50 per ton assessment rate was derived by dividing the $2,145,000 in anticipated expenses by an estimated 330,000 tons of assessable raisins. The Committee recommended decreasing its assessment rate because the projected 2000–01 assessable tonnage of 330,000 tons is about 23,300 tons higher than last year's actual assessed tonnage. Thus, sufficient income should be generated at the lower assessment rate for the Committee to meet its anticipated expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and other information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2000–01 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by the Department.

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

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

There are approximately 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000, excluding receipts from any other sources. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities, excluding receipts from other sources.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2000–01 and subsequent crop years from $8.50 to $6.50 per ton of assessable raisins acquired by handlers. The Committee unanimously recommended 2000–01 expenses of $2,145,000. Major expenditures include $660,500 for export program administration and related activities, $477,700 for salaries, $476,300 for contingencies, and $160,000 for compliance activities. Budgeted expenses for these items in 1999–2000 were $549,500, $425,000, $506,250, and $200,000, respectively. With anticipated assessable tonnage at 330,000 tons, about 23,300 tons higher than last year's actual assessed tonnage, sufficient income should be generated at the $6.50 per ton assessment rate to meet expenses. Pursuant to § 989.81(a) of the order, any unexpended assessment funds from the crop year must be credited or refunded to the handlers from whom collected.

The industry considered various alternative assessment rates prior to arriving at the $6.50 per ton recommendation. The Committee's Audit Subcommittee met on August 8, 2000, to review preliminary budget information. The subcommittee considered keeping the assessment rate at $8.50 per ton. However, this would have generated a projected $1 million in excess funds. The subcommittee considered reducing the rate to $7.50 per ton and ultimately recommended that rate to the Committee at its meeting on August 15, 2000. Other options were discussed at the Committee meeting, including decreasing the rate to $5.00 per ton. After much deliberation, the Committee voted to decrease the assessment rate to $6.50 per ton.

A review of statistical data on the California raisin industry indicates that assessment revenue has consistently been less than one percent of grower revenue in recent years. Although no official estimates or data are available for the upcoming season, it is anticipated that assessment revenue will likely continue to be less than one percent of grower revenue in the 2000–2001 crop year, especially with the 24 percent decrease in the assessment rate.

Regarding the impact of this action on affected entities, this action decreases the assessment rate imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

In addition, the Audit Subcommittee's meeting on August 8, 2000, and the Committee's meeting on August 15, 2000, where this action was deliberated were public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations. Finally, all interested persons are invited to submit information on the regulatory and information impact of this action on small businesses.

This rule imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors agencies. Finally, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2000–01 crop year began on August 1, 2000, and the order requires that the rate of assessment for each crop year apply to all assessable raisins acquired during the year; (2) this action decreases the assessment rate; (3) handlers are aware of this action which was unanimously recommended at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

**List of Subjects in 7 CFR Part 989**

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as followed:

## PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 989.347 is revised to read as follows:

**§ 989.347 Assessment rate.**

On and after August 1, 2000, an assessment rate of $6.50 per ton is established for assessable raisins produced from grapes grown in California.

Dated: September 21, 2000.

**Eric M. Forman,**

*Acting Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–24776 Filed 9–26–00; 8:45 am]

BILLING CODE 3410–02–P

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## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Part 245

**[INS No. 2048–00]**

**RIN 1115–AF75**

## National Interest Waivers for Second Preference Employment-Based Immigrant Physicians Serving in Medically Underserved Areas or at Department of Veterans Affairs Facilities; Correction

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Correction to interim rule.

**SUMMARY:** This rule contains a correction to an Immigration and Naturalization Service (Service) interim rule, published in the **Federal Register** on Wednesday, September 6, 2000, at 65 FR 53889. The interim rule established the procedure under which a physician may obtain a waiver of the job offer requirement that applies to alien beneficiaries of second preference employment-based immigrant visa petitions if the physician is willing to practice full-time in an area designated by the Secretary of Health and Human Services as having a shortage of health care professionals, or in a facility operated by the Department of Veterans Affairs.

**DATES:** The interim rule is effective October 6, 2000.

**FOR FURTHER INFORMATION CONTACT:** Craig Howie, Headquarters Adjudications Officer, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW, Room 3040, Washington, DC 20536, telephone (202) 353–8177.

**SUPPLEMENTARY INFORMATION:** The Service published an interim rule in the **Federal Register** on September 6, 2000, at 65 FR 53889. In the interim rule there is a reference to ''§ 204(n) of this chapter'' the reference should have been to ''§ 204.12(a) of this chapter.''

## Corrections

In rule document 00–22832 beginning on page 53889 in the issue of Wednesday, September 6, 2000, make the following correction:

### § 245.18 [Corrected]

On page 53896, in the second column, under paragraph (i), on the 8th line, the reference to ''§ 204(n)'' should be revised to read: ''§ 204.12(a)''.

Dated: September 21, 2000.

**Doris Meissner,**

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 00–24698 Filed 9–26–00; 8:45 am]

BILLING CODE 4410–10–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–312–AD; Amendment 39–11914; AD 2000–20–03]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier Model CL–600–2B19 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 Bombardier Model CL–600–2B19 series airplanes. This action requires installation of shields for the aileron quadrants in the wheel bay of the main landing gear (MLG). This action is necessary to prevent the accumulation of water, ice, or slush on the aileron quadrants and control cable pulleys in the wheel bay of the MLG, which could freeze and result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective October 2, 2000.

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

Comments for inclusion in the Rules Docket must be received on or before October 27, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–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. 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 fax or the Internet must contain ''Docket No. 2000–NM–312–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 this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Daniel Parrillo, Aerospace Engineer, Airframe and Propulsion Branch, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7505; fax (516) 568–2716.

**SUPPLEMENTARY INFORMATION:** The Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–2B19 series airplanes. The TCAA advises that it has received reports of stiffness of the aileron controls following take-off from a snow and slush covered runway. It is suspected that water, ice, or slush accumulated on the aileron quadrants and control cable pulleys in the wheel bay of the main landing gear (MLG) during the ground roll, and then froze during the climb to cruise altitude. Upon descent to lower altitude, normal aileron control was restored and the airplane landed safely.

Such accumulation of water, ice, or slush on the aileron quadrants and control cable pulleys in the wheel bay of the main landing gear could result in reduced controllability of the airplane.

## Explanation of Relevant Service Information

Bombardier has issued Service Bulletin 601R–27–104, dated October 15, 1999, which describes procedures for the installation of splash shields for the aileron quadrants in the wheel bay of the MLG. Accomplishment of the action specified in the service bulletin is intended to adequately address the identified unsafe condition. The TCAA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–2000–28, dated August 28, 2000, in order to assure the continued airworthiness of these airplanes in Canada.

## FAA's Conclusions

This airplane model is manufactured in Canada 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 TCAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the TCAA, 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 the accumulation of water, ice, and slush on the aileron quadrants and control cable pulleys in the wheel bay of the MLG, which could result in reduced controllability of the airplane. This AD requires accomplishment of the actions specified in the service bulletin described previously.

**Differences Between This AD and the Canadian AD**

This AD differs from the parallel Canadian AD in that it requires the installation of the splash shields within 30 days after the effective date of this AD, rather than within 90 days as specified in the Canadian AD. The FAA finds that a 90-day compliance time will not ensure that the installation is accomplished in a timely manner. In developing an appropriate compliance time for the installation of the splash shields, the FAA considered not only the TCAA's recommendation, but also the degree of urgency associated with addressing the subject unsafe condition. The FAA finds that installation of the splash shields within 30 days of the effective date of this AD to be warranted, in that this represents 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–312–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:

**2000–20–03 Bombardier, Inc.** (Formerly Canadair): Amendment 39–11914. Docket 2000–NM–312–AD.

*Applicability:* Model CL–600–2B19 series airplanes, serial numbers 7003 through 7323 inclusive, certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane due to an accumulation of water, ice, and slush on the aileron quadrants and control cable pulleys in the wheel bay of the main landing gear (MLG); accomplish the following:

**Installation**

(a) Within 30 days after the effective date of this AD, install splash shields in the wheel bin of the MLG in accordance with Bombardier Service Bulletin 601R–27–104, dated October 15, 1999.

**Alternative Methods of Compliance**

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York 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, New York ACO.

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

**Special Flight Permits**

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

**Incorporation by Reference**

(d) The installation shall be done in accordance with Bombardier Service Bulletin 601R–27–104, dated October 15, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; 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 Canadian airworthiness directive CF–2000–28, dated August 28, 2000.

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

Issued in Renton, Washington, on September 22, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–24893 Filed 9–25–00; 1:14 pm]

BILLING CODE 4910–13–U

## SOCIAL SECURITY ADMINISTRATION

## 20 CFR Part 404

**[Regulations No. 4]**

**RIN 0960–AF42**

## Extension of Expiration Date for the Respiratory Body System Listings

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Final rule.

**SUMMARY:** We adjudicate claims at the third step of our sequential evaluation process for evaluating disability using the Listing of Impairments (the Listings) under the Social Security and Supplemental Security Income (SSI) programs. This final rule extends until July 2, 2002, the date on which the respiratory body system listings will no longer be effective. We have made no revisions to the medical criteria in these listings; they remain the same as they now appear in the Code of Federal Regulations. This extension will ensure that we continue to have medical evaluation criteria in the listings to adjudicate claims for disability based on impairments in the respiratory body system at step three of our sequential evaluation process.

**EFFECTIVE DATE:** This final regulation is effective September 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Deborah Barnes, Social Insurance Specialist, Office of Disability, Social Security Administration, 3–A–8 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–4171 or TTY (410) 966–5609. For information on eligibility, claiming benefits, or coverage of earnings, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit the Internet site for SSA: *http://www.ssa.gov/.*

**SUPPLEMENTARY INFORMATION:** We use the Listings in appendix 1 to subpart P of part 404 at the third step of the sequential evaluation process to evaluate claims filed by adults and children for benefits based on disability under the Social Security and SSI programs. The Listings are divided into parts A and B. We use the criteria in part A to evaluate the impairments of adults. We use the criteria in part B to evaluate impairments of children. If those criteria do not apply, then we will apply the medical criteria in part A.

As a result of medical advances in disability evaluation and treatment, and program experience, we periodically review and update the Listings. When we last published the respiratory body system listings on October 7, 1993 (58 FR 52346), we established October 7, 2000, as the date on which the respiratory body system listings would no longer be effective unless they were extended or revised and promulgated again.

In this final rule, we are extending until July 2, 2002, the date on which the respiratory body system listings (3.00 and 103.00) will no longer be effective. We are extending this date because we do not expect to develop revised listings criteria for this body system by the current expiration date. However, we are reviewing the respiratory body system listings and we plan to publish proposed and final rules over the course of the next two years.

We believe that the requirements in these listings are still valid for our program purposes. Specifically, if we find that an individual has an impairment that meets the statutory duration requirement and that meets or equals the Listings, we will find that the individual is disabled at the third step of the sequential evaluation process.

### Regulatory Procedures

*Justification For Final Rule*

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), we follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of our regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures for this rule. Good cause exists because this final rule only extends the date on which the respiratory body system listings will no longer be effective. It makes no substantive changes to the listings. The current regulations expressly provide that the listings may be extended, as well as revised and promulgated again. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this regulation as a final rule.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule provided by 5 U.S.C. 553(d). As explained above, we are not making any substantive changes in the respiratory body system listings. However, without an extension of the expiration date for the respiratory body system listings, we will lack regulatory criteria for assessing respiratory impairments at the third step of the sequential evaluation process after the current expiration date of the listings. In order to ensure that we continue to have regulatory criteria for assessing respiratory impairments under the listings, we find that it is in the public interest to make this rule effective upon publication.

*Executive Order 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review. We have also determined that this final rule meets the plain language requirement of Executive Order 12866 and the President's memorandum of June 1, 1998 (63 FR 31885).

*Regulatory Flexibility Act*

We certify that this final regulation will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

*Paperwork Reduction Act*

This final regulation imposes no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

**List of Subjects in 20 CFR Part 404**

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: September 19, 2000.

**Kenneth S. Apfel,**

*Commissioner of Social Security.*

For the reasons set forth in the preamble, part 404, subpart P, chapter III of title 20 of the Code of Federal Regulations is amended as set forth below.

## PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

## Subpart P—[Amended]

1. The authority citation for subpart P of part 404 continues to read as follows:

**Authority:** Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

2. Appendix 1 to subpart P of part 404 is amended by revising item 4 of the introductory text before Part A to read as follows:

**Appendix 1 to Subpart P of Part 404—Listing of Impairments**

* * * * *

4. Respiratory System (3.00 and 103.00): July 2, 2002.

* * * * *

[FR Doc. 00–24708 Filed 9–26–00; 8:45 am]

BILLING CODE 4191–02–U

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 165

**[CGD01–00–220]**

**RIN 2115–AA97**

## Safety Zone; Oil Spill Recovery, Lower New York and Sandy Hook Bays

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for an oil spill recovery on Lower New York and Sandy Hook Bays. This action is necessary to protect recovery personnel and vessels in the vicinity of oil spill recovery operations. This action is intended to restrict vessel traffic in a portion of Lower New York and Sandy Hook Bays.

**DATES:** This rule is effective from 7 p.m. (e.s.t.) on September 14, 2000, until 7 a.m. (e.s.t.) on September 25, 2000.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–00–220) and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4012.

**SUPPLEMENTARY INFORMATION:**

### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(8), the Coast Guard finds that good cause exists for not publishing an NPRM. Good cause exists for not publishing an NPRM due to the fact that the safety zone is required due to an unforeseen oil spill. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to close the waterway and protect the recovery personnel and vessels in the vicinity of oil spill recovery operations.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This is due to the following reasons: It is an unforeseen oil spill and is needed to protect the recovery personnel and vessels in the vicinity of the oil spill recovery operations.

### Background and Purpose

There was an oil spill in the vicinity of the Naval Weapons Station, Earle, NJ on September 14, 2000. The Coast Guard is establishing a temporary safety zone to provide safety to personnel engaged in recovery operations and to vessels in the area. The safety zone is in effect from 7 p.m. (e.s.t.) on September 14, 2000, until 7 a.m. (e.s.t.) on Monday, September 25, 2000. The effective times of this safety zone may be extended or shortened depending on the time required to conduct the oil spill recovery. The safety zone prevents vessels from transiting a portion of Lower New York and Sandy Hook Bays. The safety zone includes all waters of Lower New York and Sandy Hook Bays bound by the following points: 40°27.449′ N, 074°08.224′ W onshore at Point Comfort, NJ, thence to Old Orchard Shoal Light (LLNR 35395), thence to Chapel Hill South Channel Lighted Bell Buoy 10 (LLNR 35235), thence to 40°28.656′ N, 074°01.076′ W onshore at Sandy Hook Point, thence to Atlantic Highlands Breakwater Light (LLNR 35595). Marine traffic will not be allowed within this safety zone without authorization from the Captain of the Port New York. The size and duration of this zone may be expanded or contracted as required for oil spill recovery activities. Public notifications will be made by facsimile and broadcast notice to mariners as required.

### Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, and the unforeseen nature of the oil spill.

The size of this safety zone was determined using the predicted tides and currents for the area affected by the oil spill.

**Small Entities**

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Lower New York and Sandy Hook Bays during the times this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: It is due to an unforeseen oil spill. The size and duration of the zone may be expanded or contracted due to oil spill recovery operations.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities as the zone will only be in effect for the time required to complete the oil spill recovery operations.

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

**Collection of Information**

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

**Federalism**

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

**Taking of Private Property**

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

**Civil Justice Reform**

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

**Protection of Children**

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

**Environment**

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

**List of Subjects in 33 CFR Part 165**

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

**Regulation**

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–220 to read as follows:

**§ 165.T01–220 Safety Zone; Oil Spill Cleanup, Lower New York and Sandy Hook Bays.**

(a) *Location.* The following area is a safety zone: All waters of Lower New York and Sandy Hook Bays bound by the following points: 40°27.449′ N, 074°08.224′ W onshore at Point Comfort, NJ, thence to Old Orchard Shoal Light (LLNR 35395), thence to Chapel Hill South Channel Lighted Bell Buoy 10 (LLNR 35235), thence to 40°28.656′ N, 074°01.076′ W onshore at Sandy Hook Point, thence to Atlantic Highlands Breakwater Light (LLNR 35595).

(b) *Effective period.* This section is effective from 7 p.m. (e.s.t.) on September 14, 2000, until 7 a.m. (e.s.t.) on September 25, 2000. The size and duration of this safety zone may be expanded or contracted due to requirements for the oil spill cleanup.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: September 14, 2000.

**P.A. Harris,**

*U.S. Coast Guard, Acting Captain of the Port, New York.*

[FR Doc. 00–24799 Filed 9–22–00; 4:35 pm]

BILLING CODE 4910–15–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

**[OPP–301043; FRL–6741–9]**

**RIN 2070–AB78**

## Clopyralid; Pesticide Tolerances for Emergency Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for residues of clopyralid in or on peaches and nectarines. 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 peaches and nectarines. This regulation establishes a maximum permissible level for residues of clopyralid in these food commodities. The tolerances will expire and are revoked on December 31, 2002.

**DATES:** This regulation is effective September 27, 2000. Objections and requests for hearings, identified by docket control number OPP–301043 must be received by EPA on or before November 27, 2000.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301043 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6463; and e-mail address: madden.barbara@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

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

| Categories | NAICS codes | Examples of Potentially Affected Entities |
|---|---|---|
| Industry | 111<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>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–301043. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

### II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for residues of the herbicide clopyralid, 3,6-dichloro-2-pyridinecarboxylic acid, in or on peaches and nectarines at 0.50 part per million (ppm). These tolerances will expire and are revoked on December 31, 2002. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

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

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

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that

''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

## III. Emergency Exemption for Clopyralid on Peaches and Nectarines and FFDCA Tolerances

Plum pox virus was introduced to the United States in 1999 and has recently been found in Pennsylvania. This disease is a major threat to stone fruit production, and Delaware and New Jersey are requesting an emergency exemption for use of clopyralid since removal of broadleaf weeds that are alternate hosts for the virus, or are refugia for the green peach aphid, the vector of this virus, will enhance the effectiveness of imidacloprid which has already been exempted under section 18 of FIFRA for use to combat the aphid vector directly.

The registered alternative herbicides are not optimal for control of the weeds that clopyralid is being requested for. Most are for preemergence use on bare ground, and will not affect perennial weeds such as clover, Canada thistle, and asters. Some are non-selective and will kill the sod between tree rows, resulting in unacceptable erosion. Only 2,4-D is useful for some weeds, but for others, gives only partial control. While the use of imidacloprid to control the vectors is the major tool to contain or eradicate plum pox virus, an herbicide like clopyralid will enhance the effectiveness of imidacloprid by reducing the population of insects needing to be controlled, and the population of weeds that can serve as alternate hosts for the virus. EPA has authorized under FIFRA section 18 the use of clopyralid on peaches and nectarines for control of weeds that serve as alternate hosts for plum pox virus or are refugia for the green peach aphid in Delaware and New Jersey. After having reviewed the submission, EPA concurs that emergency conditions exist for these States.

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

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

## IV. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of clopyralid and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of clopyralid in or on peaches and nectarines at 0.50 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

### *A. Toxicological Endpoints*

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD=NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE)= NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as $1 \times 10^{-6}$ or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are

not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ($MOE_{cancer}$ = point of departure/exposures) is calculated. The doses and toxicological endpoints selected and the LOC for margins of exposure for various exposure senarios are summarized in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CLOPYRALID FOR USE IN HUMAN RISK ASSESSMENT

| Exposure scenario | Dose used in risk assessment, UF | FQPA SF* and level of concern for risk assessment | Study and toxicological effects |
|---|---|---|---|
| Acute Dietary general population including females 13–50 years of age, infants and children | NOAEL = 75 mg/kg/day; UF = 100; Acute RfD = 0.75 mg/kg/day | FQPA SF = 3x; aPAD = acute RfD ÷ FQPA SF = 0.25 mg/kg/day | Developmental toxicity study in rats LOAEL = 250 mg/kg/day based on decreased weight gain and food consumption during days 6–9 of gestation. These effects in the maternal animal are believed to be due to one or a few doses given at the initiation of the dosing period (days 6–15). |
| Chronic Dietary all populations | NOAEL = 15 mg/kg/day; UF = 100; Chronic RfD = 0.15 mg/kg/day | FQPA SF = 3x; cPAD = chronic RfD ÷ FQPA SF = 0.05 mg/kg/day | Chronic Oral Toxicity /Carcinogenicity Study in Rats LOAEL = 150 mg/kg/day based on histopathologic findings in the stomach (epithelial hyperplasia and thickening of the limiting ridge). |
| Short-Term Dermal (1 to 7 days) (Residential) | none | none | none |
| Intermediate-Term Dermal (1 week to several months) (Residential) | none | none | none |
| Long-Term Dermal (several months to lifetime) (Residential) | none | none | none |
| Short-Term Inhalation (1 to 7 days) (Residential) | inhalation (or oral) study NOAEL = 75 mg/kg/day (inhalation absorption rate = 100%) | LOC for MOE = 300 (Residential) | Developmental study in rats LOAEL = 250 mg/kg/day based on decreased weight gain and food consumption during days 6–9 of gestation. |
| Intermediate-Term Inhalation (1 week to several months) (Residential) | inhalation (or oral) study NOAEL = 75 mg/kg/day (inhalation absorption rate = 100%) | LOC for MOE = 300 (Residential) | Developmental study in rats LOAEL = 250 mg/kg/day based on decreased weight gain and food consumption during days 6–9 of gestation. |
| Long-Term Inhalation (several months to lifetime) (Residential) | none | none | none |
| Cancer (oral, dermal, inhalation) | none | none | Clopyralid is negative for carcinogenicity in feeding studies in rats and mice at doses above the limit dose and has been classified as ''not likely'' to be a human carcinogen. |

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

*B. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.431) for the residues of clopyralid, in or on a variety of raw agricultural commodities. Tolerances currently exist for residues of clopyralid on asparagus, barley, field corn, mint, oats, sugar beet tops, wheat, meat, milk and eggs. Additionally, time-limited tolerances for canola, cranberries and flax have been established. Risk assessments were conducted by EPA to assess dietary exposures from clopyralid in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: 100% crop treated was assumed for all crops and residues were assumed to be at tolerance level.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: 100% crop treated was assumed for all crops and residues were assumed to be at tolerance level.

iii. *Cancer*. Clopyralid has been classified as ''not likely'' to be a human carcinogen. Therefore, an exposure assessment to address cancer risk is not required.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for clopyralid in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of clopyralid.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and screening concentration in ground water (SCI-GROW), which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/ EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to clopyralid they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the EECs of clopyralid for acute exposures are estimated to be 27 parts per billion (ppb) for surface water and 9.7 ppb for ground water. The EECs for chronic exposures are estimated to be 9 ppb for surface water and 9.7 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Clopyralid is currently registered for use on the following residential non-dietary sites: turf and ornamentals. Applications can be made 1–2 times per year at rates up to 0.5 lb acid equivalent (ae) per acre. The current registered labels permit homeowners to mix/load/apply both liquid and granular formulations. The risk assessment was conducted using the following exposure assumptions: residential handlers may receive short-term dermal and inhalation exposure to clopyralid when mixing, loading and applying; adults and children may be exposed to clopyralid from dermal contact with residues when contacting foliage during post-application activities; and toddlers may also receive short-term oral exposure from hand-to-mouth ingestion during post-application activities.

No chemical-specific exposure or residue dissipation data for handler or post-application activities were submitted to the Agency in support of the registered lawn uses. Therefore, the Agency's Draft Standard Operating Procedures for Residential Exposure Assessments were used as the basis for all handler exposure calculations. The post-application risk assessment is based on generic assumptions as specified by the newly proposed Residential SOPs and recommended approaches by the Agency's Exposure Science Advisory Committee (ExpoSAC). Changes to the Residential SOPs have been proposed that alter the residential post-application scenario assumptions. The proposed assumptions are expected to better represent residential exposure and are still considered to be high-end, screening level assumptions. Agency management has authorized the use of the revised residential SOPs that were presented to the FIFRA SAP in September 1999. Therefore, the revised residential SOPs were used to calculate exposure estimates for the clorpyralid turf and ornamental uses.

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

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

*C. Safety Factor for Infants and Children*

1. *Safety factor for infants and children* —i. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Developmental toxicity studies*. In the developmental study in rats, the maternal toxicity LOAEL is 250 mg/kg/ day based on death, reduced body weight gains, and reduced food consumption, and the maternal toxicity NOAEL is 75 mg/kg/day. The developmental toxicity NOAEL is greater than or equal to 250 mg/kg/day.

In the developmental toxicity study in rabbits, the maternal NOAEL is 110 mg/ kg/day based on death, clinical signs,

reduced body weight, and gastric lesions at the LOAEL of 250 mg/kg/day. The developmental NOAEL is also 110 mg/kg/day based on hydrocephalus (8 fetuses in 3 litters) at the LOAEL of 250 mg/kg/day.

iii. *Reproductive toxicity study*. In the 2-generation reproductive toxicity study in rats, the systemic toxicity NOAEL is 500 mg/kg/day. This endpoint is based on decreased body weights, body weight gains, and food consumption in the $F_0$ and $F_1$ males and females and slight focal hyperkeratotic changes in the gastric squamous mucosa of 1 of 30 $F_0$ males and 2 of 30 $F_1$ males at the LOAEL of 1,500 mg/kg/day. The reproductive toxicity NOAEL is 500 mg/kg bw/day. This endpoint is based on the decreased day 28 body weight of male pups of both litters of the $F_1$ generation and the increased relative liver weight of $F_{1a}$ pups (both sexes) and F1b males of the $F_1$ generation at the LOAEL of 1,500 mg/kg/day.

iv. *Prenatal and postnatal sensitivity.* There is no evidence of qualitative or quantitative susceptibility following *in utero* exposure to rats or rabbits in the prenatal developmental studies or in the offspring following pre/postnatal exposure in the two generation rat reproduction toxicity study.

v. *Conclusion*. The FQPA 10x Safety Factor was reduced to 3x. This reduction was made because there is no quantitative or qualitative evidence of increased susceptibility following *in utero* exposure to rats and rabbits and/or following prenatal/postnatal exposure to rats. Additionally, the dietary (food and drinking water) and non-occupational exposure assessments will not underestimate the potential exposures for infants, children, and/or women of childbearing age. However, there was neuropathology in fetuses (hydrocephalus) in the rabbit developmental study. This study was considered a ''weak trigger'' for the requirement of a developmental neurotoxicity study. Therefore, the FQPA Safety Factor is 3x.

*D. Aggregate Risks and Determination of Safety*

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD—(average food+ chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to clopyralid in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of clopyralid on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to clopyralid will occupy 8% of the aPAD for the U.S. population, 5% of the aPAD for females 13 years and older, 9% of the aPAD for all infants less than 1 year old (the infant subpopulation at greatest exposure) and 13% of the aPAD for children 1–6 years old (the children subpopulation at greatest exposure). In addition, despite the potential for acute dietary exposure to clopyralid in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of clopyralid in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO CLORPYRALID

| Population subgroup | aPAD (mg/kg) | % aPAD (Food) | Surface water EEC (ppb) | Ground water EEC (ppb) | Acute DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. Population | 0.25 | 8% | 27 | 9.7 | 8100 |
| Females, 13 years & older | 0.25 | 5% | 27 | 9.7 | 7100 |
| All Infants (less than 1 year) | 0.25 | 9% | 27 | 9.7 | 2300 |
| Children (1–6 years old) | 0.25 | 13% | 27 | 9.7 | 2200 |

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to clopyralid from food will utilize 14% of the cPAD for the U.S. population, 10% of the cPAD for all infants less than 1 year old (the infant subpopulation at greatest exposure) and 34% of the aPAD for children 1–6 years old (the children's subpopulation at greatest exposure). Though there are residential uses for clopyralid, based on the use pattern, chronic residential exposure is not expected. In addition, despite the potential for chronic dietary exposure to clopyralid in drinking water, after calculating the DWLOCs and comparing them to conservative model EECs of clopyralid in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.— AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO CLOPYRALID

| Population subgroup | cPAD mg/kg/day | % cPAD (Food) | Surface water EEC (ppb) | Ground water EEC (ppb) | Chronic DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. Population | 0.05 | 14% | 9 | 9.7 | 1500 |
| Children, 1–6 years old | 0.05 | 34 | 9 | 9.7 | 330 |
| All Infants, less than 1 year old | 0.05 | 10 | 9 | 9.7 | 450 |

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Clopyralid is currently registered for use(s) that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for clopyralid. A short-term aggregate risk assessment was conducted for adults because there is potential for inhalation exposure to the residential handler. In addition, a short-term risk assessment was conducted for infants and children because of the potential for residential post-application oral exposure. Since no short-term dermal endpoint was identified, even though there is potential for short-term dermal exposures, no short-term dermal aggregate risk assessment was conducted.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 10,000 for inhalation exposure for adults, and 2,300 for children 1–6 years old and 2,400 for all infants less than 1 year old for post-application oral exposure. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of clopyralid in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as is shown in the following Table 4:

TABLE 4. — AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO CLOPYRALID

| Population Subgroup | Aggregate MOE (food + residential) | Aggregate level of concern (LOC) | Surface water EEC (ppb) | Ground water EEC (ppb) | Short-Term DWLOC (ppb) |
|---|---|---|---|---|---|
| U. S. Population | 10,000 | 300 | 9 | 9.7 | 8500 |
| Children (1–6 years) | 3,100 | 300 | 9 | 9.7 | 2300 |
| All Infants (less than 1 year) | 6,200 | 300 | 9 | 9.7 | 2400 |

4. *Intermediate-term risk*.

Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Intermediate-term exposure is considered to be exposures that last for 1 week to several months. Though clopyralid is registered for use on turf and ornamentals, only 1–2 applications can be made. Therefore, intermediate-term exposure is not expected. Therefore, the short-term aggregate risk estimate discussed above, is considered protective of the aggregate exposure from non-dietary, non-occupational uses.

5. *Aggregate cancer risk for U.S. population*. Clopyralid has been classified as ''not likely'' to be a human carcinogen. Therefore, an aggregate risk assessment to address cancer risk is not required.

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

## V. Other Considerations

### *A. Analytical Enforcement Methodology*

An adequate analytical method is available for enforcement of the proposed time-limited tolerance for peaches and nectarines. This method (ACR 79.5, Dow Chemical) is a Gas Chromatography method using a Hall electrolytic conductivity detector. The method has been validated for use on wheat and barley and has been submitted to FDA for publication in PAM II. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

### *B. International Residue Limits*

There are no CODEX, Canadian, or Mexican Maximum Residue Limits (MRL) for clopyralid on peaches or nectarines. International harmonization is therefore not an issue for these section 18 requests.

### *C. Conditions*

No more than 0.375 lb clopyralid can be applied per acre per year. A 60–day preharvest interval (PHI) will be observed.

## VI. Conclusion

Therefore, the tolerances are established for residues of clopyralid, 3,6-dichloro-2-pyridinecarboxylic acid, in or on peaches and nectarines at 0.50 ppm.

## VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will

continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–-301043 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 27, 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 VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301043, 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).

## VIII. Regulatory Assessment Requirements

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

by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

### IX. Submission to Congress and the Comptroller General

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

### List of Subjects in 40 CFR Part 180

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

Dated: 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), 346(a) and 371.

2. Section 180.431 is amended by alphabetically adding commodities to the table in paragraph (b) to read as follows:

**§ 180.431 Clopyralid; tolerances for residues.**

* * * * *

(b) * * *

| Commodity | Parts per million | Expiration/ revocation date |
|---|---|---|
| * * | * | * * |
| Nectarine | 0.50 | 12/31/02 |
| Peach | 0.50 | 12/31/02 |

* * * * *

[FR Doc. 00–24320 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–301041; FRL–6741–3]**

**RIN 2070–AB78**

## Diflubenzuron; Pesticide Tolerance Technical Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical correction.

**SUMMARY:** EPA issued a final rule in the **Federal Register** of September 29, 1999, to establish a time–limited tolerance for diflubenzuron. This document is being issued to correct the expiration date for this tolerance, which was incorrectly given as March 31, 2000.

**DATES:** This technical correction is effective September 29, 1999.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of the **SUPPLEMENTARY INFORMATION** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301041 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9356; e–mail address: beard.andrea@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. Does this Action Apply to Me?

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

### II. How Can I Get Additional Information, Including Copies of this Document 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–301041. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

### III. What Does this Technical Correction Do?

A time–limited tolerance for diflubenzuron on pears was published in the **Federal Register** on September 29, 1999 (64 FR 52450) (FRL–6382–1). This correction will change the expiration date for the tolerance to March 31, 2001. The document originally published with this date given in the body of the text. However, the table at the end of the document incorrectly listed the expiration date as March 31, 2000. This document corrects that error.

## IV. Why is this Technical Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment, because EPA is correcting the expiration date for the tolerance diflubenzuron to March 31, 2001, which was incorrectly given as March 31, 2000. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B)

## V. Do Any of the Regulatory Assessment Requirements Apply to this Action?

No. This final rule implements a technical amendment to the CFR to reflect a technical correction to a previously issued Final Rule, and it does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical correction is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Nor does this rule contain any information collection requirements that require review and approval by OMB pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.)*.

Because this action is not economically significant as defined by section 3(f) of Executive Order 12866, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action will not result in environmental justice related issues and does not, therefore, require special consideration under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). Since the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA or any other statute (see Unit IV. above), this action is not subject to provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.)*, or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. Nor does this action significantly or uniquely affect the communities of tribal governments as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (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, entitled *Federalism* (64 FR 43255, August 10, 1999). This action does not involve any technical standards that require the Agency's 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). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this 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.

For information about the applicability of the regulatory assessment requirements to the final rule that was issued on September 29, 1999 (64 FR 52450), please refer to the discussion in Unit VIII. of that document.

## VI. Will EPA Submit this Final Rule to Congress and the Comptroller General?

Yes. The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. (5 U.S.C. 808(2)). EPA has made such a good cause finding for this final rule, and established an effective date of September 29, 1999. Pursuant to 5 U.S.C. 808(2), this determination is supported by the brief statement in Unit IV. of this document. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This 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: August 25, 2000.

**Peter Caulkins,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR part 180 is corrected as follows:

## PART 180—[AMENDED]

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

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

### § 180.377 [Corrected]

2. In § 180.377, by correcting the expiration date for the time–limited tolerance listed in paragraph (b) for pears, to read March 31, 2001.

[FR Doc. 00–24319 Filed 9–26–00; 8:45 am]
BILLING CODE 6560–50–S

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–301053; FRL–6746–6]**

**RIN 2070–AB78**

## Glyphosate; Pesticide Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of glyphosate in or on various food commodities.

Monsanto Company and the Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

**DATES:** This regulation is effective September 27, 2000. Objections and requests for hearings, identified by docket control number OPP–301053, must be received by EPA on or before November 27, 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 VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301053 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT** By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: 703–308–9368; and e-mail address: jamerson.hoyt@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:

| Cat-egories | NAICS | Examples of Poten-tially Affected Entities |
|---|---|---|
| Industry | 111<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>Pesticide manufac-turing |

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/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301053. 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

In the **Federal Register** of January 10, 2000 and July 25, 2000 (65 FR 1370) (FRL–6394–6) and (65 FR 45769) (FRL–6596–4),respectively, EPA issued notices pursuant to 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) announcing the filing of pesticide petitions (PP) for tolerance by Monsanto Company, 600 13th Street NW., Suite 660, Washington DC 20005. In addition, in the **Federal Register** of August 14, 2000 (65 FR 49563) (FRL–6739–2), EPA issued a notice pursuant to 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) announcing the filing of pesticide petition (PP) for tolerance by IR-4, Technology Center of New Jersey, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390. These notices included a summary of the petitions prepared by Monsanto Company. Comments were received from Monsanto in response to the notice of filing. Monsanto noted that the tolerance proposal for the leafy vegetable group is for residues of glyphosate at 0.2 ppm, not 2.0 ppm, and that there is no proposal for residues of glyphosate in or on poultry meat. The Agency agrees that the appropriate tolerance level for the leafy vegetable group is 0.2 ppm. Monsanto has agreed that a tolerance for poultry meat at 0.1 ppm is needed to harmonize with CODEX. There were no other comments received in response to the notices of filing.

The petitions requested that 40 CFR 180.364 be amended by establishing tolerances for residues of glyphosate, (*N*-(phosphonomethyl)glycine) resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, and the ammonium salt of glyphosate in or on alfalfa hay at 400 ppm; grass, forage, fodder and hay group; nongrass animal feed group, kenaf forage, and leucaena forage at 200 ppm; alfalfa forage at 175 ppm; cereal grain group (except barley, field corn, grain sorghum, oats and wheat) at 100 ppm; rapeseed meal at 15, rapeseed seed at 10 ppm, flax meal at 8.0 ppm; dried hops cones, and spices subgroup at 7.0 ppm; teff grain at 5.0 ppm, flax seed at 4.0 ppm; field corn forage at 3.0 ppm; dokudami at 2.0 ppm, and Mexican oregano leaves at 2.0; perilla tops at 1.8 ppm; epazote at 1.3 ppm; betelnut. chaya, pine nut, and stevia dried leaves at 1.0 ppm; aloe vera, cactus fruit, cactus pads, okra, ugli fruit, and quinoa grain at 0.5 ppm; ambarella, globe artichoke, bambo shoots, berry group, biriba, blimbe, custard apple, feijoa, galangal roots, ginger white flower, governor's plum, gow kee leaves, herbs subgroup, ilama, imbe, imbu, juneberry, kava roots, lingonberry, mamey apple, mioga flower, palm heart, palm heart leaves, mountain papaya, pawpaw, pepper leaf (fresh leaves), pulasan, rose apple, salal, Spanish lime, star apple, strawberry, surinam cherry, ti leaves, ti roots, Brassica leafy vegetable, foliage of legume vegetable group (except soybean forage and hay), leafy vegetable group, leaves of root and tuber vegetable group (except sugar beet

tops), root and tuber vegetable group (except sugar beet), wasabi root, water spinach tops, upland watercress, and wax jambu at 0.2; borage seed, crambe seed, buffalo gourd seed, egg, jojoba seed, lesquerella seed, meadowfoam seed, mustard seed, poultry meat, safflower seed, and sesame seed at 0.1 ppm.

In addition to the commodity tolerances proposed by IR-4 and Monsanto, Monsanto proposed to amend 40 CFR part 180 by revising the tolerance expression under § 180.364(a)(1) to read as follows:

§ 180.364 *Glyphosate*; tolerances for residues. (a)(1)*General*. Tolerances are established for residues of glyphosate (*N*-(phosphonomethyl)glycine) from the application of glyphosate, the ethanolamine salt of glyphosate, and the ammonium salt of glyphosate .... ''

Monsanto also proposed that the existing text in § 180.364(a)(1) by redesignated as § 180.364(a), that the tolerances in §§ 180.364(a)(2) and (a)(3) be transferred to the table in newly designated § 180.364(a), and that the introductory text of § 180.364(a)(2) and (a)(3) be deleted. Additional revisions to the table in § 180.364(a) are the deletion of duplicate commodity tolerance entries and the deletion of commodity tolerances that are superceded by the proposed crop group tolerances and the conversion of commodity terms to comply with EPA's Food and Feed Vocabulary Data Base (http://www.epa.gov/pesticides/foodfeed/). The Agency is also deleting all commodity entries under § 180.364(d)—*indirect or inadvertent residues* since these commodities will have tolerance established at the same or higher levels in the newly established § 180.364(a).

IR-4 proposed a tolerance for residues of glyphosate in or on the grass, forage, fodder and hay group at 200 ppm. IR-4's proposal is based on data previously reviewed by EPA in support of established tolerances for bahiagrass, bluegrass, bermudagrass, fescue, orchardgrass, ryegrass, timothy, and wheatgrass at 200 ppm. Monsanto has also proposed a grass, forage, fodder and hay tolerance; however, Monsanto has requested a tolerance level of 300 ppm. Monsanto's tolerance proposal for the grass group is based on new residue data which reflect changed use patterns and pre-grazing intervals for the grasses. In the notice filings cited above, reference was made to the 300 ppm tolerance level but not the 200 ppm level. Because the Agency has determined that the available data are adequate to support IR-4's tolerance proposal for residues of glyphosate in or on the grass, forage, fodder and hay group at 200 ppm and EPA has not completed review of Monsanto's new data supporting the 300 ppm level, EPA is establishing the tolerance for grass, forage, fodder and hay at 200 ppm. The Agency will reevaluate the grass group tolerance based on the residue data submitted by Monsanto and will make a decision on the proposed grass group tolerance at 300 ppm at a later date.

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

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

## III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for these tolerances for residues of glyphosate. EPA's assessment of exposures and risks associated with establishing the tolerances follows.

### *A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by glyphosate are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC AND OTHER TOXICITY

| Guideline No. | Study Type | Results |
|---|---|---|
| 870.3100 | 90–Day oral toxicity in rats | NOAEL less than 50 milligrams (mg)/kilogram (kg)/day for both sexes<br>LOAEL = 50 mg/kg/day based on increased phosphorus and potassium in both sexes |
| 870.3100 | 90–Day oral toxicity in mice | NOAEL = 1,500 mg/kg/day in both sexes<br>LOAEL = 7,500 mg/kg/day in both sexes based on decreased body weight gain in both sexes. |
| 870.3200 | 21/28–Day dermal toxicity in rabbits | NOAEL = 1,000 mg/kg/day for males and 5,000 mg/kg/day for females<br>LOAEL = 5,000 mg/kg/day in males based on decreased food consumption |
| 870.3700a | Prenatal developmental toxicity in rats | Maternal NOAEL = 1,000 mg/kg/day<br>LOAEL = 3,500 mg/kg/day based on mortality, increased clinical signs, and reduced body weight gain |

TABLE 1.—SUBCHRONIC, CHRONIC AND OTHER TOXICITY—Continued

| Guideline No. | Study Type | Results |
|---|---|---|
| | | Developmental NOAEL = 1,000 mg/kg/day<br>LOAEL = 3,500 mg/kg/day based on decreases in total implantations/dam and nonviable fetuses/dam, increased number of litters and fetuses with unossified sternebrae, and decreased fetal body weight |
| 870.3700b | Prenatal developmental toxicity in rabbits | Maternal NOAEL = 175 mg/kg/day<br>LOAEL = 350 mg /kg/day based on mortality, and clinical signs<br>Developmental NOAEL = 175 mg/kg/day<br>LOAEL = 350 mg/kg/day (insufficient litters available to assess developmental toxicity) |
| 870.3800 | Reproduction and fertility effects in rats | Parental/Systemic NOAEL = 500 mg/kg/day for males and females<br>LOAEL = 1,500 mg/kg/day for males and females based on clinical signs, decreased body weights, decreased weight gain, and decreased food consumption in both sexes<br>Reproductive/Offspring NOAEL = 500 mg/kg/day for males and females<br>LOAEL = 1500 mg/kg/day for males and females based on reduced pup weights in both sexes during second and third weeks of lactation |
| 870.4100b | Chronic toxicity in dogs | NOAEL = 500 mg/kg/day (highest dose tested)<br>LOAEL greater than 500 mg/kg/day |
| 870.4300 | Combined Chronic Toxicity/ Carcinogenicity in rats | NOAEL = 362 mg/kg/day in males and 457 mg/kg/day in females<br>LOAEL = 940 mg/kg/day in males and 1,183 mg/kg/day in females based on decreased weight gain in females, and increased incidence of cataracts and lens abnormalities, decreased urinary pH, increased absolute liver weight, and increased relative liver weight/brain weight in males. There was no evidence of carcinogenicity. |
| 870.4200b | Carcinogenicity in mice | NOAEL = 750 mg/kg/day in males and females<br>LOAEL = 4,500 mg/kg/day in both sexes based on decreased body weight gains in both sexes, increased incidence of renal proximal tubule epithelial basophilia and hypertrophy in females and increased incidence of interstitial nephritis, hepatocellular hypertrophy and hepatocellular necrosis in males There was no evidence of carcinogenicity. |
| 870.5100 | *In vitro* rec-assay with *B. subtilis* H17 (rec+) and M45 (rec-) and reverse mutation assay using *E. coli* WP2 hcr and *S. typhimurium* strains | There was no evidence of genotoxicity up to the limit dose or cytotoxicity in the presence or absence of metabolic activation. |
| 870.5265 | In vitro reverse gene mutation assay in S. typhimurium bacteria | There was no evidence of induced mutant colonies over background in Salmonella strains TA 98, TA 100, TA 1535, and TA 1537 both in the presence and absence of metabolic activation at doses up to cytoxic levels or the limit dose. |
| 870.5300 | In vitro gene mutation assay in Chinese hamster ovary cells/HGPRT | There was no evidence of genotoxicity up to cytotoxic levels in the presence and absence of metabolic activation. |
| 870.5385 | Bone marrow chromosome aberrations assay | There was no significant increase in the frequency of chromosome aberrations in bone marrow at the limit dose of 1,000 mg/kg in both sexes of Sprague-Dawley rats. |
| 870.7485 | Metabolism in rats | Following a single oral dose, 30–36% was absorbed and less than 0.27% was eliminated as CO2. Urine and feces contained 97.5% as parent. Aminomethylphosphonic acid (AMPA) was only metabolite found at 0.2–0.3% of administered dose. Less than 1.0% of the absorbed dose remained in tissues and organs, primarily in the bone. |

*B. Toxicological Endpoints*

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for

interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as $1 \times 10^{-6}$ or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ($MOE_{cancer}$ = point of departure/exposures) is calculated. A summary of the toxicological endpoints for glyphosate used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR GLYPHOSATE FOR USE IN HUMAN RISK ASSESSMENT

| Exposure Scenario | Dose Used in Risk Assessment, UF | FQPA SF* and Level of Concern for Risk Assessment | Study and Toxicological Effects |
|---|---|---|---|
| Acute Dietary | None | Not applicable | There were no effects that could be attributed to a single exposure (dose) in oral toxicity studies including the developmental toxicity studies in rats and rabbits. |
| Chronic Dietary all populations | NOAEL = 175 mg/kg/day; UF = 100; Chronic RfD = 2.0 mg/kg/day | FQPA SF = 1X; cPAD = chronic RfD ÷ FQPA SF = 2.0 mg/kg/day | Developmental toxicity in rabbits Maternal LOAEL = 350 mg/kg/day based on diarrhea, nasal discharge and mortality Developmental toxicity was not observed at any dose tested. |
| Short-, Intermediate-, and Long-Term Dermal (Residential) | None | Not applicable. | No systemic toxic effects were seen at doses up to 1,000 mg/kg/day in the 21–day dermal toxicity study. |
| Inhalation (any time period) (Residential) | None | Not applicable. | Based on low toxicity of formulations and technical material wet cake inhalation study was waived. |
| Cancer (oral, dermal, inhalation) | Group E | Not applicable | There is no evidence of carcinogenic potential. |

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.364) for the residues of glyphosate, in or on a variety of food commodities. Tolerances are established for cattle, hog, horse and sheep kidney at 4.0 ppm and liver at 0.5 ppm. Tolerance levels for residues of glyphosate at 0.1 ppm for egg and poultry meat and 1.0 ppm for poultry meat byproducts were proposed by IR-4. Risk assessments were conducted by EPA to assess dietary exposures from glyphosate in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. An acute dietary endpoint and dose was not identified for glyphosate. A review of the rat and rabbit developmental studies did not provide a dose or endpoint that could be used for acute dietary risk purposes. Additionally, there were no data requirements for acute or subchronic rat neurotoxicity studies since there was no evidence of neurotoxicity in any of the toxicology studies at very high doses and glyphosate lacks a leaving group.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The chronic dietary exposure analysis from food sources was conducted using the reference dose (RfD) of 2.0 mg/kg/day. The RfD is based on the maternal NOAEL of 175 mg/kg/day from a rabbit developmental study and an uncertainty factor of 100 (applicable to all population subgroups). The DEEM® analysis assumed tolerance level residues and 100% crop treated in/on all commodities with an existing or proposed glyphosate tolerance.

iii. *Cancer.* There is no evidence of carcinogenic potential.

2. *Dietary exposure from drinking water.* The available field and laboratory data indicate that glyphosate adsorbs strongly to soil and would not be expected to move vertically below the 6 inch soil layer. Based on unaged batch equilibrium studies glyphosate and glyphosate residues are expected to be immobile with Kd(ads) values ranging from 62 to 175. The mechanism of adsorption is unclear; however, it is

speculated that it may be associated with vacant phosphate sorption sites or high levels of metallic soil cations. The data indicate that chemical and photochemical decomposition is not a significant pathway of degradation of glyphosate in soil and water. However, glyphosate is readily degraded by soil microbes to AMPA, which is degraded to $CO_2$, although at a slower rate than parent glyphosate.

The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for glyphosate in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of glyphosate.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and the Screening Concentration in Ground Water model (SCI-GROW), which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to glyphosate they are further discussed in the aggregate risk sections below.

Using available environmental fate parameters and assuming two applications with a retreatment interval of 90 days at a rate of 5 lbs ai/A (3.75 lbs ai/A), the ground water EEC from glyphosate using SCI-GROW was 0.0038 parts per billion (ppb). The current label allows multiple applications of 0.37 – 5 lbs ai/A up to a maximum of 10.6 lbs ai/A/year. The ground water EECs generated by SCI-GROW are based on the largest 90–day average recorded during the sampling period. Since there is relatively little temporal variation in ground water concentrations compared to surface water, the concentrations can be considered as acute and chronic values.

The GENEEC model was used to estimate surface water concentrations for glyphosate resulting from its maximum use rate on crops. GENEEC is a single event model (one runoff event), but can account for spray drift from multiple applications. GENEEC represents a 10 hectare field immediately adjacent to a 1 hectare pond that is 2 meters deep with no outlet. The pond receives a spray drift event from each application plus one runoff event. The runoff event moves a maximum of 10% of the applied pesticide into the pond. This amount can be reduced due to degradation on the field and by soil sorption. Spray drift is estimated at 5% of the application rate. The GENEEC values represent upper- bound estimates of the concentrations that might be found in surface water due to glyphosate use. Thus, the GENEEC model predicts that glyphosate surface water EECs range from a peak of 21 ppb to a 56-day average of 2.5 ppb. For comparison purposes, EPA guidance suggests dividing the 56-day GENEEC EEC value by 3 before comparison to the calculated $DWLOC_{chronic}$ value ''Interim Guidance for Incorporating Drinking Water Exposure into Aggregate Risk Assessments,'' 01-AUG-1999 (SOP 99.5). Thus, 2.5 divided by 3 or 0.83 ppb is the predicted surface water EEC value resulting from glyphosate treatment of crops.

To estimate the possible concentration of glyphosate in surface water resulting from direct application to water, EPA assumed application to a water body 6 feet deep. At an application rate of 3.75 lb ai/A, the estimated concentration is 230 ppb. Because the glyphosate water-application estimate is greater than the crop-application estimate, 230 ppb is the appropriate value to compare to the calculated $DWLOC_{chronic}$ value for aggregate risk considerations.

Based on the GENEEC and SCI-GROW models the EECs of glyphosate for chronic exposures are estimated to be 230 ppb for surface water and 0.004 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Glyphosate is currently registered for use on the following residential non-dietary sites: ornamentals, greenhouses, residential areas, lawns, and industrial rights of way. Glyphosate is formulated in liquid and solid forms and it is applied using ground or aerial equipment. Based on the low acute toxicity and the lack of other toxicological concerns, exposures from residential uses of glyphosate are not expected to pose undue risks.

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

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

*D. Safety Factor for Infants and Children*

1. *Safety factor for infants and children*—i. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity*. There is no evidence of increased susceptibility in rats and rabbits to *in utero* and/or postnatal exposure to glyphosate.

iii. *Conclusion*. There is a complete toxicity data base for glyphosate and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed because:

- The toxicology data base is complete
- There is no indication of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to glyphosate (in the prenatal developmental toxicity study in rats, effects in the offspring were observed only at or above treatment levels which resulted in evidence of appreciable parental toxicity)
- The use of generally high quality data, conservative models and/or assumptions in the exposure assessment provide adequate protection of infants and children.

*E. Aggregate Risks and Determination of Safety*

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD—(average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. No appropriate toxicological endpoint for a single dose exposure was identified in oral toxicity studies with glyphosate. Therefore, an acute RfD was not established, and there is no expectation of acute dietary risk from food and water.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to glyphosate from food will utilize 1.5% of the cPAD for the U.S. population, 3.1% of the cPAD for all infants less than 1 year old and 3.2% of the cPAD for children (1 to 6 years old). Based on the use pattern, chronic residential exposure to residues of glyphosate is not expected. In addition, there is potential for chronic dietary exposure to glyphosate in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.— AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO GLYPHOSATE

| Population Subgroup | cPAD mg/kg/day | % cPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Chronic DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. Population | 2.0 | 1.5 | 230 | 0.004 | 69,000 |
| All infants, less than 1 year old | 2.0 | 3.1 | 230 | 0.004 | 19,000 |
| Children, 1-6 years old | 2.0 | 3.2 | 230 | 0.004 | 19,000 |

3. *Short- and intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Though residential exposure could occur with the use of glyphosate, no toxicological effects have been identified for short- or intermediate-term toxicity. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Aggregate cancer risk for U.S. population*. Glyphosate is not expected to pose a cancer risk to humans.

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

## IV. Other Considerations

*A. Analytical Enforcement Methodology*

Adequate enforcement methods are available for analysis of residues of glyphosate in or on plant and livestock commodities. These methods include gas-liquid chromatography (GLC) (Method I in Pesticides Analytical

Manual (PAM) II; the limit of detection is 0.05 ppm) and high-pressure liquid chromatography (HPLC) with fluorometric detection. Use of the GLC method is discouraged due to the lengthiness of the experimental procedure. The HPLC procedure has undergone successful Agency validation and was recommended for inclusion in PAM II. A gas chromatography/mass spectometry method for glyphosate in crops has also been validated by EPA's Analytical Chemistry Laboratory.

The unpublished methods may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

*B. International Residue Limits*

Several maximum residue limits (MRLs) for glyphosate (including AMPA) have been established by CODEX in or on various commodities. Based on toxicological considerations, EPA has determined that AMPA no longer needs to be regulated and with this regulation has deleted AMPA from the tolerance expression. Thus, harmonization with the MRLs for AMPA is not possible. The existing and recommended ''rape, seed'' tolerance of 10 ppm is already in harmony with the CODEX MRL. The recommended ''corn, forage'' tolerance of 3.0 ppm is based on crop field trial data obtained when using a new strain of Roundup Ready corn and thus cannot be lowered to achieve harmonization with the CODEX MRL of 1.0 ppm for ''maize, forage.'' There is no conflict between the CODEX MRL of 0.1 ppm for ''poultry, meat'' and the recommended U.S. tolerance of 1.0 ppm for ''poultry, meat byproducts'' as these commodities are not the same. Finally, although the available data support a tolerance of 0.05 ppm for egg, for harmonization purposes and because no risk issues are involved, a tolerance level of 0.1 ppm for ''egg'' is being established.

## V. Conclusion

Therefore, tolerances are established for residues of glyphosate, (*N*-(phosphonomethyl)glycine) resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, and the ammonium salt of glyphosate, in or on the food commodities listed in this document.

## VI. 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–301053 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 27, 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 VI.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–301053, 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).

## VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. 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 petition under FFDCA section 408(d), 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).

## VIII. 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 12, 2000.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180— [AMENDED]

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

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

2. Section 180.364 is amended by revising paragraph (a) and by removing and reserving paragraph (d), to read as follows:

### § 180.364 Glyphosate; tolerances for residues.

(a) *General.* Tolerances are established for residues of glyphosate (*N*-(phosphonomethyl)glycine) resulting from the application of glyphosate, the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate and the ammonium salt of glyphosate in or on the following food commodities:

| Commodity | Parts per million |
|---|---|
| Acerola | 0.2 |
| Alfalfa, forage | 175 |
| Alfalfa, hay | 400 |
| Almond, hulls | 25 |
| Animal feed, nongrass group (except alfalfa) | 200 |
| Aloe vera | 0.5 |
| Ambarella | 0.2 |
| Artichoke, globe | 0.2 |
| Aspirated grain fractions | 200 |
| Asparagus | 0.5 |
| Atemoya | 0.2 |
| Avocado | 0.2 |
| Bamboo shoots | 0.2 |
| Banana | 0.2 |
| Barley, bran | 30 |
| Barley, grain | 20 |
| Beet, sugar, dried pulp | 25 |
| Beet, sugar, roots | 10 |
| Beet, sugar, tops | 10 |
| Berry group | 0.2 |
| Betelnut | 1.0 |
| Biriba | 0.2 |
| Blimbe | 0.2 |
| Borage, seed | 0.1 |
| Breadfruit | 0.2 |
| Cactus, fruit | 0.5 |
| Cactus, pads | 0.5 |
| Canistel | 0.2 |
| Canola, meal | 15 |
| Canola, seed | 10 |
| Cattle, kidney | 4.0 |
| Cattle, liver | 0.5 |
| Chaya | 1.0 |
| Cherimoya | 0.2 |
| Citrus, dried pulp | 1.5 |
| Cacao bean | 0.2 |
| Coconut | 0.1 |
| Coffee, bean | 1.0 |
| Corn, field, forage | 3.0 |
| Corn, field, grain | 1.0 |
| Cotton, gin byproducts | 100 |
| Cotton, undelinted seed | 15 |
| Cranberry | 0.2 |
| Crambe, seed | 0.1 |
| Custard apple | 0.2 |
| Date | 0.2 |
| Dokudami | 2.0 |

| Commodity | Parts per million |
|---|---|
| Durian | 0.2 |
| Egg | 0.05 |
| Epazote | 1.3 |
| Feijoa | 0.2 |
| Fig | 0.2 |
| Fish | 0.25 |
| Flax, meal | 8.0 |
| Flax, seed | 4.0 |
| Fruit, citrus, group | 0.5 |
| Fruit, pome, group | 0.2 |
| Fruit, stone, group | 0.2 |
| Galangal root | 0.2 |
| Ginger, white, flower | 0.2 |
| Goat, kidney | 4.0 |
| Goat, liver | 0.5 |
| Gourd, buffalo, seed | 0.1 |
| Governor's plum | 0.2 |
| Gow kee, leaves | 0.2 |
| Grain, cereal, group (except barley, field corn, grain sorghum, oats and wheat) | 0.1 |
| Grain, cereal, stover and straw, group | 100 |
| Grape | 0.2 |
| Grass, forage, fodder and hay, group | 200 |
| Guava | 0.2 |
| Herbs subgroup | 0.2 |
| Hog, kidney | 4.0 |
| Hog, liver | 0.5 |
| Hop, dried cones | 7.0 |
| Horse, kidney | 4.0 |
| Horse, liver | 0.5 |
| Ilama | 0.2 |
| Imbe | 0.2 |
| Imbu | 0.2 |
| Jaboticaba | 0.2 |
| Jackfruit | 0.2 |
| Jojoba, seed | 0.1 |
| Juneberry | 0.2 |
| Kava, roots | 0.2 |
| Kenaf, forage | 200 |
| Kiwifruit | 0.2 |
| Lesquerella, seed | 0.1 |
| Leucaena, forage | 200 |
| Lingonberry | 0.2 |
| Longan | 0.2 |
| Lychee | 0.2 |
| Mamey apple | 0.2 |
| Mamey sapote | 0.2 |
| Mango | 0.2 |
| Mangosteen | 0.2 |
| Marmaladebox | 0.2 |
| Meadowfoam, seed | 0.1 |
| Mioga, flower | 0.2 |
| Mustard, seed | 0.1 |
| Nut, pine | 1.0 |
| Nut, tree, group | 1.0 |
| Oat, grain | 20 |
| Okra | 0.5 |
| Olive | 0.2 |
| Oregano, Mexican, leaves | 2.0 |
| Palm heart | 0.2 |
| Palm heart, leaves | 0.2 |
| Palm, oil | 0.1 |
| Papaya | 0.2 |
| Papaya, mountain | 0.2 |
| Passionfruit | 0.2 |
| Pawpaw | 0.2 |
| Peanut | 0.1 |
| Peanut, forage | 0.5 |
| Peanut, hay | 0.5 |
| Pepper leaf, fresh leaves | 0.2 |
| Peppermint, tops | 200 |
| Perilla, tops | 1.8 |
| Persimmon | 0.2 |
| Pineapple | 0.1 |
| Pistachio | 1.0 |
| Pomegranate | 0.2 |
| Poultry, meat | 0.1 |
| Poultry, meat byproduct | 1.0 |
| Pulasan | 0.2 |
| Quinoa, grain | 5.0 |
| Rambutan | 0.2 |
| Rapeseed, meal | 15 |
| Rapeseed, seed | 10 |
| Rose apple | 0.2 |
| Safflower, seed | 0.1 |
| Salal | 0.2 |
| Sapodilla | 0.2 |
| Sapote, black | 0.2 |
| Sapote, white | 0.2 |
| Sesame, seed | 0.1 |
| Sheep, kidney | 4.0 |
| Sheep, liver | 0.5 |
| Shellfish | 3.0 |
| Sorghum, grain, grain | 15 |
| Soursop | 0.2 |
| Soybean, seed | 20 |
| Soybean, aspirated grain fractions | 50 |
| Soybean, forage | 100 |
| Soybean, hay | 200 |
| Soybean, hulls | 100 |
| Spanish lime | 0.2 |
| Spearmint, tops | 200 |
| Spices subgroup | 7.0 |
| Star apple | 0.2 |
| Starfruit | 0.2 |
| Stevia, dried leaves | 1.0 |
| Strawberry | 0.2 |
| Sugar apple | 0.2 |
| Sugarcane | 2.0 |
| Sugarcane, molasses | 30 |
| Sunflower, seed | 0.1 |
| Surinam cherry | 0.2 |
| Tamarind | 0.2 |
| Tea, dried | 1.0 |
| Tea, instant | 7.0 |
| Teff, grain | 5.0 |
| Ti, leaves | 0.2 |
| Ti, roots | 0.2 |
| Ugli fruit | 0.5 |
| Vegetable, Brassica leafy, group | 0.2 |
| Vegetable, bulb, group | 0.2 |
| Vegetable, cucurbit, group | 0.5 |
| Vegetable, foliage of legume, group (except soybean forage and hay) | 0.2 |
| Vegetable, fruiting, group | 0.1 |
| Vegetable, leafy, group | 0.2 |
| Vegetable, leaves of root and tuber, group(except sugar beet tops) | 0.2 |
| Vegetable, legume, group (except soybean) | 5.0 |
| Vegetable, root and tuber, group (except sugar beet) | 0.2 |
| Wasabi, roots | 0.2 |
| Water spinach, tops | 0.2 |
| Watercress, upland | 0.2 |
| Wax jambu | 0.2 |
| Wheat, grain | 5.0 |
| Wheat, milling fractions (except flour) | 20 |
| Yacon, tuber | 0.2 |

* * * * *

(d) *Indirect or inadvertent residues.* [Reserved]

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**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–301048; FRL–6744–1]**

**RIN 2070–AB78**

## Ethametsulfuron-methyl; Pesticide Tolerances for Emergency Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for residues of ethametsulfuron-methyl in or on canola. This action is in response to EPA's granting of emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on canola. This regulation establishes a maximum permissible level for residues of ethametsulfuron-methyl in this food commodity. The tolerance will expire and is revoked on December 31, 2001.

**DATES:** This regulation is effective September 27, 2000. Objections and requests for hearings, identified by docket control number OPP–301048, must be received by EPA on or before November 27, 2000.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION** section of the document. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301048 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Dan Rosenblatt, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9375; and e-mail address: rosenblatt.dan@epa.gov.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

*A. Does this Action Apply to Me?*

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

| Categories | NAICS | Examples of Potentially Affected Entities |
|---|---|---|
| Industry | 111<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>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–301048. 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, 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, on its own initiative, in accordance with sections 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the herbicide ethametsulfuron-methyl, in or on canola at 0.02 part per million (ppm). This tolerance will expire and is revoked on December 31, 2001. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

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

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

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

## III. Emergency Exemption for Ethametsulfuron-methyl on Canola and FFDCA Tolerances

EPA has authorized under FIFRA section 18 the use of ethametsulfuron-methyl on canola for control of smartweeds in North Dakota and Minnesota. Products containing endothall had been available for use against smartweeds in the past. However, this use of endothall is no longer being supported. Therefore, after considering the situation this year, EPA determined that emergency conditions existed for the growers and permitted the use.

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

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether ethametsulfuron-methyl meets EPA's registration requirements for use

on canola or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of ethametsulfuron-methyl by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than North Dakota and Minnesota to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for ethametsulfuron-methyl, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

## IV. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of ethametsulfuron-methyl and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for ethametsulfuron-methyl in or on canola at 0.02 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

### *A. Toxicological Endpoints*

The dose at which no observed adverse effect level (NOAEL) are observed from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest observed adverse effect level (LOAEL) at which adverse effects of concern are identified is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD=NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as $1 \times 10^{-6}$ or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non- linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ($MOE_{cancer}$ = point of departure/exposures) is calculated. A summary of the toxicological endpoints for ethametsulfuron-methyl used for human risk assessment is shown in the following Table 1.

TABLE 1. — SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR ETHAMETSULFURON-METHYL FOR USE IN HUMAN RISK ASSESSMENT

| Exposure scenario | Dose used in risk assessment, UF | FQPA SF* and level of concern for risk assessment | Study and toxicological effects |
|---|---|---|---|
| Acute dietary | NOAEL = none acute RfD = n/a | FQPA SF = 1x aPAD = n/a | A dose and endpoint were not selected since toxicological effects attributable to a single dose (exposure) were not available from the oral toxicological studies, including developmental toxicity studies in rats and rabbits. |
| Chronic dietary | NOAEL = 449 mg/kg/day UF = 100 chronic RfD = 4.5 mg/kg/day | FQPA SF = 1 x cPAD = 4.5 (chronic NOAEL)/ 1 x (FQPA SF) = 4.5 mg/kg/day | Parental/systemic NOAEL = 449 mg/kg/day based on reduced body weight and body weight gain in P and F1a males and females at the LOAEL of 1,817 mg/kg/day in a 2–generation reproduction study. |
| Short-term, Intermediate-term, and Long-term dermal | Dermal (or oral) study NOAEL = n/a | LOC for MOE = n/a | A dose and endpoint were not identified since the dermal toxicity study in rats was waived based on lack of systemic toxicity in oral toxicity studies. |
| Inhalation (any time period) | Inhalation (or oral) study NOAEL = n/a | LOC for MOE = n/a | No inhalation endpoints were selected. |

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

*B. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* This is the first food use tolerance that will be established for this herbicide. In support of this action, risk assessments were conducted by EPA to assess dietary exposures from ethametsulfuron-methyl in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. For this action, no acute dietary risk assessment was conducted. The rationale for this is that a dose and endpoint were not selected since toxicological effects attributable to a single dose (exposure) were not available from the oral toxicology studies, including developmental toxicity studies in rats and rabbits.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the dietary exposure evaluation model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: A conservative Tier I analysis using tolerance level residues was performed. Besides the use connected with this action, there are no other food use or residential registrations for ethametsulfuron-methyl. Percent crop-treated refinements and anticipated residues were not used.

iii. *Cancer.* EPA did not conduct a quantitative cancer risk assessment for this action. The basis for this decision is that no evidence of chronic toxicity or carcinogenicity was seen in mice and rats; although, the dose levels tested in these studies were determined to be inadequate. The cancer potential for other sulfonylurea herbicides is also germane to this decision. Other sulfonylurea herbicides do not show evidence of carcinogenicity or mutagenicity.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for ethametsulfuron-methyl in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of ethametsulfuron-methyl.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentration in Ground Water (SCI-GROW), which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to ethametsulfuron-methyl they are further discussed in the aggregate risk sections below.

Based on the PRZM/EXAMS and SCI-GROW models the estimated EECs of ethametsulfuron-methyl in surface water and ground water, respectively, for chronic exposures are estimated to be 0.3 parts per billion (ppb) for surface water and 0.1 ppb for ground water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Ethametsulfuron-methyl is not registered for use on any sites that would result in residential exposure.

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

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

*C. Safety Factor for Infants and Children*

1. *Safety factor for infants and children*—i. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Developmental toxicity studies.* EPA has determined that there is adequate information about prenatal developmental toxicity to conclude that ethametsulfuron-methyl does not pose a

risk of increased sensitivity due to *in utero* exposure.

iii. *Reproductive toxicity study*. There are adequate data for EPA to conclude that there is no indication of increased susceptibility of reproductive toxicity.

iv. *Prenatal and postnatal sensitivity.* EPA considers the toxicology data base to be complete and has concluded that there is no indication of prenatal and postnatal sensitivity in rats and rabbits.

v. *Conclusion*. There is a complete toxicity data base for ethametsulfuron-methyl and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. Given that EPA considers that the toxicology data base for ethametsulfuron-methyl is complete. There is no indication of increased susceptibility of rat or rabbit fetuses to *in utero* and or postnatal exposure in the developmental and reproductive toxicity data. Unrefined dietary exposure estimates are protective since they will exaggerate dietary exposure estimates; and there are currently no registered residential uses for ethametsulfuron-methyl, and therefore, non-dietary exposure to infants and children is not expected. These factors led EPA to conclude that the special 10X safety factor for infants and children should be removed to 1X.

*D. Aggregate Risks and Determination of Safety*

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water (e.g., allowable chronic water exposure (mg/kg/day)= cPAD – (average food + chronic non-dietary, non-occupational exposure)). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the US EPA Office of Water are used to calculate DWLOCs: 2 liters (L)/70 kilograms (kg) (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to ethametsulfuron-methyl in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of ethametsulfuron- methyl on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. An aggregate acute risk assessment was not conducted since a dose and endpoint were not selected because toxicological effects attributable to a single dose (exposure) were not available from the oral toxicology studies, including developmental toxicity studies in rats and rabbits.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to ethametsulfuron-methyl from food will utilize 0.0% of the cPAD for the U.S. population and all other sub populations. There are no residential uses for ethametsulfuron-methyl that result in chronic residential exposure to ethametsulfuron-methyl. In addition, despite the potential for chronic dietary exposure to ethametsulfuron-methyl in drinking water, after calculating the DWLOCs and comparing them to conservative model estimated environmental concentrations of ethametsulfuron-methyl in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2.

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO ETHAMETSULFURON-METHYL

| Population Subgroup | cPAD mg/kg/day | %cPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Chronic DWLOC (microgram s/L) |
|---|---|---|---|---|---|
| U.S. Population | 4.5 mg/kg/day | 0.0 | 0.32 ppb | 0.11 ppb | 160,000 |
| Females 13+ | 4.5 mg/kg/day | 0.0 | 0.32 ppb | 0.11 ppb | 140,000 |
| Infant and Children | 4.5 mg/kg/day | 0.0 | 0.32 ppb | 0.11 ppb | 45,000 |

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

Ethametsulfuron-methyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Ethametsulfuron-methyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population*. No evidence of chronic toxicity or carcinogenicity was seen in mice and rats; however, the dose levels tested in these studies were determined to be inadequate. However, it is noted that other sulfonylurea herbicides do not show evidence of carcinogenicity or mutagenicity. Therefore a quantitative risk assessment is not warranted.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children

from aggregate exposure to ethametsulfuron-methyl residues.

## V. Other Considerations

### *A. Analytical Enforcement Methodology*

The manufacturer of ethametsulfuron-methyl has submitted a proposed enforcement method to EPA (MRID # 42022113).

### *B. International Residue Limits*

No Codex, Canadian, or Mexican maximum residue level's have been established for ethametsulfuron-methyl.

## VI. Conclusion

Therefore, the tolerance is established for ethametsulfuron-methyl, in or on canola at 0.02 ppm.

## VII. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301048 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 27, 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 VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301048, 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).

## VIII. 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).

## IX. Submission to Congress and the Comptroller General

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

### List of Subjects in 40 CFR Part 180

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

Dated: September 12, 2000.

**Susan B. Hazen,**

*Acting Director, 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.

2. Section 180.563 is added to read as follows:

### § 180.563 Ethametsulfuron- methyl; tolerances for residues.

(a)*General.* [Reserved]

(b)*Section 18 emergency exemptions.* A time-limited tolerance is established for ethametsulfuron-methyl (Methyl 2-(((((4-ethoxy-6- (methylamino)-1,3,5-triazin-2-yl)amino)carbonyl) amino)sulfonyl)benzoate) in or on canola in connection with the use of the pesticide under section 18 exemptions granted by EPA. The time-limited tolerance will expire on the date specified in the following table:

| Commodity | Parts per million | Expiration/ Revocation Date |
|---|---|---|
| Canola | 0.02 | 12/31/01 |

(c)*Tolerances with regional registrations.* [Reserved]

(d)*Indirect of inadvertent residues.* [Reserved]

[FR Doc. 00–24784 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–301047; FRL–6744–4]**

**RIN 2070–AB78**

## Bifenthrin; Pesticide Tolerances for Emergency Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time–limited tolerance for residues of bifenthrin in or on potato. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on potatoes. This regulation establishes a maximum permissible level for residues of bifenthrin in this food commodity. The tolerance will expire and is revoked on December 31, 2002.

**DATES:** This regulation is effective September 27, 2000. Objections and requests for hearings, identified by docket control number OPP–301047, must be received by EPA on or before November 27, 2000.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301047 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number:(703) 308–9356; and e-mail address:beard.andrea@epa.gov.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this Action Apply to Me?*

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

| Categories | NAICS codes | Examples of potentially affected entities |
|---|---|---|
| Industry ..... | 111<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>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–301047. 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, 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, on its own initiative, in accordance with sections 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the pesticide bifenthrin, in or on potato at 0.05 part per million (ppm). This tolerance will expire and is revoked on December 31, 2002. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

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

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

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

## III. Emergency Exemption for Bifenthrin on Potatoes and FFDCA Tolerances

Two–spotted spider mites have recently emerged as a major potato pest in the Pacific Northwest. This pest can reach damaging numbers as a result of spray programs to control other pests, which disrupts natural biological predators that would normally keep the spider mite populations in check. Damaging levels of spider mites have occurred in Washington and Oregon, and the registered alternatives do not provide adequate control. They are more slow acting, and lack the residual control of bifenthrin, and do not control heavier mite populations quickly enough to prevent economic damage. Significant economic losses are expected for the Pacific Northwest potato growers if this pest cannot be adequately controlled. Bifenthrin has been shown to be effective at controlling spider mites. EPA has authorized under FIFRA section 18 the use of bifenthrin on potatoes for control of spider mites in Washington and Oregon. After having reviewed the submission, EPA concurs that emergency conditions exist for these States.

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

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether bifenthrin meets EPA's registration requirements for use on potatoes or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of bifenthrin by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Washington and Oregon to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the

emergency exemption for bifenthrin, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

## IV. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of bifenthrin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of bifenthrin in or on potato at 0.05 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

### *A. Toxicological Endpoints*

The dose at which no observed adverse effects level are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD=NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non–dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE)= NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as $1 \times 10^{-6}$ or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non–linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ($MOE_{cancer}$ = point of departure/exposures) is calculated. A summary of the toxicological endpoints for Bifentherin used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL ENDPOINTS FOR BIFENTHRIN FOR USE IN HUMAN RISK ASSESSMENT

| Exposure scenario | Dose used in risk assessment, UF | FQPA SF* and level of concern for risk assessment | Study and toxicological effect |
|---|---|---|---|
| Acute dietary (All populations) | Oral NOAEL = 1.0 mg/kg/day UF=100 Acute RfD: 0.01 mg/kg/day | Acute population adjusted dose (aPAD) aPAD =acute RfD = 0.01 mg/kg/day FQPA SF = 1X | Developmental toxicity, rats—tremors in dams during & post dosing |
| Chronic dietary (All populations) | Oral dietary exposure NOAEL =1.5 mg/kg/day UF = 100 Chronic RfD: 0.015 mg/kg/day | Chronic population adjusted dose (cPAD) cPAD = chronic RfD = 0.015 mg/kg/day FQPA SF = 1X | Chronic oral, dogs—tremors in both sexes |
| Short term dermal (1–7 days) (Residential) | Dermal exposure Oral NOAEL =1.0 mg/kg/day (Use dermal absorption rate = 25%) | MOE = 100 FQPA SF = 1X | Developmental toxicity, rats – tremors in dams during & post dosing |
| Intermediate term dermal (one week to several months) (Residential) | Dermal exposure oral NOAEL =1.0 mg/kg/day (use dermal absorption rate=25%) | MOE = 100 FQPA SF = 1X | Developmental toxicity, rats – tremors in dams during & post dosing |
| Chronic dermal (several month to lifetime) (Residential) | Dermal exposure oral NOAEL =1.5 mg/kg/day (use dermal absorption rate = 25%) | MOE=100 FQPA SF = 1X | Chronic oral, dogs – tremors in both sexes |
| All time periods: inhalation (Residential) | Inhalation exposure Oral NOAEL = 1.0 mg/kg/day (use inhalation absorption rate = 100%) | MOE=100 risk assessment should be inclusive of dietary & inhalation exposure components FQPA SF = 1X | Developmental toxicity, rats – tremors in dams during & post dosing (No appropriate inhalation studies available) |
| Cancer | Dietary/dermal/inhalation exposure group C carcinogen | use RfD approach FQPA SF = 1X | Carcinogenicity, mice – urinary bladder tumors in male mice |

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA. In this case, the FQPA Safety Factor for enhanced sensitivity of infants and children was reduced to 1X (explained further below under (C)).

*B. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.442) for the residues of bifenthrin, in or on a variety of raw agricultural commodities, (RAC) ranging from 0.05 ppm for corn grain to 10 ppm for dried hops. Tolerances are also established on animal commodities ranging from 0.05 ppm on eggs to 1.0 ppm in milk fat. Risk assessments were conducted by EPA to assess dietary exposures from bifenthrin in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food–use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM$^{DM}$) analysis evaluated the individual food consumption as reported by respondents in the USDA [insert 1989–1992 or 1994–1996] nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: In this acute analysis, probabilistic Monte Carlo analysis (Tier 3) was used. For those foods identified by EPA as single-serving commodities, the Monte Carlo simulation is based on iterative sampling from individual residue values from field trial data reflecting maximum application rates and minimum preharvest intervals. For those foods considered to be blended or processed, mean field trial residues were calculated. For those samples which contained residues at or below the limit of detection (LOD), 1/2 of the LOD was used. It was assumed that 100% of the following crops were treated with bifenthrin: artichoke, bananas, brassica vegetable, caneberry, canola, citrus, cucurbits, eggplants, garden peas, grape, head lettuce, lima beans, peanuts, pears, peppers, potatoes, snap beans, and sweet corn. Processing factors for grapes were calculated using concentration factors (grape juice = 1.2X, raisins = 4.2X). Secondary residues for meat and milk were not affected since no animal feed items are associated with these crops. Percent of crop treated values and anticipated residues were not used.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM$^{DM}$) analysis evaluated the individual food consumption as reported by respondents in the USDA [insert 1989–1992 or 1994–1996] nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Anticipated residue values were determined from field trial data conducted at label conditions of maximum application rates and minimum preharvest intervals. Mean anticipated residue values were calculated. 100% of crop treated was assumed for all crops except hops (43%) and cottonseed–oil and cottonseed–meal (4%). Secondary residues for meat and milk were not affected by this use.

iii. *Cancer.* For cancer risk the assessment is the same as the risk assessment for the chronic exposure, described above.

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

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

The Agency used percent crop treated (PCT) information as follows: 100% of crop treated was assumed for all crops except hops (43%) and cottonseed–oil and cottonseed–meal (4%).

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

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for bifenthrin in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on

the physical characteristics of bifenthrin.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI–GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening–level assessment for surface water. The GENEEC model is a subset of the PRZM/ EXAMS model that uses a specific high–end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a percent RfD or percent PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to bifenthrin they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI–GROW models the estimated environmental concentration (EEC) of bifenthrin in surface water for acute exposures is 0.1 ppb. The EEC for chronic exposures was estimated to be 0.032 ppb for surface water. The ground water screening concentration was 0.006 ppb. For the purposes of the acute and chronic risk assessments, the estimated maximum concentration for bifenthrin in surface and ground waters (0.01 ppb for acute, and 0.023 for chronic) was used.

3. *From non–dietary exposure.* The term ''residential exposure'' is used in this document to refer to non–occupational, non–dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Bifenthrin is currently registered for use on the following residential non–dietary sites: lawns to control flea infestation, pets and as a termiticide. Registered termiticide use of bifenthrin constitutes a chronic exposure scenario; however, the exposure is considered negligible, considering the application technique of the termiticide use (buried underground) and the fact that vapor pressure of bifenthrin is extremely low. The Agency conducted a residential exposure assessment for the lawn care uses of bifenthrin. This risk assessment is based on post–application to treated lawns (turf use), a worst case scenario estimate of residential exposure. An assessment of applicator exposure was not included since the registered products are primarily limited to commercial use and, therefore, applied by professional lawn care operators. Inhalation, dermal and oral non–dietary routes of exposure were evaluated by this short–term and intermediate–term risk assessment. For adults, the routes of exposure from these registered residential uses include dermal and inhalation, and for infants and children, the routes of exposure include dermal, inhalation, and oral (non–dietary).

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

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

*C. Safety Factor for Infants and Children*

1. *Safety factor for infants and children*—i. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Developmental toxicity studies.* In a developmental study in rats, the NOAEL for maternal toxicity was 1 milligram/kilogram/day (mg/kg/day), based upon tremors observed at the LOAEL of 2 mg/kg/day. The NOAEL for developmental toxicity was 1 mg/kg/ day, based upon the increased incidence of hydroureter observed at the LOAEL of 2 mg/kg/day. In a developmental study in rabbits, the NOAEL for maternal toxicity was 2.67 mg/kg/day, based upon head and forelimb twitching seen at the LOAEL of 4 mg/kg/day. There were no developmental effects observed.

iii. *Reproductive toxicity study.* In the rat reproduction study, parental toxicity occurred as decreased body weight at the LOAEL of 5.0 mg/kg/day with a NOAEL of 3.0 mg/kg/day. There were no developmental (pup) or reproductive effects up to 5.0 mg/kg/day highest dose tested (HDT).

iv. *Prenatal and postnatal sensitivity.* Prenatal: Since there was not a dose–related finding of hydroureter in the rat developmental study and in the presence of similar incidences in the recent historical control data, the marginal finding of hydroureter in rat fetuses at 2 mg/kg/day (in the presence of maternal toxicity) is not considered a significant developmental finding. Nor does it provide sufficient evidence of a special dietary risk (either acute or chronic) for infants and children which would require an additional safety factor. Postnatal: Based on the absence of pup toxicity up to dose levels which produced toxicity in the parental animals, there is no evidence of special postnatal sensitivity to infants and children in the rat reproduction study.

v. *Conclusion.* There is a complete toxicity data base for bifenthrin and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. Based on the above, EPA concludes that reliable data support use of the standard 100–fold UF, and that an additional UF is not needed to protect the safety of infants and children. Therefore, the FQPA safety factor for enhanced sensitivity of infants and children was reduced to 1X.

*D. Aggregate Risks and Determination of Safety*

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day)== cPAD (average food + chronic non–dietary, non–occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening–level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate–term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to bifenthrin in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of bifenthrin on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to bifenthrin will occupy 60% of the aPAD for the U.S. population, 40% of the aPAD for females 13 years and older, 75% of the aPAD for infants (up to 1 year old) and 99.7% % of the aPAD for children (1 to 6 years old). In addition, despite the potential for acute dietary exposure to bifenthrin in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of bifenthrin in surface and ground water. EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO BIFENTHRIN

| Population subgroup | aPAD (mg/kg) | %aPAD (Food) | Surface water EEC (ppb) | Ground water EEC (ppb) | Acute DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. population | 0.01 | 60 | 0.10 | 0.10 | 140 |
| Females 13 + yrs old | 0.01 | 40 | 0.10 | 0.10 | 180 |
| Children (1–6 yrs old) | 0.01 | 99.7 | 0.10 | 0.10 | 0.30 |

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to bifenthrin from food will utilize 3% of the cPAD for the U.S. population, and 8.2% of the cPAD for children (1 to 6 years old), the subpopulation at greatest exposure. Bifenthrin is also registered for residential use on outdoor lawn/gardens, inside households, pets and as a termiticide. Based on the use pattern, chronic residential exposure to residues of the bifenthrin is not expected. In addition, despite the potential for chronic dietary exposure to bifenthrin in drinking water, after calculating the DWLOCs and comparing them to conservative model estimated environmental concentrations of bifenthrin in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON–CANCER) EXPOSURE TO BIFENTHRIN

| Population subgroup | cPAD mg/kg/day | %cPAD (Food) | Surface water EEC (ppb) | Ground water EEC (ppb) | Chronic DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. population | 0.015 | 3.0 | 0.032 | 0.032 | 530 |
| Infants, < 1 yr old | 0.015 | 3.0 | 0.032 | 0.032 | 450 |
| Children (1–6 yrs old) | 0.015 | 3.0 | 0.032 | 0.032 | 140 |

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

Bifenthrin is currently registered for use(s) that could result in short– and intermediate–term residential exposure. Registered termiticide use of bifenthrin constitutes a chronic exposure scenario; however, the exposure is considered negligible. The Agency has determined that it is appropriate to aggregate chronic food and water and short–term and intermediate–term exposures for bifenthrin.

Using the exposure assumptions described in this unit for short–term and intermediate–term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 940 for adults, 350 for children

ages 1 to 6 years, and 470 for infants less than 1 year old, based on chronic food and residential use, e.g., turf representing the worst case residential exposure scenario. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short–term and intermediate–term DWLOCs were calculated and compared to the EECs for chronic exposure of bifenthrin in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short–term or intermediate–term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT–TERM AND INTERMEDIATE–TERM EXPOSURE TO BIFENTHRIN

| Population subgroup | Aggregate MOE (food + residential) | Aggregate level of concern (LOC) | Surface water EEC (ppb) | Ground water EEC (ppb) | Short–Term and Intermediate–Term DWLOC (ppb) |
|---|---|---|---|---|---|
| Adult (male) | 940 | 100 | 0.032 | 0.032 | 320 |
| Adult (female) | 940 | 100 | 0.032 | 0.032 | 270 |
| Children 1–6 yrs old | 350 | 100 | 0.032 | 0.032 | 71 |

4. *Aggregate cancer risk for U.S. population.* A quantitative (Q1*) dietary cancer risk assessment was not performed. Dietary risk concerns due to long–term consumption of bifenthrin are adequately addressed by the DEEM chronic exposure analysis using the chronic RfD. For the U.S. population, only 3.0% of the cPAD (cRfD) is occupied by chronic food exposure. Based on a comparison of the calculated DWLOCs and the estimated exposure to bifenthrin in drinking water (0.032 ppb), the Agency does not expect the chronic aggregate exposure to exceed 100% of the cPAD (cRfD) for adults. Thus, EPA concludes with reasonable certainty that the carcinogenic risk is within acceptable limits.

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

## V. Other Considerations

### *A. Analytical Enforcement Methodology*

Adequate enforcement methods are available for determination of the regulated bifenthrin residue in plants. The data gathering method is FMC method P–2132M, with a limit of quantitation of 0.05 ppm (given as 0.055 in some cases). This method is a variation of two other methods which have been submitted for inclusion in PAM II (FMC's Methods P–1031 and RAN–0140. This method has been adequately validated and is adequate for data collection. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

### *B. International Residue Limits*

No Codex, Canadian, or Mexican maximum residue levels (MRL) have been established for residues of bifenthrin in/on potatoes. International harmonization is therefore not an issue for this tolerance.

## VI. Conclusion

Therefore, the tolerance is established for residues of bifenthrin, in or on potato at 0.05 ppm.

## VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. 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–301047 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 27, 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 dcket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301047 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–commat;epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

## VIII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. 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 petition under FFDCA section 408(d), 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).

## IX. Submission to Congress and the Comptroller General

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

## List of Subjects in 40 CFR Part 180

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

Dated: September 15, 2000.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

2. Section 180.442 is amended by alphabetically adding the commodity ''potato'' to the table in paragraph (b) to read as follows:

**§ 180.442 Bifenthrin; tolerances for residues.**

* * * * *

(b)* * *

| Commodity | Parts per million | Expiration/Revocation date |
|---|---|---|
| * * * * * | | |
| Potato | 0.05 | 12/31/2002 |
| * * * * * | | |

* * * * *

[FR Doc. 00–24785 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 300

**[FRL–6877–9]**

## National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of deletion of Newsom Brothers Superfund Site from the National Priorities List (NPL).

**SUMMARY:** EPA Region 4 (EPA) announces the deletion of the Newsom Brothers Superfund Site from the NPL. The NPL constitutes appendix B of 40 CFR part 300 which is 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). EPA and the State of Mississippi (State) have determined that all appropriate CERCLA actions have been implemented and that no further cleanup by responsible parties is appropriate under CERCLA. Moreover, EPA and the State have determined that remedial activities conducted at the site to date have been protective of public health, welfare, and the environment.

**EFFECTIVE DATE:** September 27, 2000.

**ADDRESSES:** Comprehensive information on this Site is available through the EPA Region 4 public docket, which is located at the Region 4 office and is available for viewing by appointment only from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region 4 Docket Office.

The address for the Regional Docket Office is: Ms. Debbie Jourdan, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303. Telephone No.: (404) 562–8862.

Background information from the regional public docket is also available for viewing at the Site information repository located at the following address: South Mississippi Regional Library, 900 Broad Street, Columbia, Mississippi 39429.

**FOR FURTHER INFORMATION CONTACT:** Carolyn B. Thompson, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8913; Michael T. Slack, P.E., CERCLA Division, Mississippi Department of Environmental Quality, Office of Pollution Control, 101 West Capitol Street, Jackson, MS 39201, (601) 961–5217.

**SUPPLEMENTARY INFORMATION:** EPA announces the deletion of the Newsom Brothers Superfund Site, Columbia, Mississippi, from the National Priorities List (NPL), which is appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to 42 U.S.C. 9605 (40 CFR 300.425(e)(3) of the NCP), any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future.

EPA published a Notice of Intent to Delete the Newsom Brothers Site from the NPL on August 2, 2000 in the **Federal Register** (65 FR 47364–47366). The closing date for comments on the Notice of Intent to Delete was September 1, 2000. EPA received one comment and the responsiveness summary is attached to this Notice of Deletion. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

### 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 20, 2000.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

40 CFR part 300 is amended as follows:

## PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 9601–9657; 42 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR 191 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 ''Newsom Brothers/Old Reichhold Chemicals,'' Columbia, Mississippi.

[FR Doc. 00–24787 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Part 571

**[Docket No. NHTSA–98–4515; Notice 2]**

**RIN 2127–AF43**

## Federal Motor Vehicle Safety Standards

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This document establishes a new Federal motor vehicle safety

standard (FMVSS) FMVSS No. 305, ''Electric-powered vehicles: electrolyte spillage and electrical shock protection'' addressing safety issues exclusive to electric vehicles (EVs). The standard is based upon a notice of proposed rulemaking published on October 13, 1998. It applies to all EVs (except EVs to which FMVSS No. 500 ''Low-Speed Vehicles'' applies) that have a propulsion power source greater than 48 volts and a GVWR of 4536 kg (10,000 lbs) or less.

**DATES:** The final rule is effective October 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, contact Charles Hott, Office of Safety Performance Standards, NHTSA (202–366–0427). For legal issues, contact Taylor Vinson, Office of Chief Counsel, NHTSA (202–366–5263).

**SUPPLEMENTARY INFORMATION:**

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5. Modifications to the Final Rule Based Upon Comments:
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## 1. Background of This Rulemaking Action

The 1990s may be remembered as the beginning of a new generation of electric vehicles (EVs). In mid-decade, General Motors Corporation (GM) introduced the EV1, an electric-powered passenger car, offered for lease in selected western markets in the United States. Other manufacturers, such as Honda and Nissan, have also introduced new EVs. The primary impetus for the introduction of EVs into the marketplace appears to be the Clean Air Act Amendments of 1990 which included provisions for zero emission vehicles (ZEVs). EVs are the only known vehicles that will meet the emission requirements for ZEVs. In California, these provisions were to become effective beginning in model year 1998, and would have required automobile manufacturers to sell, collectively, 40,000 EVs in the model year. However, those provisions were delayed by the California Air Resources Board until model year 2003. At that time, car companies will be required to meet 10 percent of their sales with ZEVs. In addition, the Energy Policy Act of 1992 requires Federal and State fleets to acquire increasing percentages of alternative fueled vehicles.

On December 27, 1991, we published an advance notice of proposed rulemaking (ANPRM) on EV safety (56 FR 67038). The purpose of that notice was to help us to determine which existing Federal motor vehicle safety standards (FMVSS) may need modification to better accommodate the unique technology of EVs and what new FMVSS may need to be developed and issued to assure their safe introduction. We requested comments on a broad range of potential EV safety issues including battery electrolyte spillage and electric shock hazard. The ANPRM elicited widespread public interest and 46 comments were received.

After reviewing the comments and information received in response to the ANPRM, we concluded in a November 18, 1992 notice (57 FR 54354) that it was premature to initiate rulemaking for FMVSSs specifically addressing EVs. In that notice, we stated that further research was needed in the areas of battery electrolyte spillage and electric shock hazard.

Shortly thereafter, in 1993, we conducted research and testing on two converted EVs. We tested these vehicles as specified in FMVSS No. 208, ''Occupant Crash Protection.'' Both vehicles were equipped with flooded (i.e., filled with liquid electrolyte) lead-acid batteries located in the engine and luggage compartments in the front and rear of the vehicle. One vehicle was equipped with twelve 12-volt batteries (five in the front and seven in the rear). The other vehicle was equipped with ten 12-volt batteries (four in the front and six in the rear). Both vehicles were subjected to 48 km/h frontal crashes into a fixed barrier. In both cases, the front batteries sustained significant damage, spilling large quantities of electrolyte. On one vehicle, 17.7 liters of electrolyte spilled from the front batteries as a result of the crash and in the other vehicle, 10.4 liters. In addition, electrical arcs were observed under the hood of one vehicle during the crash.

In the following year, we published a notice of request for comments (59 FR 49901, September 30, 1994 ) to help us to assess the need to regulate battery electrolyte spillage and electric shock hazard of EVs during a crash or rollover. We received 32 comments from automobile manufacturers, EV converters, and industry associations. The majority of the commenters supported some type of Federal regulation for electrolyte spillage and electric shock prevention, provided that the requirements of the regulation were performance-based and not design restrictive to the extent that they might inhibit technology development. Two manufacturers, Ford Motor Company (Ford) and Nissan, and two industry associations (Electric Vehicle Industry Association and Electric Vehicles of America) did not believe that Federal regulation was necessary because electric vehicle design was constantly changing due to technological breakthroughs. However, Ford did state that it would follow the recommendation of industry associations such as the Society of Automotive Engineers (SAE) which, at the time, was developing SAE J1766 ''Recommended Practice For Electric and Hybrid Electric Vehicle Battery Systems Crash Integrity Testing.''

In 1995, we again conducted research and testing, this time on four EVs. Three vehicles were converted to run on electricity and one was built as an EV. The three converted vehicles were equipped with starved (i.e., electrolyte that is absorbed in an inert material to prevent leakage in case of rupture) lead-acid batteries and the vehicle built as an EV was equipped with flooded lead-acid batteries. We subjected three vehicles to 48 km/h frontal crashes similar to the test described in FMVSS No. 208, ''Occupant Crash Protection'' and a fourth to a 54 km/h side crash similar to the test specified in FMVSS No. 214,'' Side Impact Protection.'' Each vehicle was also subjected to pre and post-crash rollover tests to measure electrolyte spillage. The crash and rollover tests revealed that the vehicles with the starved lead-acid batteries had very little leakage (as expected because of their design), while the vehicle with the flooded lead-acid batteries leaked approximately 50 liters of electrolyte. We also performed electrical isolation tests on these vehicles before and after each of the crash tests. Two of the converted EVs maintained their electrical isolation after the crash tests. The other converted EV was the vehicle subjected to a side impact test. That EV

chafed a wire which came in contact with the vehicle structure during the crash and did not maintain electrical isolation. The vehicle built as an EV was subjected to a frontal crash test. That vehicle lost electrical isolation when two of the battery connectors came in contact with the battery tunnel during the crash.

**2. SAE J1766 FEB96 ''Recommended Practice for Electric and Hybrid Electric Vehicle Battery Systems Crash Integrity Testing''**

During our earlier rulemaking activities, there was not yet an industry standard in place that addressed potential safety problems in EVs. However, in February 1996, SAE published its Recommended Practice SAE J1766 ''Recommended Practice for Electric and Hybrid Electric Vehicle Battery Systems Crash Integrity Testing.'' The purpose of SAE J1766 is to define minimum performance standards and establish test methods which evaluate battery system spillage, retention, electrical system isolation, and liquid interaction in electric and hybrid electric vehicles during crash scenarios. The Recommended Practice covers all electric and hybrid EVs with a GVWR of 4536 kg (10,000 lbs) or less.

As the document notes, electric and hybrid EVs contain many types of battery systems. J1766 promotes the use of barriers between occupants and battery systems which are necessary to provide protection from potentially harmful factors and materials within the battery system, which can cause injury to vehicle occupants during different crash scenarios.

The potentially harmful factors and materials include:

electrical isolation integrity, electrolyte spillage and liquid interactions, and retention of the battery system. Maintaining electrical isolation of the system is important to prevent hazardous shock of vehicle occupants. Electrolyte spillage and battery fluid interactions should be minimized to prevent chemical reactions and electrical conductance. The latter could lead to an electrical shock hazard.

SAE J1766 establishes certain performance criteria to be met when an EV is subjected to the frontal impact procedures of FMVSS No. 208 (including the 30-degree oblique), the side impact procedures of FMVSS 214, and the rear impact procedure of FMVSS No. 301. No spillage of electrolyte into the occupant compartment is permitted. Electrolyte spillage outside the passenger compartment is limited to 5 liters for a 30-minute period after vehicle motion ceases and throughout the post crash rollover test. Battery modules must stay restrained in the vehicle, without any component intruding into the occupant compartment. Electrical isolation between the chassis and high voltage system is at least 500 ohms per nominal volt.

**3. Proposed FMVSS No. 305**

On October 13, 1998, we proposed that provisions similar to those of SAE J1766 be adopted in a new FMVSS No. 305 to afford the public protection from electrolyte spillage and electric shock hazards in crashes (63 FR 54652). These provisions should help secure the safe introduction of new EVs into the marketplace.

As proposed, FMVSS No. 305 would apply to all passenger cars, and to multipurpose passenger vehicles, trucks, and buses with a GVWR of 4536 kg (10,000 lbs) or less, and to school buses with a GVWR over 4536 kg (10,000 lbs), that use more than 72 volts of electricity as propulsion power. Seventy-two volts is the equivalent of six 12-volt batteries. Under proposed FMVSS No. 305, EVs covered by the standard, other than heavy school buses, would be required to meet leakage and battery retention requirements that are essentially those of SAE J1766 after front (FMVSS No. 208), side (FMVSS No. 214), and rear impact barrier crash tests (FMVSS No. 301). A static rollover test (FMVSS No. 301) would also be conducted both before and after each of these crash tests. Heavy school buses (those with a GVWR greater than 4536 kg) would be required to meet the same performance requirements after a moving contour barrier crash test, without the pre- and post-test rollovers. The performance requirements proposed were that there shall be no electrolyte spillage in the passenger compartment, with spillage outside the compartment limited to 5 liters total in a 30-minute period following the cessation of motion after a crash test. Intrusion of the battery system components into the occupant compartment would also be prohibited. Batteries must be restrained in the vehicle in their original installations. The electric isolation value must be at least 500 ohms per nominal volt, as determined by the SAE procedure for the measurement of the insulation resistance of the propulsion battery of an EV. The standard known resistance Ro (in ohms) should be approximately 500 times the nominal operating voltage of the vehicle (in volts). The Ro is not required to be precisely this value since the equations are valid for any Ro. However, a Ro value in this range should provide good resolution for the voltage measurements.

However, FMVSS No. 305 would not apply to passenger-carrying EVs with a maximum speed of 40 km/h (25 mph) or less. We noted that we had recently issued a standard expressly for low-speed vehicles (LSVs), FMVSS No. 500 (63 FR 33194; June 17, 1998). LSVs are any 4-wheeled vehicles, other than trucks, with a maximum speed of not less than 32 km/hr nor more than 40 km/h. EVs subject to FMVSS No. 500 could include Neighborhood Electric Vehicles (NEVs) and those battery-powered golf cars within the speed range. FMVSS No. 500 does not require LSVs to meet FMVSS Nos. 208, 214, and 301, which contain some 48 and 54 km/h impact barrier tests like those proposed for FMVSS No. 305.

**4. Specific Issues for Which We Sought Comment**

We received comments from the following 14 companies/organizations: Bombardier Motor Corporation of America, Navistar International Transportation Corp., Blue Bird Body Company, Infrastructure Working Council, Toyota Technical Center, USA, Inc., Ford Motor Company, Nissan North America, Inc., DaimlerChrysler Corporation, General Motors/North American Operations, Applied Safety Technologies Corporation, Mike Beebe, Honda/American Honda Motor Co., Inc., Mitsubishi Motors R & D of America Inc., and Volvo Cars of North America, Inc.

We asked for comments on six specific issues.

The first issue was the extent to which the proposed rule would necessitate expenditures by manufacturers of EVs to meet electrolyte spillage, battery retention, and electrical isolation test requirements.

Ford and DaimlerChrysler commented specifically on the cost to conform vehicles with a GVWR of 4536 kg (10,000 pounds) or less. Neither believed that there would be any additional cost since the tests for these requirements will be conducted in the course of conventional testing for existing FMVSS. Blue Bird, a manufacturer of large school buses, on the other hand, stated that the cost to conform in terms of dollars, weight, compliance tests, etc. would drastically impair, if not destroy, current research and development activities regarding electric and hybrid electric large school buses. This commenter also stated that it is not aware of any electric or hybrid electric powered school buses currently being offered on a regular production basis. It therefore appears that the cost

to conform to FMVSS No. 305 will be negligible for vehicles with a GVWR of 4536 kg (10,000 lbs.) or less.

The second issue was the adequacy of the proposed spillage specification. We present and address these comments below in our discussion pertaining to the adoption of S5.1, a requirement on electrolyte spillage from propulsion batteries.

The third issue was the adequacy of the proposed specification for electrical isolation. We address these comments below on our discussion of S5.3, the specification for electrical isolation that we are adopting.

The fourth and fifth issues concerned the coverage of the proposed standard, and whether the proposed standard should apply to electric Low-Speed Vehicles. We address these issues below in our discussion on the applicability of the final rule.

Sixth, we asked about the appropriateness of a rollover test. The SAE currently recommends that the vehicle undergo a rollover test before the barrier impact test. We are concerned that damage may occur to the test vehicle during rollover that could affect the results of the barrier impact test. Accordingly, we asked for comments as to whether there should be a rollover test before the barrier impact test and as to the importance of conducting a rollover test before the barrier impact test.

None of the commenters believe that the pre-test rollover procedure is necessary. The SAE Electric Vehicle Safety Committee has revised the February 1996 standard. This revised standard was reissued in June 1998. In the revised standard, the SAE determined that it was not necessary to perform the pre-crash static rollover test. It found that no failures occurred to any of the vehicles tested using this procedure. The most significant information regarding safety was only found during a post-crash condition. We believe that the likelihood of electrolyte spillage or shock hazard without a related crash event is extremely remote. Further, we do not see any additional safety benefit in conducting the static rollover test prior to the crash tests. Therefore, this test is not included in the final rule.

**5. Modifications to the Final Rule Based Upon the Comments**

*A. Vehicles to Which FMVSS No. 305 Applies*

i. The Standard Will Apply to Vehicles That Use More Than 48 Volts as Propulsion Power

We proposed that the new standard apply to vehicles that use 72 volts or more as propulsion power. However, we were unsure whether there might be vehicles or vehicle designs which are powered, in whole or in part (perhaps a hybrid electric configuration), by less than 72 volts of electricity. We asked whether there were any such and whether it would be appropriate to apply FMVSS No. 305 to them.

Navistar commented that the industry seems to have developed closer to a 50-volt segregation between high and low voltage. SAE J1673 ''High Voltage Automotive Wiring Assembly Design'' covers systems over 50-volts nominal. SAE J1797 ''Packaging of Electric Vehicle Battery Modules'' recommends against exceeding 60-volts DC in a single module during any state. This value equates to a 48–50 volt nominal battery. SAE Information Report 52232 ''Vehicle System Voltage—Initial Recommendations'' suggests not to exceed 65-volts during periodic ripple and 50-volts AC RMS. Again, these values equate to 48–50 volts nominal voltage.

ASTC commented that the final rule should not totally exclude vehicles which are propelled by 72 volts or less. Currently, SAE Standard J52344 JUN98 ''Guidelines for Electric Vehicle Safety,'' defines ''potentially hazardous voltage'' as 60 VDC and above. This is based on the UL standards UL 223 1 and UL 2202. Above this level, it is recommended to design with the intent to protect as one would for any high voltage system.

Mitsubishi argued that the application threshold should be set at or below 60 volts. This is the level specified by the National Electric Code (NEC, article 725) and UL as the limit above which a risk is posed to the human body by high voltage.

On the basis of these comments, we have concluded that that FMVSS No. 305 should not apply only to vehicles that use more than 72 volts as propulsion power as we proposed. It is clear from the commenters and industry standards that 60 volts DC can cause bodily injury. Further, we are not aware of any EV manufacturer which is presently producing motor vehicles propelled by 48 volts DC or less; it seems that these lower voltages are not detrimental to the safety of humans in the same manner that 60 volts DC may be. Accordingly, FMVSS No. 305 will apply to EVs that are propelled by 48 volts or more of electricity.

ii. The Standard Will Not Apply to Low-Speed Vehicles (LSVs)

Although we were aware that two Low-Speed Vehicles ( LSVs) will be produced with six 12-volt batteries totaling 72 volts, the Bombardier NV and the GEM vehicle (the Trans2 NEV design upgraded from 48 volts), the proposed rule nevertheless excluded LSVs. However, we asked whether the standard ought not to apply to LSVs after all, and, if so, whether the proposed requirements would be reasonable, practicable, and appropriate for them.

Two commenters recommended against including LSVs in FMVSS No. 305. Bombardier commented that we had extensively discussed the safety features incorporated into FMVSS No. 500 based upon LSVs' design and performance characteristics and concluded in the final rule that this ''rule requires safety equipment on low-speed vehicles consistent with their characteristics and operating environment.'' Bombardier further commented that, in issuing FMVSS No. 500, we had concluded that LSVs, given their limited-speed capability and relatively controlled operating environments, need not be designed to meet the full range of FMVSSs, especially those incorporating dynamic crash requirements. Moreover, complying with the proposed dynamic crash test standards would require LSVs to undergo impact barrier tests at speeds of 48.3 km/h (30 mph). This speed is above the maximum speed of 40 km/h (25 mph) set forth in FMVSS No. 500 of which an LSV is capable.

Ford also argued that FMVSS No. 305 should not apply to electric-powered LSV's. Ford believes that compliance with FMVSS No. 305 would not provide appreciable additional safety benefit for LSV's beyond that provided by compliance to FMVSS No. 500 which is now required. Ford stated that the primary patterns of use for LSVs are anticipated to be Closed Community environments where it is highly unlikely they will be involved in a crash at 30 mph. Ford argued that if LSVs would have to meet the crash requirements of FMVSS No. 305, the manufacturers may be more likely to develop gasoline LSVs than develop zero emission electric-powered LSVs.

Contrary to these comments, Mitsubishi argued that it is possible that flooded lead-acid batteries may be used

in LSVs and that the electrolyte leakage from LSVs's so equipped could be far greater than the proposed 5.0 liter limit, and thus pose a risk to humans and the environment. Therefore, Mitsubishi recommended that LSVs be covered by FMVSS No. 305. It is true that LSVs are not required to meet any of the crash test standards and their structures are not the equivalent in strength of conventional passenger cars, presenting the possibility of electrolyte spillage and failure of battery retention in crashes. NHTSA is developing a proposal to add performance requirements for the equipment required by FMVSS No. 500 for LSVs. We will carefully consider Mitsubishi's points about electrolyte leakage in developing that proposal. We prefer to take a comprehensive look at appropriate requirements for LSVs, instead of a piecemeal, standard-by-standard approach.

We noted that FMVSS No. 500's definition of LSV does not include trucks and asked whether trucks that are powered by less than 72 volts of electricity should be covered if their maximum speed is not more than 40 km/h (25 mph). Ford commented, in essence, that trucks should be included in the standard unless they cannot achieve a maximum speed of 25 mph regardless of their voltage. Inasmuch as load-carrying vehicles with a maximum speed that exceeds 20 mph are classified as ''trucks'' and therefore must meet requirements in 30 mph barrier crash tests of other FMVSS, we see no logical basis on which low-speed trucks should be excused from the barrier crash specifications of FMVSS No. 305, and therefore they are not excluded from the standard. However, we shall revisit this issue if FMVSS No. 500 is ever amended to include low-speed trucks.

iii. The Standard Will Not Apply to Large Electric-Powered Schoolbuses

We proposed that FMVSS No. 305 also apply to electric school buses with a GVWR of greater than 4356 kg (10,000 lbs). Blue Bird, Navistar and IWC commented that FMVSS No. 305 should not be applicable to large school buses. Navistar argued that it may seem logical to apply the same requirements to electric-powered school buses with a GVWR of greater than 4536 kg, but that, in reality, these vehicles can be quite different from electric-powered passenger vehicles. The electric propulsion system and components have to be much larger for school buses with a GVWR greater than 4536 kg and this creates packaging, shock hazard protection, and costs that are different from electric-powered passenger vehicles.

Blue Bird argued that the standard should not apply to large school buses until appropriate testing and research are conducted to determine if the requirements are justified, reasonable, appropriate and practicable. The school bus manufacturer commented that there currently are limited applications in which electric vehicle technology may be practical and that school bus service is one of these. It also said that the research that is currently in progress may be vitally important to the successful development of large electric-powered vehicles. Blue Bird stated that it is not aware of any electric or hybrid electric powered school buses currently being offered on a regular production basis. The few electric school buses that it currently produces contain 3636 kg (8,000 pounds) of batteries and support structure. The weight of the additional structure required to protect the battery modules could be substantial and this can only be accomplished by a reduction in capacity or an addition of a tandem axle. Blue Bird further argued that the extension of the proposed requirements to large school buses would constitute regulation of research and development activities rather than the regulation of production vehicles for consumer use.

IWC argued that it would be premature at this time to require bus manufacturers to comply with a standard which was developed without consideration for their application.

We agree that, in terms of cost and weight, FMVSS No. 305 could have a substantial effect on large school buses. Further, it is plausible that the additional weight and cost associated with applying FMVSS No. 305 to large school buses could restrict the development of electric-powered school buses. We do not believe that at this time large school buses should be covered by FMVSS No. 305 because the testing we proposed would require a massive safety cage to prevent the batteries from becoming damaged and leaking the electrolyte. Current school bus construction appears sufficient to prevent the electrolyte from entering the passenger compartment. There are many issues that must be resolved before issuing an FMVSS applicable to the crashworthiness of large electric-powered school buses, such as appropriate test procedures and the added weight of more battery containment. Accordingly, this aspect of the proposed rule has not been adopted.

We note that we do not regard electric school buses as ''research and development vehicles.'' They are production vehicles and certified as conforming to all applicable FMVSS. We anticipate that Blue Bird and other manufacturers developing electric school buses will take all appropriate measures to ensure the safety of school children from electrolyte spillage and electrical shock hazards even though these buses are not required to comply with FMVSS No. 305.

*B. S5.1 Electrolyte Spillage From Propulsion Batteries.*

We proposed that:

*S5.1 Electrolyte spillage from propulsion batteries.* There shall be no spillage of electrolyte from propulsion batteries into the passenger compartment. Not more than 5.0 liters of electrolyte from propulsion batteries shall leak outside the passenger compartment. Spillage and leakage are measured from the time the vehicle ceases motion after a crash until 30 minutes thereafter, and throughout any static rollover before or after a crash test.

DaimlerChrysler believes that a requirement of ''no spillage'' may be appropriate for a voluntary standard, but not for a regulation. In this commenter's view, during the post-test static rollover, a measurable quantity of spillage should be specified in S5.1, for example, 100 ml maximum of spillage into the passenger compartment in the first 30 minutes after the crash test.

GM agrees with the intent of this requirement, and participated in writing the provision into SAE J1766. GM also argued that this provision is appropriate in the context of an SAE Recommended Practice. The literal inability to measure zero—i.e., ''no spillage''—creates a practicability problem in the context of an FMVSS. GM noted that the agency's other fuel integrity standards do allow a small non-zero amount of fuel spillage. GM recommended that proposed S5.1 be revised to allow a small non-zero amount (perhaps one deciliter) of electrolyte spillage into the passenger compartment.

Our desired goal is zero spillage, and we believe that it can be achieved with current battery technology. Although a requirement of ''no spillage'' would differ from the performance required of fuel systems in other FMVSS, there is a distinction: batteries are not subject to the same operating conditions as fuel tanks. Fuel tanks are filled frequently, which requires that the be opened and closed. Batteries recharge through applying electricity to the terminals and do not require opening on a regular basis. However, given the concern about the phrase ''no spillage,'' we are adopting the phrase ''no visible trace'' as a substitute which we believe is a more practicable specification.

The value of 5.0 liters derives from SAE J1766 and is based upon the

amount of electrolyte that is contained in present large automotive batteries. Commenters were asked for their views on whether a different amount may be more appropriate to protect the public in EV crashes.

Ford and DaimlerChrysler commented specifically on the proposed limit. Ford argued that the 5.0 liters of electrolyte spillage should be the maximum that is allowed. DaimlerChrysler believes the 5.0 liter limit to be satisfactory and stated that, in all probability, spillage will be a blend of electrolyte and battery coolant, rather than electrolyte alone.

Navistar and Blue Bird both argued that the proposed limit of 5.0 liters is too restrictive for large school buses. Given the fact that we have decided to exclude large school buses from FMVSS No. 305, we simply note, without discussion, that these comments were submitted.

Upon review, we have replaced the words ''crash'' and ''crash test'' in S5.1 with the more accurate ''barrier impact test.'' For the same reason, we have also substituted ''impact'' for ''crash'' in other paragraphs of the standard.

Accordingly, S5.1 as adopted reads:

*S5.1 Electrolyte spillage from propulsion batteries.* Not more than 5.0 liters of electrolyte from propulsion batteries shall spill outside the passenger compartment, and no visible trace of electrolyte shall spill into the passenger compartment. Spillage is measured from the time the vehicle ceases motion after any barrier impact test until 30 minutes thereafter, and throughout any static rollover after any barrier impact test.

Note that we have eliminated the word ''leakage'' from the final rule. We used it as a synonym for ''spillage'' in the proposed rule. Both words indicate the escape of electrolyte from the battery. Elimination of ''leakage'' will avoid questions of whether we intended different meanings for these words. You will note also that rollover before a crash test has also been deleted. The reason for this is discussed in the paragraph below relating to S6.1.

*C. S5.2 Battery Retention*

We proposed that:

Battery modules shall remain restrained in the location in which they are installed in the vehicle. No part of any battery system component shall enter the passenger compartment, as determined by a visual inspection.

Navistar argued that this is too restrictive and that the wording can have a variety of meanings. It suggested adopting the wording of J1766 in which the battery modules must stay restrained to the vehicle. Blue Bird commented that the batteries or any part thereof pose no more danger or safety threat than any other part of a school bus that may become detached during a barrier crash test. Echoing Navistar, it said that the requirement that battery modules shall remain restrained in the location in which they are installed in the vehicle may not be necessary from a safety viewpoint. Mitsubishi argued that slight movement of the batteries does not necessarily pose a safety risk, and suggested modifying that the ''Battery module must not separate from the battery system.'' In Toyota's view, the definition of battery module includes the venting system and it is unlikely the venting system entering the passenger compartment could cause harm. Volvo argued that the proposed requirement is unnecessarily design restrictive and may prevent innovative and better (safer) solutions that would have the potential of improving occupant protection as compared to a design solution that would comply with the proposed requirement.

GM focused on the proposal that ''no part of any battery system component shall enter the passenger compartment, as determined by a visual inspection.'' Proposed S4 defines a battery system component as: ''* * * any part of a battery module, interconnect, venting system, battery restraint device, and battery box or container which holds the individual battery modules.'' GM noted that the proposed battery retention requirement should recognize the possibility that battery system components may be located inside the passenger compartment by design. GM further argued that the prohibition against the presence of the battery container inside the passenger compartment per se serves no safety purpose and that the proposed language could be interpreted as an unnecessary design restriction. GM recommended the following alternative wording for S5.2:

S5.2 *Battery retention.* Battery modules shall remain restrained in the location in which they are installed in the vehicle. No part of any battery system component that is positioned outside the passenger compartment shall enter the passenger compartment during the test procedures described in S7 of this standard, as determined by visual inspection.

We note that the intent of the proposed requirements in S5.2 was to ensure that the battery modules would not become unattached and become flying projectiles in a crash or subsequent rollover. We agree with Navistar that the wording can have a variety of meanings, as is clearly shown based on the comments received. We have also concluded that the proposed language is unnecessarily design restrictive and should be modified to avoid unnecessary confusion. Further, the test procedures are located in S6 (S7 specifies the test conditions). We therefore are adopting the following wording for S5.2:

S5.2 *Battery Retention.* Battery modules located inside the passenger compartment shall remain restrained in the location in which they are installed. No part of any battery system component that is located outside the passenger compartment shall enter the passenger compartment during the test procedures of S6 of this standard, as determined by visual inspection.

*D. S5.3 Electrical Isolation*

We proposed that:

Electrical isolation between the battery system and the vehicle electricity-conducting structure shall be maintained at a minimum of 500 ohm/volt.

Navistar and GM argued that momentary loss of isolation should not be regarded as a noncompliance. If electrical isolation measurements were made real-time during the crash test, a detected momentary loss of isolation could be interpreted as violating this requirement. In GM's opinion, paragraph 4.4.3 of SAE J1766 recognizes that, during a crash, electrical isolation may be lost momentarily and should be immediately restored.

We concur that S5.3 as proposed could be interpreted to mean that any loss of isolation is prohibited. In our view, momentary loss is not an undue safety risk provided that the system subsequently restores itself. We are revising S5.3 to indicate that the measurement is to be taken after each crash test. S5.3 as adopted reads:

S5.3 *Electrical isolation.* Electrical isolation between the battery system and the vehicle electricity-conducting structure after each test shall be not less than 500 ohms/volt.

*E. S6.1 Pre-Impact Test Static Rollover*

We proposed that a vehicle must meet the requirements of S5.1, S5.2, S5.3 after being rotated on its longitudinal axis to successive increments of 90 degrees, before each crash test. Upon review, however, we are concerned that damage may occur to the test vehicle during rollover that could affect the results of the barrier impact test. Further, none of the commenters argued that the pre-impact test static rollover procedure was necessary. We also believe that the likelihood of electrolyte spillage or shock hazard without a related impact event is extremely remote. Accordingly, we have eliminated the proposed pre'impact static rollover from the final rule.

*F. S6.3 Side Moving Deformable Barrier Impact*

We proposed that:

S6.3 *Side impact moving deformable barrier crash.* After a static rollover, when the vehicle is impacted from the side by a deformable barrier moving at 54 km/h, the vehicle shall meet the requirements of S5.1, S5.2, and S5.3.

Honda stated that the side impact test specified in S6.3 of proposed FMVSS 305 does not mention the installation of the test dummy in the test vehicle. Honda argued that, in order to prevent any possible misunderstanding, we should prescribe a dummy installation in the final rule that is identical to that in FMVSS No. 214.

We agree, and are so specifying. The test dummy that should be used in this and other tests is a 50th percentile male dummy as specified in subpart F of 49 CFR Part 572. To simplify the regulatory text, we are adopting that definition of ''dummy'' in S3. The final rule, then, revises S6.3 to read as follows:

S6.3 *Side moving deformable barrier impact.* The vehicle must meet the requirements of S5.1, S5.2, and S5.3 when it is impacted from the side by a barrier conforming to part 587 of this chapter that is moving at any speed up to and including 54 km/h, with dummies positioned in accordance with S7 of Sec. 571.214 of this chapter.

*G. S7.1 Battery State of Charge*

We proposed that:

S7.1 *Battery state of charge.* The battery system is charged using the vehicle manufacturer's recommended charging system. All tests are performed with the propulsion batteries charged to not less than 95 percent capacity.

Navistar commented that it may be unrealistic to obtain 95 percent state of charge on some hybrid electric vehicles. Typically hybrid electric vehicles do not operate with batteries fully charged like fully electric vehicles. It may be more representative to test at nominal working voltage or state of charge for the system. Similarly, Toyota commented that the 95 percent requirement seems unreasonable for hybrid electric vehicles. It suggested that the test be performed with the batteries charged to the level recommended by the manufacturer. DaimlerChrysler argued that the batteries will not maintain 95 percent capacity because they are under a load at the point of impact, and will have been discharged somewhat. Honda stated that, for hybrid vehicles, the vehicle controls the batteries' state of charge with its vehicle's Electrical Control Unit. Finally, Honda reminded us that, in the final rule of FMVSS 105, we agreed to revise the proposed rule from ''95 percent battery state of charge'' to ''manufacturer's recommended state of charge or 95 percent battery state of charge.''

We agree with the above comments and note that the June 1998 revised version of SAE J1766 changed 4.1.2 to read ''The Battery system shall be fully charged prior to the crash test using the vehicle manufacturers recommended charging procedure.'' We therefore are adopting the following wording:

S7.1 *Battery state of charge:* The battery system shall be at the maximum state of charge recommended by the manufacturer, as stated in the vehicle operator's manual or on a label that is permanently attached to the vehicle, or, if the manufacturer has made no recommendation, at a state of not less than 95 percent of the maximum capacity of the battery system.

*H. S7.7 Electrical Isolation Test Procedure*

We proposed that S7.7.1 read as follows:

S7.7.1 The propulsion battery system is connected to the vehicle's propulsion system, and the vehicle ignition is in the ''on'' (traction (propulsion) system energized) position.

GM asked that this sentence be clarified in the final rule, to avoid confusion and inconsistent interpretations of the test procedure, and state that the isolation measurement is from the battery side of the contactors or automatic disconnect system and the vehicle chassis, consistent with SAE J1766. Navistar argued that the specification that the propulsion battery be connected to the vehicle propulsion system during the electrical isolation test indicates that any safety devices such as fuses or contractors that were opened during or as a result of the crash would have to be re-closed for this test. Navistar stated that since such devices would be included in the design to provide a high degree of safety in a crash, it does not seem appropriate to require these safety features be defeated to determine if the test has met the requirements. Navistar is incorrect. The propulsion battery is connected to the vehicle propulsion system before a dynamic test. During the electrical isolation test, any safety devices such as fuses or contactors are not closed.

We agree with GM that we intended to have the voltage measurement taken from the battery side of the contactors if they are used. We do not agree with Navistar that the contactors would need to be reclosed for this test. During the SAE discussions in which the revisions to SAE J1766 were being developed, there was considerable attention focused on whether the electrical isolation measurement to chassis should be taken from the battery side or the traction side of the contactors. All agreed that the measurement is taken from the battery side of the contactors to the vehicle chassis because the procedure is meaningless if the voltage measurement is made between the output side of opened contactors and vehicle chassis, since there would likely be no voltage between those points.

GM recommended that S7.7.1 be revised to read as follows, and we have accepted that recommendation (note that the deletion of proposed S7.6 pertaining to the testing of large school buses has resulted in a renumbering of S7.7 to S7.6):

S7.6.1 Prior to the barrier crash, the propulsion battery system is connected to the vehicle's propulsion system, and the vehicle ignition is in the ''on'' (traction (propulsion) system energized) position. If the vehicle utilizes an automatic disconnect between the propulsion battery system and the traction system, the electrical isolation measurement after the crash is made from the battery side of the automatic disconnect to the vehicle chassis.

Proposed paragraph S7.7.3 (now S7.6.3) set forth a procedure for measuring voltage in Figure 1. Upon review, we have decided that only the first two sentences related to the procedure itself. We are adopting these sentences as proposed. The remaining material we set forth here, as it relates to propulsion battery voltage (Vb). We anticipate that Vb after the crash test will be approximately the same as Vb before the crash test. After the crash test, a Vb greater than zero is required in order to conduct the remainder of the procedure of S7.6.3. If Vb after the crash test is zero, this indicates that a short across the propulsion battery has occurred, which precludes the remainder of this test procedure. A short across the propulsion battery may be conspicuous by virtue of arcing, fire, and/or component meltdown.

Navistar stated S7.7.6 and S7.7.7 in the proposal specify a standard known resistance without reference to any approximate size. Navistar agrees that the magnitude of this resistor is not critical to the measurement. Navistar recommended that the word ''standard'' be deleted. We agree, and have eliminated it from S7.6.6 and S7.6.7. With respect to S7.6.7, we did not provide in the NPRM the background for the equation used to calculate electrical isolation for SAE J1766. We have placed a copy of the derivation in Docket No. NHTSA–98–4515.

*I. Editorial Comments*

GM called our attention to typographical or technical corrections that should be corrected in the final rule. We have done so. In Figure 1, the description is revised to ''Measurement Location for Vb Voltage.'' In Figure 3, the symbol within the circle is ''V2'' rather than ''Vb.'' In Figure 4, the equation for Ri is revised to:

$$Ri = Ro[1 + (V2/V1)][(V1 - V1')/V1']$$

In Figure 5, the equation for Ri is revised:

$$Ri = Ro[1 + (V1/V2)][(V2 - V2')V2']$$

**6. Effective Date**

We have concluded that an effective date of approximately one year after the issuance of the final rule is sufficient for manufacturers covered by FMVSS No. 305 to comply with the proposed new safety standard. The major EV manufacturers all are using, or plan to use, battery types that are not susceptible to leaking large amounts of electrolytes. To our knowledge, all incorporate a device that would shut-off the propulsion battery current or prevent loss of electrical isolation in the event of a crash or short circuit.

**7. Rulemaking Analyses**

*Executive Order 12866 and DOT Regulatory Policies and Procedures.* This document was not reviewed under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures.

Informal discussions with some EV manufacturers indicate that the industry is aware of SAE J1766 and that manufacturers are planning or producing EVs with batteries designed for minimal leakage, and to shut off the current or prevent loss of electrical isolation in the event of a crash. We believe that a substantial portion of the nascent EV industry is already designing its production to comport with SAE J1766. The added costs of our tests are minimal, as reflected in the comments on this issue in response to the notice of proposed rulemaking. The frontal barrier impact test of S6.1 of FMVSS No. 305 is the same test specified in FMVSS Nos. 208 and 301. The rear moving barrier impact test is the same test specified in FMVSS No. 301. The lateral moving barrier impact test is the same test specified in FMVSS No. 214. This means that there will be no additional costs imposed for testing an EV to which FMVSS Nos. 208, 214, and 301 already apply. To the extent that one or more of these standards do not apply to a specific EV type, the additional testing costs are not considered significant. The cost of a frontal impact test is $18,600 and the rollover test following, $1,500. The cost of a rear moving barrier impact test is $5,200, and the rollover test following, $1,500. The cost of a lateral moving barrier impact test is $18,000, and the rollover test following, $1,500. To this must be added the cost of the test vehicle for each test, to which we have assigned an approximate figure of $30,000. Accordingly, the impacts of the rule are so minimal as not to warrant preparation of a full regulatory evaluation.

*Regulatory Flexibility Act.* We have also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act (5 U.S.C. Sec. 601 *et seq.* I certify that this rulemaking action does not have a significant economic impact upon a substantial number of small entities.

The following is our statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The technology to prevent leakage of electrolytes, battery retention, and electrical isolation in the event of the crash of a battery-powered motor vehicle is simple and has been well known for years. The specifications of the industry standard, J1766, have been settled since February 1996. As noted above, we believe that a substantial portion of the nascent EV industry is already designing its production to comport with SAE J1766. Verification of compliance with FMVSS No. 305 can be determined by rollover tests conducted after an EV is tested for compliance with the barrier impact specifications of FMVSS No. 301 and the cost of testing to this standard is not impacted, as we have discussed above. However, as noted above, if an EV is not required to comply with FMVSS No. 301, there will be the added cost of three rollover tests and a rear moving barrier impact test, plus the cost of a test vehicle, if the EV manufacturer chooses to certify its vehicle on the basis of an actual test rather than on engineering studies, computer simulations, mathematical calculations, or other means. We estimate the total costs for these tests as $38,200 for this segment of the EV industry. Since the overall economic impact is not considered to be significant, the agency has not determined formally whether the entities affected by the rules are ''small businesses'' within the meaning of the Regulatory Flexibility Act. In NHTSA's experience, manufacturers of motor vehicles are generally not ''small businesses.'' Accordingly, no regulatory flexibility analysis has been prepared.

*Executive Order 13132 (Federalism).* Executive Order 13132 on ''Federalism'' requires us 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.'' The E.O. defines this phrase 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, which regulates the manufacture of certain motor vehicles, will not have 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, as specified in E.O. 13132.

*National Environmental Policy Act.* We have analyzed this rulemaking action for purposes of the National Environmental Policy Act. The rulemaking action will not have a significant effect upon the environment as it does not affect the present method of manufacturing motor vehicle lighting equipment.

*Civil Justice Reform.* This rule will not have any retroactive effect. Under 49 U.S.C. 30103(b)(1), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

*Unfunded Mandates Reform Act of 1995.* The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule will not have a $100 million effect, we have not prepared an Unfunded Mandates assessment.

*National Technology Transfer and Advancement Act.* Section 12(d) of the National Technology Transfer and Advancement Act (the Act) requires agencies to evaluate and use existing

voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding our vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If we do not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation for not using such standards.

As we have explained in the preamble, this final rule is based upon SAE J1766 FEB96 ''Recommended Practice for Electric and Hybrid Electric Vehicle Battery Systems Crash Integrity Testing,'' and is substantially similar to it in its specifications for prohibition of electrolyte spillage in front, side, and rear impacts, and batter retention during such impacts, and electrical isolation. No other voluntary consensus standards are addressed by this rulemaking.

**List of Subjects in 49 CFR Part 571**

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

## PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30166; delegation of authority at 49 CFR 1.50.

2. A new § 571.305 is added to subpart B to read as set forth below:

### § 571.305 Standard No. 305; Electric-powered vehicles: electrolyte spillage and electrical shock protection.

S1. *Scope.* This standard specifies requirements for limitation of electrolyte spillage, retention of propulsion batteries during a crash, and electrical isolation of the chassis from the high-voltage system, to be met by vehicles that use electricity as propulsion power .

S2. *Purpose.* The purpose of this standard is to reduce deaths and injuries during a crash which occur because of electrolyte spillage from propulsion batteries, intrusion of propulsion battery system components into the occupant compartment, and electrical shock.

S3. *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses with a GVWR of 4536 kg or less, that use more than 48 volts of electricity as propulsion power and whose speed attainable in 1.6 km on a paved level surface is more than 40 km/h.

S4. *Definition.*

*Battery system component* means any part of a battery module, interconnect, venting system, battery restraint device, and battery box or container which holds the individual battery modules.

*Dummy* means a 50th percentile male test dummy as specified in subpart F of part 572 of this chapter.

S5. *General requirements.* Each vehicle to which this standard applies, when tested according to S6 under the conditions of S7, must meet the requirements of S5.1, S5.2, and S5.3.

S5.1 *Electrolyte spillage from propulsion batteries.* Not more than 5.0 liters of electrolyte from propulsion batteries shall spill outside the passenger compartment, and no visible trace of electrolyte shall spill into the passenger compartment. Spillage is measured from the time the vehicle ceases motion after a barrier impact test until 30 minutes thereafter, and throughout any static rollover after a barrier impact test.

S5.2 *Battery Retention.* Battery modules located inside the passenger compartment must remain in the location in which they are installed. No part of any battery system component that is located outside the passenger compartment shall enter the passenger compartment during the test procedures of S6 of this standard, as determined by visual inspection.

S5.3 *Electrical isolation.* Electrical isolation between the battery system and the vehicle electricity-conducting structure after each test must be not less than 500 ohms/volt.

S6. *Test requirements.* Each vehicle to which this standard applies, under the conditions of S7, must be capable of meeting the requirements of any applicable single barrier crash/static rollover test sequence, without alteration of the vehicle during the test sequence. A particular vehicle need not meet further test requirements after having been subjected to a single barrier crash/static rollover test sequence.

S6.1 *Frontal barrier crash.* The vehicle must meet the requirements of S5.1, S5.2 and S5.3 when it is traveling longitudinally forward at any speed, up to and including 48 km/h, and impacts a fixed collision barrier that is perpendicular to the line of travel of the vehicle, or at any angle up to 30 degrees in either direction from the perpendicular to the line of travel of the vehicle.

S6.2 *Rear moving barrier impact.* The vehicle must meet the requirements of S5.1, S5.2, and S5.3, when it is impacted from the rear by a barrier moving at any speed up to and including 48 km/h, with a dummy at each front outboard designated seating position.

S6.3 *Side moving deformable barrier impact.* The vehicle must meet the requirements of S5.1, S5.2, and S5.3 when it is impacted from the side by a barrier that conforms to part 587 of this chapter that is moving at any speed up to and including 54 km/h, with dummies positioned in accordance with S7 of Sec. 571.214 of this chapter.

S6.4 *Post-impact test static rollover.* The vehicle must meet the requirements of S5.1, S5.2, and S5.3, after being rotated on its longitudinal axis to each successive increment of 90 degrees after each impact test specified in S6.1, S6.2, and S6.3.

S7. *Test conditions.* When the vehicle is tested according to S6, the requirements of S5 must be met under the conditions in S7.1 through S7.6.7. Where a range is specified, the vehicle must be capable of meeting the requirements at all points within the range.

S7.1 *Battery state of charge.* The battery system is at the maximum state of charge recommended by the manufacturer, as stated in the vehicle operator's manual or on a label that is permanently affixed to the vehicle, or, if the manufacturer has made no recommendation, at a state of not less than 95 percent of the maximum capacity of the battery system.

S7.2 *Vehicle conditions.* The switch or device that provides power from the propulsion batteries to the propulsion motor(s) is in the activated position or the ready-to-drive position.

S7.2.1 The parking brake is disengaged and the transmission, if any, is in the neutral position. In a test conducted under S6.3, the parking brake is set.

S7.2.2 Tires are inflated to the manufacturer's specifications.

S7.2.3 The vehicle, including test devices and instrumentation, is loaded as follows:

(a) A passenger car is loaded to its unloaded vehicle weight plus its rated cargo and luggage capacity weight, secured in the luggage area, plus the necessary test dummies as specified in S6, restrained only by means that are installed in the vehicle for protection at its seating position.

(b) A multipurpose passenger vehicle, truck, or bus with a GVWR of 4536 kg or less is loaded to its unloaded vehicle weight plus the necessary dummies, as specified in S6, plus 136 kg or its rated cargo and luggage capacity weight, whichever is less. Each dummy is restrained only by means that are installed in the vehicle for protection at its seating position.

S7.3 *Static rollover test conditions.* In addition to the conditions of S7.1 and S7.2, the conditions of S7.4 of Sec. 571.301 of this chapter apply to the conduct of static rollover tests specified in S6.4.

S7.4 *Rear moving barrier impact test conditions.* In addition to the conditions of S7.1 and S7.2, the conditions of S7.3 of Sec. 571.301 of this chapter apply to the conduct of the rear moving barrier impact test specified in S6.2. The rear moving barrier is described in S8.2 of Sec. 571.208 of this chapter and diagramed in Figure 1 of Sec. 571.301 of this chapter.

S7.5 *Side moving deformable barrier impact test conditions.* In addition to the conditions of S7.1 and S7.2, the conditions of S6.10, S6.11, and S6.12 of Sec. 571.214 of this chapter apply to the conduct of the side moving deformable barrier impact test specified in S6.3.

S7.6 *Electrical isolation test procedure.* In addition to the conditions of S7.1 and S7.2, the conditions in S7.6.1 through S7.6.7 apply to the measurement of electrical isolation specified in S5.3.

S7.6.1 Prior to any barrier impact test, the propulsion battery system is connected to the vehicle's propulsion system, and the vehicle ignition is in the ''on'' (traction (propulsion) system energized) position. If the vehicle utilizes an automatic disconnect between the propulsion battery system and the traction system, the electrical isolation measurement after the impact is made from the battery side of the automatic disconnect to the vehicle chassis.

S7.6.2 The voltmeter used in this test measures direct current values and has an internal resistance of at least 10 MΩ

S7.6.3 The voltage is measured as shown in Figure 1 and the propulsion battery voltage (Vb) is recorded. Before any vehicle impact test, Vb is equal to or greater than the nominal operating voltage as specified by the vehicle manufacturer.

S7.6.4 The voltage is measured as shown in Figure 2, and the voltage (V1) between the negative side of the propulsion battery and the vehicle chassis is recorded.

S7.6.5 The voltage is measured as shown in Figure 3, and the voltage (V2) between the positive side of the propulsion battery and the vehicle chassis is recorded.

S7.6.6 If V1 is greater than or equal to V2, insert a known resistance (Ro) between the negative side of the propulsion battery and the vehicle chassis. With the Ro installed, measure the voltage (V1') as shown in Figure 4 between the negative side of the propulsion battery and the vehicle chassis. Calculate the electrical isolation (Ri) according to the formula shown. This electrical isolation value (in ohms) divided by the nominal operating voltage of the propulsion battery (in volts) must be equal to or greater than 500.

S7.6.7 If V2 is greater than V1, insert a known resistance (Ro) between the positive side of the propulsion battery and the vehicle chassis. With the Ro installed, measure the voltage and record the voltage (V2') between the positive side of the propulsion battery and the vehicle chassis as shown in Figure 5. Calculate the electrical isolation (Ri) according to the formula shown. This electrical isolation value (in ohms) divided by the nominal operating voltage of the propulsion battery (in volts) must be equal to or greater than 500.

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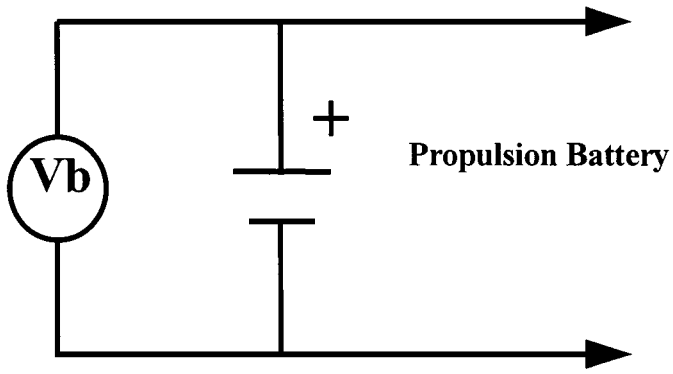


Figure 1. S7.6.3 Measurement Location For Vb Voltage

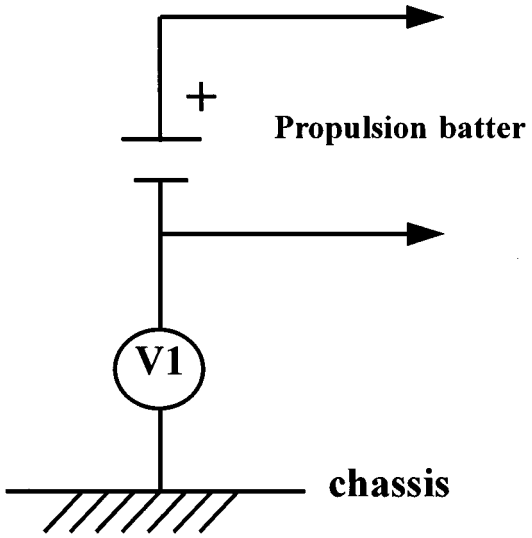


Figure 2. S7.6.4 Measurement Location For V1 Voltage

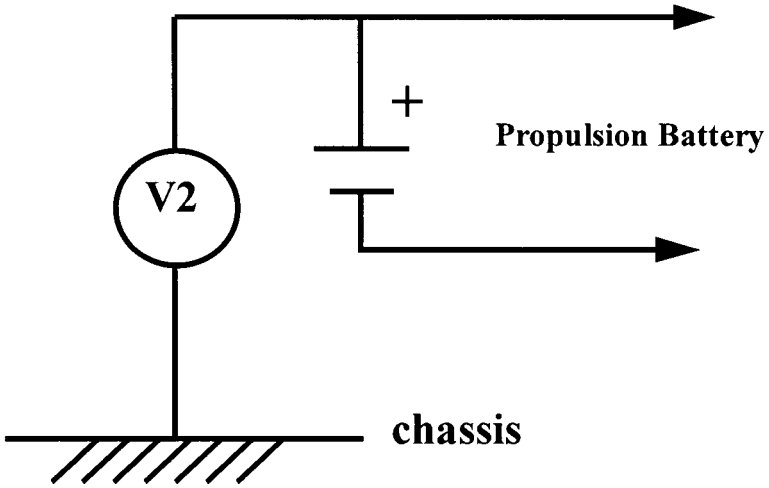


Figure 3. S7.6.5 Measurement Location For V2 Voltage

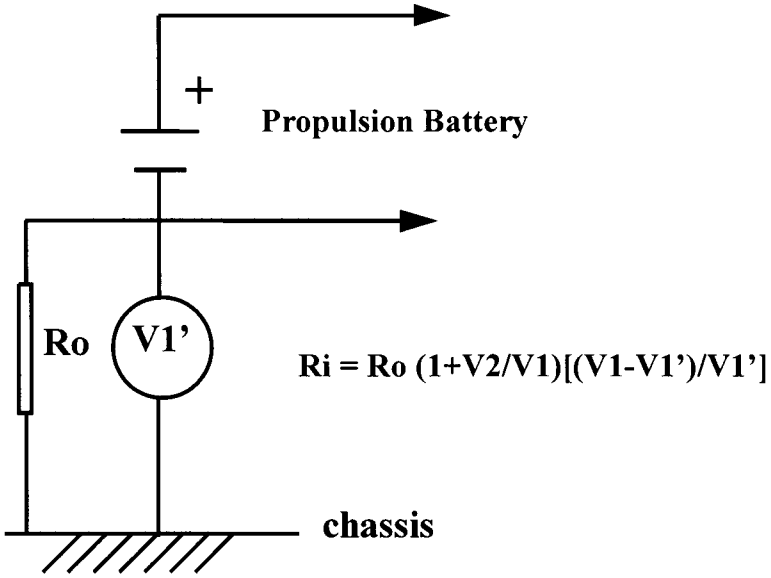


Figure 4. S7.6.6 Measurement Location For V1' Voltage

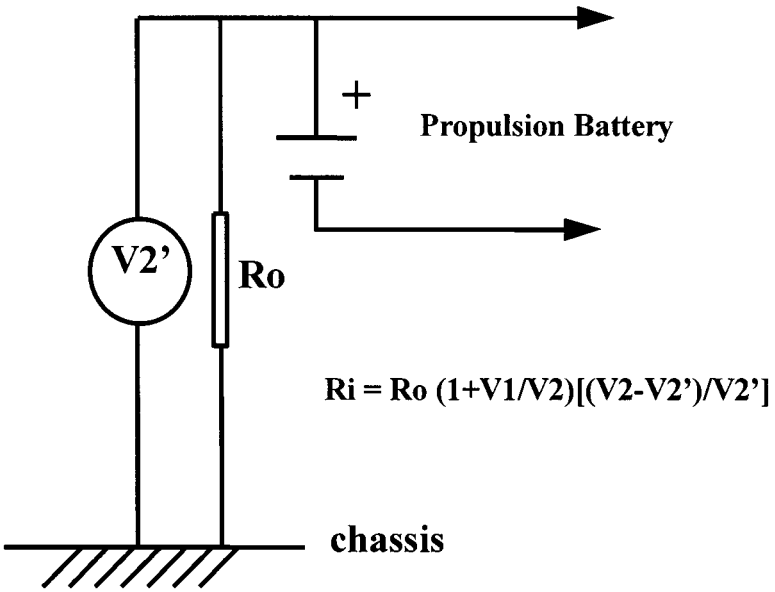


Figure 5. S7.6.7 Measurement Location For V2' Voltage

Issued on: September 21, 2000.

**Sue Bailey,**

*Administrator.*

[FR Doc. 00–24839 Filed 9–26–00; 8:45 am]

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# Proposed Rules

Federal Register
Vol. 65, No. 188
Wednesday, September 27, 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 THE TREASURY

### Office of the Comptroller of the Currency

### 12 CFR Part 3

**[Docket No. 00–17]**

**RIN 1557–AB14**

## FEDERAL RESERVE SYSTEM

### 12 CFR Parts 208 and 225

**[Regulations H and Y; Docket No. R–1080]**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 325

**RIN 3064–AC34**

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

### 12 CFR Part 565 and 567

**[Docket No. 2000–70]**

**RIN 1550–AB11**

## Capital; Leverage and Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Residual Interests in Asset Securitizations or Other Transfers of Financial Assets

**AGENCIES:** Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) propose to amend their capital adequacy standards for banks, bank holding companies and thrifts (collectively, banking organizations) concerning the treatment of certain residual interests in asset securitizations or other transfers of financial assets. Residual interests are defined as those on-balance sheet assets that represent interests (including beneficial interests) in the transferred financial assets retained by a seller (or transferor) after a securitization or other transfer of financial assets; and are structured to absorb more than a pro rata share of credit loss related to the transferred assets through subordination provisions or other credit enhancement techniques (credit enhancement). Examples of residual interests include, but are not limited to, interest only strips receivable (I/O strips), spread accounts, cash collateral accounts, retained subordinated interests, and other similar forms of on-balance sheet assets that function as a credit enhancement. Residual interests as defined in the proposed rule do not include interests purchased from a third party.

Generally, these residual interests are non-investment grade or unrated assets retained by the issuing institution in order to provide ''first-loss'' credit support for the senior positions in a securitization or other financial asset transfer. They generally lack an active market through which a readily available market price can be obtained. In addition, many of these residual interests are exposed, on a leveraged basis, to a significant level of credit and interest rate risk that make their valuation extremely sensitive to changes in the underlying credit and prepayment assumptions. As a result, such residual interests present valuation and liquidity concerns. High concentrations of such illiquid and volatile assets in relation to capital can threaten the safety and soundness of banking organizations.

This proposed rule is intended to better align regulatory capital requirements with the risk exposure of these types of residual interests, encourage conservative valuation methods, and restrict excessive concentrations in these assets. The proposed rule would require that risk-based capital be held in an amount equal to the amount of the residual interest that is retained on the balance sheet by a banking organization in a securitization or other transfer of financial assets, even if the capital charge exceeds the full risk-based capital charge typically held against the transferred assets. The proposed rule also would restrict excessive concentrations in residual interests by limiting the amount that may be included in Tier 1 capital for both leverage and risk-based capital purposes. When aggregated with nonmortgage servicing assets and purchased credit card relationships (PCCRs), the balance sheet amount of residual interests would be limited to 25 percent of Tier 1 capital, with any amount in excess of this limitation deducted in determining the amount of a banking organization's Tier 1 capital.

**DATES:** Comments must be received by December 26, 2000.

**ADDRESSES:** Comments should be directed to:

*OCC:* Comments may be submitted to Docket No. 00–17, Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. Comments will be available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to FAX number (202/874–5274), or by electronic mail to *regs.comment@occ.treas.gov.*

*Board:* Comments directed to the Board should refer to Docket No. R–1080 and may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington DC 20551 or mailed electronically to *regs.comments@federalreserve.gov.* Comments addressed to the attention of Ms. Johnson may also be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or the security control room in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's Rules Regarding Availability of Information.

*FDIC:* Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th

Street, NW., Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. Send facsimile transmissions to FAX number (202/898–3838); Internet address: *comments@fdic.gov*.) Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC 20429, between 9 a.m. and 4:30 p.m. on business days.

*OTS:* Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention Docket No. 2000–70. Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906–7755; or (202) 906–6956 (if comments are over 25 pages). Send e-mails to *public.info@ots.treas.gov,* and include your name and telephone number. Interested persons may inspect comments at the Public Reference Room, 1700 G Street, NW., from 10 a.m. until 4 p.m. on Tuesdays and Thursdays.

**FOR FURTHER INFORMATION CONTACT:**

*OCC:* Amrit Sekhon, Risk Specialist (202/874–5211), Capital Policy; Ron Shimabukuro, Senior Attorney, or Laura Goldman, Senior Attorney, Legislative and Regulatory Activities Division (202/874–5090).

*Board:* Thomas R. Boemio, Senior Supervisory Financial Analyst (202/452–2982); Arleen Lustig, Supervisory Financial Analyst (202/452–2987), Division of Banking Supervision and Regulation; and Mark E. Van Der Weide, Counsel, (202/452–2263), Legal Division. For the hearing impaired *only,* Telecommunication Device for the Deaf (TDD), Janice Simms (202/872–4984), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

*FDIC:* William A. Stark, Assistant Director, Division of Supervision (202/898–6972); Stephen G. Pfeifer, Senior Examination Specialist, Division of Supervision (202/898–8904); Keith A. Ligon, Chief, Policy Unit, Division of Supervision (202/898–3618); and Marc J. Goldstrom, Counsel, Legal Division (202/898–8807).

*OTS:* Michael D. Solomon, Senior Program Manager for Capital Policy (202/906–5654), and Teresa A. Scott, Counsel, Banking and Finance (202/906–6478), Regulation and Legislation Division, Office of the Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:** This preamble consists of the following sections:

I. Introduction
II. Nature of Supervisory Concerns
III. Current Capital Treatment for Residual Interests
IV. Residual Interests Subject to the Proposal
V. Proposed Amendments to the Capital Standards
VI. Request for Public Comment
VII. Plain Language
VIII. Regulatory Analysis

## I. Introduction

The proposed rule addresses the supervisory concerns arising from the illiquid and volatile nature of residual interests that are retained by the securitizer or other seller of financial assets, when those residual interests are used as a credit enhancement to support the financial assets transferred. The proposal also reduces the risk from excessive concentrations in these residual interests, including those situations where large residual interests are retained in connection with the sale or securitization of low quality, higher risk loans. As discussed in more detail in section V, the proposed rule would (1) require capital to be maintained in an amount equal to the amount of the residual interest that is retained on the balance sheet for risk-based capital purposes, and (2) require the amount of any such residual interests to be included in the 25 percent of Tier 1 capital sublimit that currently applies to nonmortgage servicing assets and purchased credit card relationships (PCCRs), with any amounts in excess of this limit deducted from Tier 1 capital for both leverage and risk-based capital purposes.

## II. Nature of Supervisory Concerns

Securitizations and other financial asset transfers provide an efficient mechanism for banking organizations to sell loan assets or credit exposures. The benefits of these transactions must be balanced against the significant risks that such activities can pose to banking organizations and to the deposit insurance funds. Recent examinations have disclosed significant weaknesses in the risk management processes related to securitization activities at certain institutions. The most frequently encountered problems stem from: (1) The failure to recognize recourse obligations that frequently accompany securitizations and to hold sufficient capital against such obligations; (2) the excessive or inadequately supported valuation of residual interests; (3) the liquidity risk associated with over reliance on asset securitization as a funding source; and (4) the absence of adequate independent risk management and audit functions.

The Agencies addressed these concerns in the Interagency Guidance on Asset Securitization (Securitization Guidance) issued in December 1999.[1] The Securitization Guidance highlighted some of the risks associated with asset securitization and emphasized the Agencies' concerns with certain residual interests generated from the securitization and sale of assets.

The Securitization Guidance addressed the fundamental risk management practices that should be in place at institutions that engage in securitization activities and stressed the need for bank management to implement policies and procedures that include limits on the amount of residual interests that may be carried as a percentage of capital. In particular, the Securitization Guidance set forth the supervisory expectation that the value of a residual interest in a securitization must be supported by objectively verifiable documentation of the asset's fair market value utilizing reasonable, conservative valuation assumptions. Under this guidance, residual interests that do not meet this expectation, or that fail to meet the supervisory standards set forth in the Securitization Guidance, should be classified as ''loss'' and disallowed as assets of the banking organization for regulatory capital purposes.

Moreover, the Agencies indicated in this guidance that institutions found lacking effective risk management programs or engaging in practices that present safety and soundness concerns would be subject to more frequent supervisory review, limitations on residual interest holdings, more stringent capital requirements, or other supervisory response. The Securitization Guidance further advised the industry that given the risks presented by securitization activities, and the illiquidity and potential volatility of residual interests, the Agencies were actively considering the establishment of regulatory restrictions that would limit or eliminate the amount of certain residual interests that

[1] *See* OCC Bulletin 99–46 (December 14, 1999) (OCC); FDIC FIL 109–99 (December 13, 1999) (FCIC); SR 99–37(SUP) (December 13, 1999) (FRB); and CEO LTR 99–119 (December 14, 1999) (OTS). See this guidance for a more detailed discussion of the risk management processes applicable to securitization activities.

may be recognized in determining the adequacy of regulatory capital.

The Agencies have identified three areas of continuing supervisory concern:

(1) Inappropriate or aggressive valuations of residual interests;

(2) Inadequate capital in relation to the risk exposure of the organization retaining residual interests; and

(3) Excessive concentrations of residual interests in relation to capital.

The Statement of Financial Accounting Standards No. 125, ''Accounting for Transfers and Servicing of Financial Assets and Extinguishment of Liabilities'' (FAS 125) [2] governs the recognition of a residual interest in a securitization as an asset of the sponsoring institution. Under these generally accepted accounting principles (GAAP), when a transfer of assets is treated as a sale, the securitizing or selling institution carries any residual interests as an asset on its books at an estimate of fair value.[3] Retaining this residual interest on the balance sheet in connection with a sale generally has the effect of increasing the amount of current earnings generated by the gains from the sale.

The Agencies have become increasingly concerned with fair value estimates that are based on unwarranted assumptions of expected cash flows. No active market exists for many residual interests. As a result, there is no marketplace from which an arm's length market price can readily be obtained to support the residual interest valuation. Recent examinations have highlighted the inherent uncertainty and volatility regarding the initial and ongoing valuation of residual interests. A banking organization that securitizes assets may overvalue its residual interests and thereby inappropriately generate ''paper profits'' (or mask actual losses) through incorrect cash flow modeling, flawed loss assumptions, inaccurate prepayment estimates, and inappropriate discount rates. Residual interests are exposed to a significant level of credit and interest rate risk that make their valuation extremely sensitive to changes in the underlying assumptions. Market events can affect the discount rate or performance of assets supporting residual interests and can swiftly and dramatically alter their value. Should the institution hold an excessive concentration of such assets in relation to capital, the safety and soundness of the institution may be threatened.

The Agencies believe that the current regulatory capital requirements do not adequately reflect the risk of unexpected losses associated with these transactions. The booking of a residual interest using gain-on-sale accounting can increase the selling institution's capital and thereby allow the bank to leverage the capital created from the securitization. This increased leverage resulting from the current recognition of uncertain future cash flows is a supervisory concern. Accordingly, the proposed rule focuses on those transfers of financial assets treated as sales under GAAP.[4]

A related concern is the adequacy of capital held by institutions that securitize or sell assets and retain residual interests. First, the lack of liquidity of residual interests and the potential volatility of residual interests arising from their leveraged credit and interest rate risk limits their ability to support the institution, especially in times of stress. Second, any weaknesses in the valuation of the residual interest can translate into weaknesses in the quality of capital available to support the institution. Liberal or unsubstantiated assumptions can result in material inaccuracies in financial statements. Even when such residual interests have been appropriately valued, relatively small changes in the underlying assumptions can lead to material changes in the residual interest's fair value. Inaccuracies in the initial valuation of residual interests, as well as changes in the underlying assumptions over time, can result in substantial write-downs of residual interests. If these generally illiquid and volatile residual interests represent an excessive concentration of the sponsoring institution's capital, they can contribute to the ultimate failure of the institution.

The concerns regarding excessive concentration and adequacy of capital are heightened where the residual interests are generated from the securitization of certain assets, such as low-quality or high loan-to-value loans. Recent examinations have shown that in order to provide adequate credit enhancement to the senior positions in securitizations involving low quality assets, institutions generally must retain relatively greater credit risk exposure. In such transactions, the sponsoring institutions may retain residual interests in amounts that exceed the risk-based capital that would have been associated with the loans had they not been transferred.

Because of these continuing supervisory concerns, the Agencies believe it is appropriate to propose these revisions to their respective capital adequacy rules in order to limit the amount of residual interests that are retained by banking organizations and require adequate capital for the risk exposure created.

## III. Current Capital Treatment for Residual Interests

### *Assets Sold ''With Recourse''* [5]

Under current risk-based capital guidelines, banking organizations that retain ''recourse'' on assets sold generally are required to hold capital as though the loans remained on the institution's books,[6] up to the ''full capital charge''.[7] For regulatory capital

[2] FAS 125 establishes certain transfer of control, accounting, and valuation criteria surrounding the transfer of financial assets as a benchmark for determining whether a transfer is recorded as a ''sale'' and, if so, at what value it is recorded. Under FAS 125, the transferring financial institution generally will immediately recognize gains from the sale of the transferred assets and record retained interests in a manner that captures all of the financial components of, including the residual interests that arise in connection with, the securitization or other asset transfer.

[3] The fair value reflects the expected future cash flows discounted in an appropriate market interest rate, and is calculated using assumptions regarding estimated credit loss rates and prepayment speeds.

[4] When the securitization or other transfer of financial assets is treated as a financing, under GAAP and for regulatory capital purposes, rather than a sale, the assets continue to be reflected on the balance sheet of the transferring institution. In these circumstances, the assets continue to be subject to the minimum capital requirement (generally 8 percent). The level of supervisory concern is diminished in these circumstances because there is no residual interest created to pose valuation or liquidity concerns. Importantly, a financing transaction does not generate earnings leading to the creation of capital. For this reason, the proposal only changes the regulatory capital requirements for banking organizations when they securitize or otherwise transfer financial assets and treat the transactions as sales under GAAP.

[5] Consolidated Reports of Condition and Income (Call Report) instructions issued by the Federal Financial Institutions Examination Council provide examples of transfers of assets that involve recourse arrangements. See the Call Report Glossary entry for ''Sales of Assets for Risk-Based Capital Purposes.'' These examples address the risk of loss retained in connection with transfers of assets. OTS currently defines the term ''recourse'' more broadly in its capital rules at 12 CFR 567.1 to include the ''acceptance, assumption or retention'' of the risk of loss. The Agencies have issued a separate proposal that, among other things, would provide a uniform definition of ''recourse.'' *See* 65 FR 12319 (March 8, 2000).

[6] Under the Agencies' current capital rules, assets transferred with recourse in a transaction that is reported as a sale under generally accepted accounting principles (GAAP) are removed from the balance sheet and are treated as off-balance sheet exposures for risk-based capital purposes. For transactions reported as a sale, the entire amount of the assets sold (not just the contractual amount of the recourse obligation) is normally converted into an on-balance sheet credit equivalent amount using a 100 percent conversion factor. This credit equivalent amount is then risk weighted for risk-based capital calculation purposes.

[7] For assets that are assigned to the 100 percent risk-weight category, the full capital charge is 8 percent of the amount of assets transferred, and

Continued

purposes, recourse is generally defined as an arrangement in which a banking organization retains the risk of credit loss in connection with an asset transfer, if the risk of credit loss exceeds a pro rata share of the institution's claim on the assets.[8]

As required by statute,[9] the Agencies have adopted rules that provide ''low-level recourse'' treatment for those institutions that securitize or sell assets and retain recourse in dollar amounts less than the full capital charge.[10] Before the issuance of the low-level recourse rules, these institutions could have been required to hold a greater level of capital than their maximum contractual exposure to loss on the transferred assets. The low-level recourse treatment applies to transactions accounted for as sales under FAS 125 in which a banking organization contractually limits its recourse exposure to less than the full capital charge for the assets transferred.

Under the low-level recourse rule, a banking organization generally holds capital on a dollar-for-dollar basis up to the amount of the maximum contractual exposure. In the absence of any other recourse provisions, the on-balance sheet amount of the residual interests represents the maximum contractual exposure. For example, assume that a banking organization securitizes $100 million of credit card loans and records a residual interest on the balance sheet of $5 million that serves as a credit enhancement for the assets transferred. Before the low-level recourse rule was issued, the institution would be required to hold $8 million of risk-based capital against the $100 million in loans sold, as though the loans had not been sold. Under the low-level recourse rule, the institution would be required to hold $5 million in capital, that is, ''dollar-for-dollar'' capital up to the institution's maximum contractual exposure.

Existing regulatory capital rules, however, do not require institutions to hold ''dollar-for-dollar'' capital against residual interests that exceed the full capital charge ($8 million in the above example). Typically, institutions that securitize and sell higher risk assets are required to retain a large residual interest (often greater than the full capital charge of 8 percent on 100 percent risk-weighted assets) in order to ensure that the more senior positions in the securitization or other asset sale can receive the desired investment ratings. Write-downs of the recorded value of the residual interest, due to unrealistic (or changing) loss or prepayment assumptions, can result in residual losses that exceed the amount of capital held against these assets, thereby impairing the safety and soundness of the institution.

For example, assume that a banking organization securitizes $100 million of subprime credit card loans and records a residual interest on the balance sheet of $15 million that serves as a credit enhancement for the securitization. Under the current risk-based capital rules, the transferred loans would be treated as sold with recourse, and an 8 percent risk-based capital charge for these 100 percent risk-weighted loans would be required; that is, $8 million in risk-based capital would be required to be held against the $100 million of transferred loans. In this hypothetical example, however, the amount of residual interests retained on the balance sheet ($15 million) exceeds the full equivalent risk-based capital charge held against the assets transferred ($8 million). Accordingly, the amount of the residual interest is not fully covered by dollar-for-dollar risk-based capital; only $8 million in capital is required to be held by the institution against the $15 million residual interest exposure.

This example demonstrates that, for residual interests that exceed the dollar amount of the full capital charge on the assets transferred, current capital standards do not require dollar-for-dollar capital protection for the full contractual exposure to loss retained by the selling institution. Any losses in excess of the full capital charge (8 percent in the example above) could negatively affect the capital adequacy of the institution. Should the asset be written down from $15 million to $5 million, the $8 million of required capital would be insufficient to absorb the full loss of $10 million.

*B. Prior Consideration of Concentration Limits on Residual Interests*

In 1998, the Agencies amended their capital rules to change the regulatory capital treatment of servicing assets.[11] This rulemaking increased from 50 percent to 100 percent the amount of mortgage servicing assets that could be included in Tier 1 capital. The Agencies imposed more restrictive limits on the amount of nonmortgage servicing assets and PCCRs that could be included in Tier 1 capital. These stricter limitations were imposed due to the lack of depth and maturity of the marketplace for such assets, and related concerns about their valuation, liquidity, and volatility.

At the time the Agencies issued the final rule on servicing assets, the Agencies declined to adopt similar capital limits for I/O strips, a form of residual interest, notwithstanding that certain I/O strips possessed cash flow characteristics similar to servicing assets and presented similar valuation, liquidity, and volatility concerns. At that time, the Agencies chose not to impose such limitations in recognition of the ''prudential effects of banking organizations relying on their own risk assessment and valuation tools, particularly their interest rate risk, market risk, and other analytical models.''[12] The Agencies expressly indicated that they would continue to review banking organizations' valuation of I/O strips and the concentrations of these assets relative to capital. Moreover, the Agencies noted that they ''may, on a case-by-case basis, require banking organizations that the Agencies determine have high concentrations of these assets relative to their capital, or are otherwise at risk from these assets, to hold additional capital commensurate with their risk exposures''.[13] In addition, most of the residual interests at that time that were used as credit enhancements did not exceed the full capital charge on the transferred assets and thus were subject to ''dollar-for-dollar'' capital requirements under the Agencies'' existing low-level recourse rules. However, a trend toward the securitization of higher risk loans has now resulted in residual interests that exceed the full capital charge and for which ''dollar-for-dollar'' capital is not required under the current risk-based capital rules. This trend has also resulted in certain banking organizations engaged in such

institutions are required to hold 8 cents of capital for every dollar of assets transferred with recourse. For assets that are assigned to the 50 percent risk-weight category, the full capital charge is 4 cents of capital for every dollar of assets transferred with recourse.

[8] The risk-based capital treatment for sales with recourse can be found at 12 CFR 3, appendix A, section (3)(b)(1)(iii) (OCC); 12 CFR 208, appendix A, section III.D.1 and 12 CFR 225, appendix A, section III.D.1 (FRB); 12 CFR 325, appendix A, section II.D.1 (FDIC); and 12 CFR 567.6(a)(2)(i)(C) (OTS).

[9] Low-level recourse treatment is mandated by section 350 of the Riegle Community Development and Regulatory Improvement Act, 12 U.S.C. 4808, which generally provides that: ''the amount of risk-based capital required to be maintained * * * by any insured depository institution with respect to assets transferred with recourse by such institution may not exceed the maximum amount of recourse for which such institution is contractually liable under the recourse agreement.''

[10] The Agencies' low-level resourse rules appear at: 12 CFR 3, appendix A, section 3(d) (OCC); 12 CFR 208, appendix A, section III.D.1.g and 225, appendix A, section III.D.1.g (FRB); 12 CFR 325, appendix A, section II.D.1 (FDIC); and 12 CFR 567.6(a)(2)(i)(C) (OTS). A brief explanation is also contained in the instructions for regulatory reporting in section RC–R for the Call Report or schedule CCR for the Thrift Financial Report.

[11] *See* 63 FR 42668 (August 10, 1998).

[12] *Id.* at 42672.

[13] *Id.*

securitization transactions having large concentrations in residual interests as a percentage of capital.

## IV. Residual Interests Subject to the Proposal

Included in this proposal are residual interests that are structured to absorb more than a pro rata share of credit loss related to the securitized or sold assets through subordination provisions or other credit enhancement techniques. Such residual interests can take many forms. Generally, these residual interests are non-investment grade or unrated ''first-loss'' positions that provide credit support for the senior positions of the securitization or other asset sale. A key aspect of such residual interests is that they reflect an arrangement in which the institution retains risk of credit loss in connection with an asset transfer. In addition to recourse provisions that may require the selling institution to support a securitization, residual interests can take the form of spread accounts, over-collateralization, subordinated securities, cash collateral accounts, or other similar forms of on-balance sheet assets that function as a credit enhancement. Servicing assets that function as credit enhancements would be subject to the proposed rule.

The definition of residual interests excludes those interests that do not serve as credit enhancements. In this regard, highly rated, liquid, marketable residual interests where the institution assumes only the interest rate risk associated with the assets transferred in the securitization (*e.g.*, Fannie Mae or Freddie Mac I/O strips) do not serve as a credit enhancement for the transferred assets and thus do not expose the institution to a concentrated level of credit risk. Further, such instruments are traded in a currently active marketplace and thus do not present the same degree of liquidity and valuation concerns.

The residual interests covered by the proposed rule are generally retained by the securitizing institution rather than sold because they are generally illiquid and volatile in nature and thus present liquidity and valuation concerns. The proposed rule extends only to residual interests that have been retained by a banking organization as a result of a securitization or other sale transaction and does not cover residual interests that a banking organization has purchased from another party.[14]

Purchased residual interests can present the same degree of concentrated credit risk associated with retained residual interests. The exclusion of purchased residual interests from the proposed rule could establish a different capital treatment for the same asset, depending on whether the interest is purchased from a third party or retained in connection with the transfer of financial assets to a third party. The Agencies are particularly concerned about the possible ''swapping'' of residual interests, where there is otherwise limited breadth and depth of the market for these residual interests, and both parties stand to gain from accommodation valuations of each asset.

However, residual interests purchased in an arm's length transaction may not pose the same degree of liquidity risk as interests that are retained. In addition, purchased interests do not present the same opportunity to create capital as do interests that are originated and retained by a securitizing institution. Further, unlike retained residual interests where an overvaluation of the residual interest can lead to a higher gain on sale and the creation of additional capital, there is a marketplace discipline on the initial amount at which a purchased residual interest is recorded (that is, it is limited to the purchase price), and there is no incentive on the part of the purchaser to pay a price above market because such a purchase does not create any capital for the purchaser.

The Agencies are considering including such purchased interests within the scope of the rule and are requesting comment on this issue.

## V. Proposed Amendments to the Capital Standards

### *A. Proposed Treatment of Residual Interests*

The Agencies propose to amend the regulatory risk-based capital standards by eliminating the distinction between the treatment of low-level recourse obligations and the treatment of assets securitized or sold with recourse in those cases where the amount of the residual interest retained on balance sheet exceeds the full capital charge for the assets transferred. The current rules essentially place a ceiling on the ''dollar-for-dollar'' capital requirement for recourse obligations. Removal of this ''cap'' will ensure that all residual interests are subject to the same ''dollar-for-dollar'' capital standard that is applied to residual interests in low-level recourse transactions and that capital is held for the organization's total contractual exposure to loss.

In addition to modifying the risk-based capital treatment for residual interests, the Agencies propose limiting the amount of residual interests that can be recognized in determining Tier 1 capital under the Agencies' leverage and risk-based capital standards. The purpose of the limit is to prevent excessive concentrations in holdings of residual interests. The Agencies propose including residual interests within the 25 percent of Tier 1 capital sublimit already placed upon nonmortgage servicing assets and PCCRs. Under this restriction, any amounts of residual interests, when aggregated with nonmortgage servicing assets and PCCRs, that exceed of 25 percent of Tier 1 capital, would be deducted from Tier 1 capital for purposes of calculating both the risk-based and leverage capital ratios.[15]

In addition to including residual interests in the sublimit currently applied to PCCRs and nonmortgage servicing assets, residual interests would also be included in the calculation of the overall 100 percent limit on servicing assets. Under this proposal, the maximum allowable amount of mortgage servicing assets, PCCRs, nonmortgage servicing assets, and residual interests, in the aggregate, would be limited to 100 percent of the amount of Tier 1 capital that exists before the deduction of any disallowed mortgage servicing assets, any disallowed PCCRs, any disallowed nonmortgage servicing assets, any disallowed residual interests, and any disallowed deferred tax assets. The residual interests, however, would not be subject to the 90 percent of fair value limitation that applies to servicing assets and PCCRs. Under the proposed rule, residual interests would already be subject to a ''dollar-for-dollar'' capital requirement. Any residual interests deducted in determining the Tier 1 capital numerator for the leverage and risk-based capital ratios also would be excluded from the denominators of these ratios.

In summary, under the proposed rule, institutions generally would be required to hold ''dollar-for-dollar'' capital for residual interests and additionally would be required to deduct from Tier 1 capital the amount of any residual interests (when aggregated with nonmortgage servicing assets and PCCRs) that exceed the established 25 percent sublimit. In combination, the proposal is intended to ensure that all

[14] The proposed rule would extend to all residual interests as defined, whether included in the banking book or included in the trading book and subject to the market risk rules.

[15] The unrealized gains that may be recorded by an institution with respect to residual interests that are accounted for as available-for-sale securities are presently not included in Tier 1 capital and would not be subject to further deduction under this rule.

residual interests are supported by ''dollar-for-dollar'' capital and that excessive concentrations (over 25 percent) in residual interests relative to capital are avoided.[16]

*B. Net-of-Tax Treatment*

The Agencies propose to extend the current net-of-tax treatment permitted in their existing capital standards to residual interests.[17] Thus, the proposed rule would permit: (1) Disallowed amounts of residual interests (that is, those amounts in excess of the 25 percent of Tier 1 capital sublimit) to be determined on a basis that is net of any associated deferred tax liability, and (2) any amounts of residual interests that are subject to the ''dollar-for-dollar'' capital requirement (that is, those amounts included in the 25 percent of Tier 1 capital sublimit) to be determined on a basis that is net of any associated deferred tax liability. In instances where there is no difference between the book basis and the tax basis of the residual interest, no deferred tax liability would be created. Any deferred tax liability used to reduce the capital requirement for a residual interest would not be available for the organization to use in determining the amount of net deferred tax assets that may be included in the calculation of Tier 1 capital.[18]

The following example helps illustrate the proposed tax treatment. Assume residual interests of $100 with an associated deferred tax liability of $35 and Tier 1 capital (before the deduction of any disallowed residual interests) of $200. In this example, the 25 percent concentration limit on residual interests (when combined with nonmortgage servicing assets and PCCRs) would be $50 (*i.e.,* 25 percent times $200). The amount of disallowed residual interests (before considering the associated deferred tax liability) would have been $50. The deferred tax liability associated with the otherwise disallowed residual interests of $50 would be $17.50 (a $35 associated deferred tax liability against $100 in residual interests drives a 35 percent tax effect against the $50 disallowed residual interest). Thus, the amount of disallowed residual interests to be deducted in determining Tier 1 capital under the leverage and risk-based capital standards net of the associated deferred tax liability would be $32.50 (*i.e.,* the $50 in disallowed residual interests minus the $17.50 tax effect associated with the disallowed residual interests).

In determining risk-weighted assets, the remaining $50 amount of residual interests allowable in Tier 1 would be subject to a ''dollar-for-dollar'' capital on a basis that is also net of the deferred tax liability associated with the $50 residual interest. The deferred tax liability associated with the $50 not deducted from Tier 1 capital would be $17.50 (*i.e.,* the 35 percent tax effect as calculated above times $50). Thus, the amount of residual interests that would be subjected to ''dollar-for-dollar'' treatment would be $32.50 ($50 less the $17.50 in deferred tax liabilities). Calculation of this ''dollar-for-dollar'' capital charge is consistent with the ''dollar-for-dollar'' capital requirements that are currently required for low-level recourse transactions.

Other alternative calculations are possible and will be considered by the Agencies.[19] The Agencies seek comment on whether the complexity of a ''net-of-tax'' approach is necessary and justified, and if so, what, if any, alternative calculations should be allowed.

*C. Reservation of Authority*

While this proposal should help remedy some of the major concerns associated with the generally illiquid and volatile nature of residual interests, the Agencies are also proposing to add language to the risk-based capital standards that will provide greater flexibility in administering the standards. Institutions are developing novel transactions that do not fit well into the risk-weight categories set forth in the standards. Institutions are also devising novel instruments that nominally fit into a particular risk-weight category, but that impose risks on the banking organization at levels that are not commensurate with the nominal risk-weight for the asset, exposure, or instrument. Accordingly, the Agencies are proposing to add language to the standards to clarify the Agencies' authority, on a case-by-case basis, to determine the appropriate risk-weight asset amount in these circumstances. Exercise of this authority by the Agencies may result in a higher or lower risk weight for an asset. This reservation of authority explicitly recognizes the Agencies' retention of sufficient discretion to ensure that institutions, as they develop novel financial assets, will be treated appropriately under the risk-based capital standards.

*D. Relationship of This Residual Interest Proposal to the March 2000 Securitization Proposal*

This proposed rule regarding residual interests (residual interest proposal) and the March 2000 notice of proposed rulemaking on the risk-based capital treatment of recourse arrangements, direct credit substitutes, and asset securitizations (the securitization proposal) are interrelated in that both proposals would address the regulatory capital treatment for residual interests that are retained in connection with securitizations and other transfers of financial assets.[20] The capital treatment of residual interests under the securitization proposal differs in certain respects from the treatment proposed in this residual interest proposal. In any final rule that addresses the regulatory capital treatment of residual interests, the Agencies will ensure that any regulatory capital treatment of residual

[16] The Agencies are also proposing minor technical changes. For example, this proposal does not effect the calculation of tangible equity the under prompt corrective action regulations. However, because the Agencies define tangible equity using different core capital concepts (*i.e.,* ''core capital'' vs. ''core capital elements''), the OTS is proposing a technical revision to its definition of tangible equity (12 CFR 565.2(f)) to ensure that this calculation is not effected by the proposal.

In addition, the FDIC is also amending its regulations to remove an obsolete provision concerning the transitional 7.25 percent risk-based capital standard that was only effective until December 31, 1992. This provision currently appears in section III.B of appendix A to part 325. Similarly, OTS is making technical revisions to related regulatory provisions at 12 CFR 565.2(f).

[17] The proposed treatment is consistent with that permitted for low-level recourse exposures, disallowed servicing assets, and disallowed intangible assets in non-taxable business combinations.

[18] For example, see § 325.5(g) of the FDIC's capital regulations (12 CFR 325.5(g)), which sets forth the limitations on the amount of deferred tax assets that state nonmember banks can recognize for purposes of calculating Tier 1 capital under the leverage and risk-based capital rules.

[19] Two additional treatments are possible. Under the first approach, the amount of residual interests subject to a ''dollar-for-dollar'' deduction for risk-based capital purposes, and a concentration limit for leverage capital purposes, would be the ''at-risk'' amount; that is, the residual interests reduced by any associated deferred tax liability. For example, assume residual interests of $100 with an associated deferred tax liability of $35. Under this approach, the amount of residual interests subject to a ''dollar-for-dollar'' capital charge and a concentration limit is $65 ($100 − $35). In a worst-case scenario, if the value of the residual interests drops to zero, then the corresponding deferred tax liability would also drop to zero, and therefore capital would decline by $65—the net-of-tax amount. If the 25% of Tier 1 concentration limitation is $50, then the deduction would be $15 ($65 − $50). Under the second approach, the amount of residual interests subject to the ''dollar-for-dollar'' capital requirement and 25% of Tier 1 capital concentration limit would be determined on a gross basis, that is, without netting the associated deferred tax liability.

[20] *See* 65 FR 12320 (March 8, 2000) for the text of the proposed revisions to the risk-based capital treatment of recourse arrangements, direct credit substitutes, and asset securitizations.

interests resulting from these two proposals will be consistent.

In the securitization proposal, the Agencies propose using external credit ratings to match the risk-based capital requirement more closely to the relative risk of loss in asset securitizations. Highly rated investment-grade positions in securitizations would receive a favorable (less than 100 percent) risk-weight. Below-investment grade or unrated positions in securitizations would receive a less favorable risk-weight (greater than 100 percent risk-weight or gross-up treatment). A residual interest retained by an institution in an asset securitization (as well as residual interests that are purchased) would be subject to this capital framework under the securitization proposal.

The residual interest proposal differs from the securitization proposal in several respects. For example, under the residual interest proposal, all residual interests that are retained by the institution and that fall within the 25 percent of Tier 1 capital limit would be subject to ''dollar-for-dollar'' capital treatment regardless of rating (and comment is sought on whether purchased interests should be treated similarly). To date, the Agencies believe that residual interests in asset securitizations generally are unrated and illiquid interests; however, as the market evolves, residual interests may in the future take the form of rated, liquid, certificated securities. If the rating provided to such a residual interest were investment grade (or no more than one category below investment grade) the securitization proposal would afford that residual interest more favorable capital treatment than the dollar-for-dollar capital requirement set forth in this residual interest proposal. In addition, the risk-based capital requirement for unrated residual interests that are subject to gross-up treatment under the securitization proposal would not exceed the full risk-based capital charge for the underlying assets that are being supported by the residual interest. Under this residual interest proposal, however, ''dollar-for-dollar'' capital would be required for the amount of the residual interest that is retained and falls within the 25 percent of Tier 1 capital limit, even if this amount exceeds the full capital charge typically held against the underlying assets that have been transferred with recourse. Also, unlike the residual interest proposal, the securitization proposal does not establish any concentration limit for residual interests as a percentage of capital.

These differences between the residual interest proposal and the securitization proposal will be taken into account in any final rule published under either proposal. In developing a final rule on residual interests, the Agencies specifically invite comment on how the capital treatment for residual interests under this residual interest proposal should be reconciled with the capital treatment set forth in the securitization proposal.

*E. Effective Date*

The Agencies intend to apply this proposal to existing as well as future transactions. Because banking organizations may need additional time to adapt to any new capital treatment, the Agencies may delay the effective date for a specific period of time (transition period). The Agencies view this transition period as an opportunity for institutions to consider the proposal's impact on their balance sheet structure and capital position. The Agencies invite comment on the need for and duration of a transition period.

## VI. Request for Public Comment

The Agencies invite public comment on all aspects of the proposed rule. In particular, the Agencies request comment on the definition of residual interest, the treatment of residual interests in determining compliance with minimum capital requirements, the conditions established in the proposal, and the implementation of the proposal. The Agencies also specifically request comment on the ''dollar-for-dollar'' risk-based capital charge for residual interests, the 25 percent of Tier 1 capital concentration limit on the amount of residual interests that can be recognized for leverage and risk-based capital purposes, and the issue of whether a ''net-of-associated deferred tax liability'' approach is appropriate in determining the capital requirements for residual interests.

## VII. Plain Language

Section 722 of the Gramm-Leach-Bliley (GLB) Act (12 U.S.C. 4809) requires federal banking agencies to use ''plain language'' in all proposed and final rules published after January 1, 2000. We invite your comments on how to make this proposed rule easier to understand. For example:

(1) Have we organized the material to suit your needs?

(2) Are the requirements in the rule clearly stated?

(3) Does the rule contain technical language or jargon that isn't clear?

(4) Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?

(5) Would more (but shorter) sections be better?

(6) What else could we do to make the rule easier to understand?

## VIII. Regulatory Analysis

*A. Regulatory Flexibility Act Analysis*

*Board:* Pursuant to section 605(b) of the Regulatory Flexibility Act, the Board has determined that this proposal will not have a significant impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Board's comparison of the applicability section of this proposal with Call Report data on all existing banks shows that application of the proposal to small entities will be rare. Accordingly, a regulatory flexibility analysis is not required. In addition, because the risk-based capital standards generally do not apply to bank holding companies with consolidated assets of less than $150 million, this proposal will not affect such companies''.

*FDIC:* Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the FDIC hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Comparison of Call Report data on FDIC-supervised banks to the items covered by the proposal that result in increased capital requirements shows that application of the proposal to small entities will be the infrequent exception.

*OTS:* Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the OTS certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Comparison of TFR data on OTS supervised savings associations regarding the items that would result in increased capital requirements indicate that the application of the proposal to small entities will be the infrequent exception.

*OCC:* Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the OCC certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Call Report data indicate that generally small banks do not have large residual interests that exceed the full risk-based capital charge required for transferred assets, and typically do not hold residual interests in amounts that would exceed the 25 percent of Tier 1 capital limitation. For these reasons, the OCC believes that application of the proposed rule to small entities will be rare.

Consequently, a regulatory flexibility analysis is not required.

*B. Paperwork Reduction Act*

The Agencies have determined that this proposal does not involve a collection of information pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

*C. OCC and OTS Executive Order 12866 Statement*

The Comptroller of the Currency and the Director of the OTS have determined that the proposal described in this notice is not a significant regulatory action under Executive Order 12866. Accordingly, a regulatory impact analysis is not required. Nonetheless the OCC specifically invites comment on the dollar impact of the proposed rule.

*D. OCC and OTS Unfunded Mandates Act Statement*

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC and OTS have determined that this proposed rule will not result in expenditures by state, local, and tribal government, or by the private sector, of more than $100 million or more in any one year. Based on the Call Report, TFR and other data, OTS and OCC estimate that those banks and savings associations that would be required to increase capital under the proposed rule will not incur additional expenses in this amount in any one year. Therefore, the OCC and OTS have not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered. Nonetheless the OCC specifically invites comment on the dollar impact of the proposed rule.

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

The Agencies have determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

**List of Subjects**

*12 CFR Part 3*

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

*12 CFR Part 208*

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

*12 CFR Part 225*

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

*12 CFR Part 325*

Administrative practice and procedure, Banks, banking, Capital adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

*12 CFR Part 565*

Administrative practice and procedures, Capital, Savings associations.

*12 CFR Part 567*

Capital, Reporting and recordkeeping requirements, Savings associations.

**Department of the Treasury**

**Office of the Comptroller of the Currency**

*12 CFR Chapter I*

Authority and Issuance

For the reasons set out in the joint preamble, the Office of the Comptroller of the Currency proposes to amend part 3 of chapter I of title 12 of the Code of Federal Regulations as follows:

## PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

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

**Authority:** 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, and 3909.

### § 3.4 [Amended]

2. In § 3.4:

A. The existing text is designated as paragraph (a);

B. The second sentence in the newly designated paragraph (a) is revised; and

C. New paragraph (b) is added to read as follows:

### § 3.4 Reservation of authority.

(a) * * * Similarly, the OCC may find that a particular intangible asset need not be deducted from Tier 1 or Tier 2 capital. * * *

(b) Notwithstanding the risk categories in section 3 of appendix A to this part, the OCC may find that the assigned risk weight for any asset does not appropriately reflect the risks imposed on a bank and may require another risk weight that the OCC deems appropriate. Similarly, if no risk weight is specifically assigned, the OCC may assign any risk weight that the OCC deems appropriate. In making its determination, the OCC considers risks associated with the asset as well as other relevant factors.

3. In appendix A to part 3:

A. In section 1:

i. Redesignate paragraphs (c)(25) through (c)(31) as paragraphs (c)(28) through (c)(34), paragraph (c)(24) as paragraph (c)(26), and paragraphs (c)(13) through (c)(23) as paragraphs (c)(14) through (c)(24);

ii. Add new paragraphs (c)(13), (c)(25), and (c)(27);

B. In section 2, revise paragraphs (c)(1)(ii), (c)(2) introductory text, (c)(2)(i), (c)(2)(ii) introductory text, (c)(2)(iii), and (c)(2)(iv);

C. In section 3, add new paragraph (e) to read as follows:

## Appendix A To Part 3—Risk-Based Capital Guidelines

*Section 1. Purpose, Applicability of Guidelines, and Definitions*

* * * * *

(c) * * *

(13) *Financial asset* means cash, evidence of an ownership interest in an entity, or a contract that conveys to a second entity a contractual right to receive cash or another financial instrument from a first entity or to exchange other financial instruments on potentially favorable terms with the first entity.

* * * * *

(25) *Residual interest* means any on-balance sheet asset that represents an interest (including a beneficial interest) created by the transfer of financial assets, whether through a securitization or otherwise, and structured to absorb more than a pro rata share of credit loss related to the transferred assets through subordination provisions or other credit enhancement techniques. Residual interests generally include interest only strips receivable, spread accounts, cash collateral accounts, retained subordinated interests and other similar forms of on-balance sheet assets that function as a credit enhancement. Residual interests do not include residual interests purchased from a third party.

* * * * *

(27) *Securitization.* Securitization means the pooling and repackaging of loans or other

credit exposures into securities that can be sold to investors.

* * * * *

*Section 2. Components of Capital*

* * * * *

(c) * * *

(1) * * *

* * * * *

(ii) Other intangible assets and residual interests, except as provided in section 2(c)(2) of this appendix A; and * * *

(2) *Qualifying intangible assets and residual interests.* Subject to the following conditions, mortgage servicing assets, nonmortgage servicing assets,[6] purchased credit card relationships and residual interests need not be deducted from Tier 1 capital:

(i) The total of all intangible assets and residual interests that are included in Tier 1 capital is limited to 100 percent of Tier 1 capital, of which no more than 25 percent of Tier 1 capital can consist of purchased credit card relationships, nonmortgage servicing assets and residual interests in the aggregate. Calculation of these limitations must be based on Tier 1 capital net of goodwill, and all identifiable intangible assets, other than mortgage servicing assets, nonmortgage servicing assets, purchased credit card relationships and residual interests.

(ii) Banks must value each intangible asset and residual interest included in Tier 1 capital at least quarterly. In addition, intangible assets included in Tier 1 capital must also be valued at the lesser of:

* * * * *

(iii) The quarterly determination of the current fair value of the intangible asset or residual interest must include adjustments for any significant changes in original valuation assumptions, including changes in prepayment estimates.

(iv) Banks may elect to deduct disallowed servicing assets and residual interests on a basis that is net of any associated deferred tax liability. Deferred tax liabilities netted in this manner cannot also be netted against deferred tax assets when determining the amount of deferred tax assets that are dependent upon future taxable income.

* * * * *

*Section 3. Risk Categories/Weights for On-Balance Sheet Assets and Off-Balance Sheet Items*

* * * * *

(e) *Residual interests.* (1) General capital requirement. All residual interests are subject to both a capital concentration limit and a residual interest capital requirement in accordance with sections 3(e)(2) and 3(e)(3) of this appendix A. In determining the general capital requirement for a residual interest, the amount of all residual interests in excess of the capital concentration limit must be deducted from Tier 1 capital, in accordance with section 3(e)(2) of this appendix A, before the residual interest capital requirement in section 3(e)(3) of this appendix A is applied.

(2) *Capital concentration limit.* In addition to the residual interest capital requirement provided by section 3(e)(3) of this appendix A, a bank must deduct from Tier 1 capital all residual interest in excess of the 25 percent sublimit on qualifying intangible assets and residual interests in accordance with section 2(c)(2)(i) of this appendix A.

(3) *Residual interests capital requirement.* A bank must maintain risk-based capital for a residual interest equal to the amount of the residual interest that is retained on the balance sheet (less any amount disallowed in accordance with section 3(e)(2) of this appendix A and net of any associated deferred tax liability), even if the amount of risk-based capital required to be maintained exceeds the full risk-based capital requirement for the assets transferred.

(4) *Residual interests and other recourse obligations.* Where a bank holds a residual interest and another recourse obligation (such as a standby letter of credit) in connection with the same asset transfer, the bank must maintain risk-based capital equal to the greater of the risk-based capital requirement for the residual interest as calculated under section 3(e)(3) of this appendix A or the full risk-based capital requirement for the assets transferred, subject to the low-level recourse rules under section 3(d) of this appendix A.

* * * * *

Dated: August 16, 2000.

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

## Federal Reserve System

*12 CFR Chapter II*

Authority and Issuance

For the reasons set forth in the joint preamble, the Board of Governors of the Federal Reserve System proposes to amend parts 208 and 225 of chapter II of title 12 of the Code of Federal Regulations as follows:

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

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

**Authority:** 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1820(d)(9), 1823(j), 1828(o), 1831o, 1831p–1, 1831r–1, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351 and 3906–3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78q, 78q–l, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. In appendix A to part 208:

A. Section II.A.1. and the first seven paragraphs of section II.A.2. are revised, and footnote 5 is removed and reserved;

B. In sections II, III and IV, footnotes 13 through 52 are redesignated as footnotes 14 through 53.

C. In section II.B., a new paragraph (i)(c) and new footnote 14 are added, section II.B.1.b. and newly designated footnote 15 are revised, new sections II.B.1.c. through II.B.1.g. are added, and section II.B.4. is revised;

D. In section III.A, the four undesignated paragraphs are designated as sections III.A.1. through III.A.4., and a new section III.A.5. is added.

E. Section III.B.6. is added.

F. Attachment II is revised.

## Appendix A To Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

* * * * *

II. * * *

*A.* * * *

1. *Core capital elements (tier 1 capital).* The tier 1 component of a bank's qualifying capital must represent at least 50 percent of qualifying total capital and may consist of the following items that are defined as core capital elements:

(i) Common stockholders' equity;

(ii) Qualifying noncumulative perpetual preferred stock (including related surplus);

(iii) Minority interest in the equity accounts of consolidated subsidiaries.

Tier 1 capital is generally defined as the sum of core capital elements[5] less goodwill, other intangible assets, and residual interests required to be deducted in accordance with section II.B.1. of this appendix A.

* * * * *

2. *Supplementary capital elements (tier 2 capital).* The tier 2 component of a bank's qualifying capital may consist of the following items that are defined as supplementary capital elements:

(i) Allowance for loan and lease losses (subject to limitations discussed below);

(ii) Perpetual preferred stock and related surplus (subject to conditions discussed below);

(iii) Hybrid capital instruments (as defined below) and mandatory convertible debt securities;

(iv) Term subordinated debt and intermediate-term preferred stock, including related surplus (subject to limitations discussed below);

(v) Unrealized holding gains on equity securities (subject to limitations discussed in section II.A.2.e. of this appendix A).

The maximum amount of tier 2 capital that may be included in a bank's qualifying total capital is limited to 100 percent of tier 1 capital (net of goodwill, other intangible assets, and residual interests required to be deducted in accordance with section II.B.1. of this appendix A).

* * * * *

*B.* * * *

[6] Intangible assets are defined to exclude any IO strips receivable related to these mortgage and non-mortgage servicing assets. *See* section 1(c)(14) of this appendix A. Consequently, IO strips receivable related to mortgage and non-mortgage servicing assets are not required to be deducted under section 2(2)(2) of this appendix A. However, these IO strips receivable are subject to a 100 percent risk weight under section 3(a)(4) of this appendix A.

[5] [Reserved]

(i) * * *

(c) Certain on-balance sheet residual interests—deducted from the sum of core capital elements in accordance with sections II.B.1.c. through e. of this appendix A.[14]

* * * * *

1. *Goodwill, other intangible assets, and residual interests.* * * *

b. *Other intangible assets.* i. All servicing assets, including servicing assets on assets other than mortgages (*i.e.,* nonmortgage servicing assets), are included in this appendix as identifiable intangible assets. The only types of identifiable intangible assets that may be included in, that is, not deducted from, a bank's capital are readily marketable mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships. The total amount of these assets that may be included in capital is subject to the limitations described below in sections II.B.1.d. and e. of this appendix A.

ii. The treatment of identifiable intangible assets set forth in this section generally will be used in the calculation of a bank's capital ratios for supervisory and applications purposes. However, in making an overall assessment of a bank's capital adequacy for applications purposes, the Board may, if it deems appropriate, take into account the quality and composition of a bank's capital, together with the quality and value of its tangible and intangible assets.

c. *Residual interests.* Residual interests may be included in, that is, not deducted from, a bank's capital subject to the limitations described below in sections II.B.1.d. and e. of this appendix A.

d. *Fair value limitation.* The amount of mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships that a bank may include in capital shall be the lesser of 90 percent of their fair value, as determined in accordance with section II.B.1.f. of this appendix A, or 100 percent of their book value, as adjusted for capital purposes in accordance with the instructions in the commercial bank Consolidated Reports of Condition and Income (Call Reports). The amount of residual interests a bank may include in capital shall be 100 percent of its book value. If both the application of the limits on mortgage servicing assets, nonmortgage servicing assets, purchased credit card relationships, and residual interests and the adjustment of the balance sheet amount for these assets would result in an amount being deducted from capital, the bank would deduct only the greater of the two amounts from its core capital elements in determining tier 1 capital.

e. *Tier 1 capital limitation.* i. The total amount of mortgage and nonmortgage servicing assets, purchased credit card relationships, and residual interests that may be included in capital, in the aggregate, cannot exceed 100 percent of tier 1 capital. Nonmortgage servicing assets, purchased credit card relationships, and residual interests, in the aggregate, are subject to a separate sublimit of 25 percent of tier 1 capital.[15]

ii. For purposes of calculating these limitations on mortgage servicing assets, nonmortgage servicing assets, purchased credit card relationships, and residual interests, tier 1 capital is defined as the sum of core capital elements, net of goodwill, and net of all identifiable intangible assets other than mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships, prior to the deduction of any disallowed mortgage servicing assets, any disallowed nonmortgage servicing assets, any disallowed purchased credit card relationships, any disallowed residual interests, and any disallowed deferred-tax assets, regardless of the date acquired.

iii. Banks may elect to deduct disallowed mortgage servicing assets, disallowed nonmortgage servicing assets, and disallowed residual interests on a basis that is net of any associated deferred tax liability. Deferred tax liabilities netted in this manner cannot also be netted against deferred-tax assets when determining the amount of deferred-tax assets that are dependent upon future taxable income.

f. *Valuation.* Banks must review the book value of all intangible assets and residual interests at least quarterly and make adjustments to these values as necessary. The fair value of mortgage servicing assets, nonmortgage servicing assets, purchased credit card relationships, and residual interests also must be determined at least quarterly. This determination shall include adjustments for any significant changes in original valuation assumptions, including changes in prepayment estimates or account attrition rates. Examiners will review both the book value and the fair value assigned to these assets, together with supporting documentation, during the examination process. In addition, the Federal Reserve may require, on a case-by-case basis, an independent valuation of a bank's intangible assets or residual interests.

g. *Growing organizations.* Consistent with long-standing Board policy, banks experiencing substantial growth, whether internally or by acquisition, are expected to maintain strong capital positions substantially above minimum supervisory levels, without significant reliance on intangible assets or residual interests.

* * * * *

4. *Deferred-tax assets.* The amount of deferred-tax assets that is dependent upon future taxable income, net of the valuation allowance for deferred-tax assets, that may be included in, that is, not deducted from, a bank's capital may not exceed the lesser of:

(i) The amount of these deferred-tax assets that the bank is expected to realize within one year of the calendar quarter-end date, based on its projections of future taxable income for that year,[21] or

(ii) 10 percent of tier 1 capital. The reported amount of deferred-tax assets, net of any valuation allowance for deferred-tax assets, in excess of the lesser of these two amounts is to be deducted from a bank's core capital elements in determining tier 1 capital. For purposes of calculating the 10 percent limitation, tier 1 capital is defined as the sum of core capital elements, net of goodwill and net of all identifiable intangible assets other than mortgage and nonmortgage servicing assets, purchased credit card relationships, prior to the deduction of any disallowed mortgage servicing assets, any disallowed nonmortgage servicing assets, any disallowed purchased credit card relationships, any disallowed residual interests, and any disallowed deferred-tax assets. There generally is no limit in tier 1 capital on the amount of deferred-tax assets that can be realized from taxes paid in prior carry-back years or from future reversals of existing taxable temporary differences, but, for banks that have a parent, this may not exceed the amount the bank could reasonably expect its parent to refund.

III. * * *

*A.* * * *

5. The Federal Reserve will, on a case-by-case basis, determine the appropriate risk-weight for any asset that does not fit wholly within one of the risk categories set forth below or that imposes risks on a bank that are not commensurate with the risk weight otherwise specified below for the asset.

*B.* * * *

6. *Residual interests*—a. *General capital requirement.* All residual interests are subject to both a residual interest capital requirement and a capital concentration limitation in accordance with sections II.B.1.e. and III.B.6.b. of this appendix A. In determining

[14] Residual interests consist of balance sheet assets that: (a) Represent interests (including beneficial interests) in transferred financial assets retained by a seller (or transferor) after a securitization or other transfer of financial assets; and (b) are structured to absorb more than a pro rata share of credit loss related to the transferred assets through subordination provisions or other credit enhancement techniques. Residual interests do not include interests purchased from a third party. Residual interests generally include interest-only strips receivable, spread accounts, cash collateral accounts, retained subordinated interests, and other similar forms of on-balance sheet assets that function as a credit enhancement.

[15] Amounts of servicing assets, purchased credit card relationships, and residual interests in excess of these limitations, as well as all other identifiable intangible assets, including core deposit intangibles and favorable leaseholds, are to be deducted from a bank's core capital elements in determining tier 1 capital. However, identifiable intangible assets (other than mortgage servicing assets and purchased credit card relationships) acquired on or before February 19, 1992, generally will not be deducted from capital for supervisory purposes, although they will continue to be deducted for applications purposes.

[21] To determine the amount of expected deferred-tax assets realizable in the next 12 months, an institution should assume that all existing temporary differences fully reverse as of the report date. Projected future taxable income should not include net operating loss carry-forwards to be used during that year or the amount of existing temporary differences a bank expects to reverse within the year. Such projections should include the estimated effect of tax-planning strategies that the organization expects to implement to realize net operating losses or tax-credit carry-forwards that would otherwise expire during the year. Institutions do not have to prepare a new 12-month projection each quarter. Rather, on interim report dates, institutions may use the future-taxable income projections for their current fiscal year, adjusted for any significant changes that have occurred or are expected to occur.

the capital requirement for a residual interest, the amount of all residual interests in excess of the capital concentration limit must be deducted from tier 1 capital, in accordance with section II.B.1.e. of this appendix A, before the residual interest capital requirement in this section is applied.

b. *Residual interest capital requirement.* Notwithstanding section III.D.1.g. of this appendix A, a bank must maintain capital for a residual interest equal to the amount of the residual interest that is retained on the balance sheet (less any amount disallowed in accordance with section II.B.1.e. of this appendix A and net of any associated deferred tax liability), even if the amount of capital required to be maintained exceeds the standard capital charge that would be required under section IV.A. of this appendix A for assets transferred.

c. *Multiple recourse obligations.* Where a bank holds a residual interest and another recourse obligation (such as a standby letter of credit) in connection with the same asset transfer, the bank must maintain risk-based capital equal to the greater of:

(i) The risk-based capital requirement for the residual interest as calculated under section III.B.6.b. of this appendix A; or

(ii) The full risk-based capital requirement for the assets transferred, subject to the low-level recourse rules (section III.D.1.g. of this appendix A).

* * * * *

ATTACHMENT II.—SUMMARY OF DEFINITION OF QUALIFYING CAPITAL FOR STATE MEMBER BANKS*

[Using the Year-End 1992 Standards]

| Components | Minimum requirements after transition period |
|---|---|
| Core Capital (tier 1) | Must equal or exceed 4% of weighted-risk assets. |
| Common stockholders' equity | No limit. |
| Qualifying noncumulative perpetual preferred stock | No limit; banks should avoid undue reliance on preferred stock in tier 1. |
| Minority interest in equity accounts of consolidated Subsidiaries | Banks should avoid using minority interests to introduce elements not otherwise qualifying for tier 1 capital. |
| Less: Goodwill, other intangible assets, and residual interests required to be deducted from capital [1] | |
| Supplementary Capital (tier 2) | Total of tier 2 is limited to 100% of tier 1.[2] |
| Allowance for loan and lease losses | Limited to 1.25% of weighted-risk assets.[2] |
| Perpetual preferred stock | No limit within tier 2. |
| Hybrid capital instruments and equity contract notes | No limit within tier 2. |
| Subordinated debt and intermediate-term preferred stock (original weighted average maturity of 5 years or more). | Subordinated debt and intermediate-term preferred stock are limited to 50% of tier 1,[2] amortized for capital purposes as they approach maturity. |
| Revaluation reserves (equity and building) | Not included; banks encouraged to disclose; may be evaluated on a case-by-case basis for international comparisons; and taken into account in making and overall assessment of capital. |
| Deductions (from sum of tier 1 and tier 2): | |
| Investments in unconsolidated subsidiaries | As a general rule, one-half of the aggregate investments will be deducted from tier 1 capital and one-half from tier 2 capital.[3] |
| Reciprocal holdings of banking organizations' capital securities. | |
| Other deductions (such as other subsidiaries or joint ventures) as determined by supervisory authority. | On a case-by-case basis or as a matter of policy after formal rulemaking. |
| Total Capital (tier 1+tier 2 − deductions) | Must equal or exceed 8% of weighted-risk assets. |

[1] Requirements for the deduction of other intangible assets and residual interests are set forth in section II.B.1. of this appendix.
[2] Amounts in excess of limitations are permitted but do not qualify as capital.
[3] A proportionately greater amount may be deducted from tier 1 capital, if the risks associated with the subsidiary so warrant.
* See discussion in section II of the guidelines for a complete description of the requirements for, and the limitations on, the components of qualifying capital.

3. In appendix B to part 208, section II. b. is revised to read as follows:

## Appendix B To Part 208—Capital Adequacy Guidelines for State Member Banks: Tier 1 Leverage Measure

* * * * *

II. b. A bank's Tier 1 leverage ratio is calculated by dividing its Tier 1 capital (the numerator of the ratio) by its average total consolidated assets (the denominator of the ratio). The ratio will also be calculated using period-end assets whenever necessary, on a case-by-case basis. For the purpose of this leverage ratio, the definition of Tier 1 capital as set forth in the risk-based capital guidelines contained in appendix A of this part will be used.[2] As a general matter, average total consolidated assets are defined as the quarterly average total assets (defined net of the allowance for loan and lease losses) reported on the bank's Reports of Condition and Income (Call Reports), less goodwill; amounts of mortgage servicing assets, nonmortgage servicing assets, purchased credit card relationships, and residual interests that, in the aggregate, are in excess of 100 percent of Tier 1 capital; amounts of nonmortgage servicing assets, purchased credit card relationships, and residual interests that, in the aggregate, are in excess of 25 percent of Tier 1 capital; all other identifiable intangible assets; any investments in subsidiaries or associated companies that the Federal Reserve determines should be deducted from Tier 1 capital; and deferred tax assets that are dependent upon future taxable income, net of their valuation allowance, in excess of the limitation set forth in section II.B.4 of appendix A of this part.[3]

* * * * *

## PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 continues to read as follows:

**Authority:** 12 U.S.C. 1817(j)(13), 1818, 1828(o) 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

[2] Tier 1 capital for state member banks includes common equity, minority interest in the equity accounts of consolidated subsidiaries, and qualifying noncumulative perpetual preferred stock. In addition, as a general matter, Tier 1 capital excludes goodwill; amounts of mortgage servicing assets, nonmortgage servicing assets, purchased credit card relationships, and residual interests that, in the aggregate, exceed 100 percent of Tier 1 capital; nonmortgage servicing assets, purchased credit card relationships, and residual interests that, in the aggregate, exceed 25 percent of Tier 1 capital; other identifiable intangible assets; and deferred tax assets that are dependent upon future taxable income, net of their valuation allowance, in excess of certain limitations. The Federal Reserve may exclude certain investments in subsidiaries or associated companies as appropriate.

[3] Deductions from Tier 1 capital and other adjustments are discussed more fully in section II.B. of appendix A of this part.

2. In appendix A to part 225:

A. Section II.A.1. and the first seven paragraphs of section II.A.2. are revised, and footnote 6 is removed and reserved;

B. In sections II, III and IV, footnotes 13 through 57 are redesignated as footnotes 14 through 58.

C. In section II.B., a new paragraph (i)(c) and new footnote 15 are added, section II.B.1.b and newly designated footnote 16 are revised, new sections II.B.1.c. through II.B.1.g. are added, and section II.B.4. is revised.

D. In section III.A, the four undesignated paragraphs are designated as sections III.A.1. through III.A.4. and a new section III.A.5, is added.

E. Section III.B.6. is added.

F. Attachment II is revised.

## Appendix A To Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure

* * * * *

II. * * *

*A.* * * *

1. *Core capital elements (tier 1 capital).* The tier 1 component of an institution's qualifying capital must represent at least 50 percent of qualifying total capital and may consist of the following items that are defined as core capital elements:

(i) Common stockholders' equity;

(ii) Qualifying noncumulative perpetual preferred stock (including related surplus);

(iii) Qualifying cumulative perpetual preferred stock (including related surplus); subject to certain limitations described below;

(iv) Minority interest in the equity accounts of consolidated subsidiaries. Tier 1 capital is generally defined as the sum of core capital elements [6] less goodwill, other intangible assets, and residual interests required to be deducted in accordance with section II.*B.*1. of this appendix A.

* * * * *

2. *Supplementary capital elements (tier 2 capital).* The tier 2 component of an institution's qualifying capital may consist of the following items that are defined as supplementary capital elements:

(i) Allowance for loan and lease losses (subject to limitations discussed below);

(ii) Perpetual preferred stock and related surplus (subject to conditions discussed below);

(iii) Hybrid capital instruments (as defined below), perpetual debt, and mandatory convertible debt securities;

(iv) Term subordinated debt and intermediate-term preferred stock, including related surplus (subject to limitations discussed below);

(v) Unrealized holding gains on equity securities (subject to limitations discussed in section II.A.2.e. of this appendix A).

The maximum amount of tier 2 capital that may be included in an organization's qualifying total capital is limited to 100 percent of tier 1 capital (net of goodwill, other intangible assets, and residual interests required to be deducted in accordance with section II.B.1. of this appendix A).

* * * * *

*B.* * * *

(i) * * *

(c) Certain on-balance sheet residual interests deducted from the sum of core capital elements in accordance with sections II.*B.*1.c. through e. of this appendix A.[15]

* * * * *

1. *Goodwill, other intangible assets, and residual interests.* * * *

b. *Other intangible assets.* i. All servicing assets, including servicing assets on assets other than mortgages (*i.e.*, nonmortgage servicing assets), are included in this appendix as identifiable intangible assets. The only types of identifiable intangible assets that may be included in, that is, not deducted from, an organization's capital are readily marketable mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships. The total amount of these assets that may be included in capital is subject to the limitations described below in sections II.B.1.d. and e. of this appendix A.

ii. The treatment of identifiable intangible assets set forth in this section generally will be used in the calculation of a bank holding company's capital ratios for supervisory and applications purposes. However, in making an overall assessment of an organization's capital adequacy for applications purposes, the Board may, if it deems appropriate, take into account the quality and composition of an organization's capital, together with the quality and value of its tangible and intangible assets.

c. *Residual interests.* Residual interests may be included in, that is, not deducted from, an organization's capital subject to the limitations described below in sections II.B.1.d. and e. of this appendix A.

d. *Fair value limitation.* The amount of mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships that a bank holding company may include in capital shall be the lesser of 90 percent of their fair value, as determined in accordance with section II.B.1.f. of this appendix A, or 100 percent of their book value, as adjusted for capital purposes in accordance with the instructions to the Consolidated Financial Statements for Bank Holding Companies (FR Y–9C Report). The amount of residual interests a bank holding company may include in capital shall be 100 percent of its book value. If both the application of the limits on mortgage servicing assets, nonmortgage servicing assets, purchased credit card relationships, and residual interests and the adjustment of the balance sheet amount for these assets would result in an amount being deducted from capital, the bank holding company would deduct only the greater of the two amounts from its core capital elements in determining tier 1 capital.

e. *Tier 1 capital limitation.* i. The total amount of mortgage and nonmortgage servicing assets, purchased credit card relationships, and residual interests that may be included in capital, in the aggregate, cannot exceed 100 percent of tier 1 capital. Nonmortgage servicing assets, purchased credit card relationships, and residual interests, in the aggregate, are subject to a separate sublimit of 25 percent of tier 1 capital.[16]

ii. For purposes of calculating these limitations on mortgage servicing assets, nonmortgage servicing assets, purchased credit card relationships, and residual interests, tier 1 capital is defined as the sum of core capital elements, net of goodwill, and net of all identifiable intangible assets other than mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships, prior to the deduction of any disallowed mortgage servicing assets, any disallowed nonmortgage servicing assets, any disallowed purchased credit card relationships, any disallowed residual interests, and any disallowed deferred-tax assets, regardless of the date acquired.

iii. Bank holding companies may elect to deduct disallowed mortgage servicing assets, disallowed nonmortgage servicing assets, and disallowed residual interests on a basis that is net of any associated deferred tax liability. Deferred tax liabilities netted in this manner cannot also be netted against deferred tax assets when determining the amount of deferred tax assets that are dependent upon future taxable income.

f. *Valuation.* Bank holding companies must review the book value of all intangible assets and residual interests at least quarterly and make adjustments to these values as necessary. The fair value of mortgage servicing assets, nonmortgage servicing assets, purchased credit card relationships, and residual interests also must be determined at least quarterly. This determination shall include adjustments for any significant changes in original valuation assumptions, including changes in prepayment estimates or account attrition rates. Examiners will review both the book value and the fair value assigned to these assets, together with supporting documentation, during the inspection

[6] [Reserved]

[15] Residual interests consist of balance sheet assets that: (a) Represent interests (including beneficial interests) in transferred financial assets retained by a seller (or transferor) after a securitization or other transfer of financial assets; and (b) are structured to absorb more than a pro rata share of credit loss related to the transferred assets through subordination provisions or other credit enhancement techniques. Residual interests do not include interests purchased from a third party. Residual interest include interest-only strips receivable, spread accounts, cash collateral accounts, retained subordinated interests, and similar on-balance sheet assets that function as a credit enhancement.

[16] Amounts of servicing assets, purchased credit card relationships, and residual interests in excess of these limitations, as well as all other identifiable intangible assets, including core deposit intangibles and favorable leaseholds, are to be deducted from an organization's core capital elements in determining tier 1 capital. However, identifiable intangible assets (other than mortgage servicing assets and purchased credit card relationships) acquired on or before February 19, 1992, generally will not be deducted from capital for supervisory purposes, although they will continue to be deducted for applications purposes.

process. In addition, the Federal Reserve may require, on a case-by-case basis, an independent valuation of an organization's intangible assets or residual interests.

g. *Growing organizations.* Consistent with long-standing Board policy, banking organizations experiencing substantial growth, whether internally or by acquisition, are expected to maintain strong capital positions substantially above minimum supervisory levels, without significant reliance on intangible assets or residual interests.

* * * * *

4. *Deferred-tax assets.* The amount of deferred-tax assets that is dependent upon future taxable income, net of the valuation allowance for deferred-tax assets, that may be included in, that is, not deducted from, a banking organization's capital may not exceed the lesser of:

(i) The amount of these deferred-tax assets that the banking organization is expected to realize within one year of the calendar quarter-end date, based on its projections of future taxable income for that year,[24] or

(ii) 10 percent of tier 1 capital. The reported amount of deferred-tax assets, net of any valuation allowance for deferred-tax assets, in excess of the lesser of these two amounts is to be deducted from a banking organization's core capital elements in determining tier 1 capital. For purposes of calculating the 10 percent limitation, tier 1 capital is defined as the sum of core capital elements, net of goodwill and net of all identifiable intangible assets other than mortgage and nonmortgage servicing assets, purchased credit card relationships, prior to the deduction of any disallowed mortgage servicing assets, any disallowed nonmortgage servicing assets, any disallowed purchased credit card relationships, any disallowed residual interests, and any disallowed deferred-tax assets. There generally is no limit in tier 1 capital on the amount of deferred-tax assets that can be realized from taxes paid in prior carry-back years or from future reversals of existing taxable temporary differences.

III. * * *

*A.* * * *

5. The Federal Reserve will, on a case-by-case basis, determine the appropriate risk weight for any asset that does not fit wholly within one of the risk categories set forth below or that imposes risks on a bank holding company that are not commensurate with the risk weight otherwise specified below for the asset.

*B.* * * *

6. *Residual interests*—a. *General capital requirement.* All residual interests are subject to both a residual interest capital requirement and a capital concentration limitation in accordance with sections II.B.1.e. and III.B.6.b. of this appendix A. In determining the capital requirement for a residual interest, the amount of all residual interests in excess of the capital concentration limit must be deducted from tier 1 capital, in accordance with section II.B.1.e. of this appendix A, before the residual interest capital requirement in this section is applied.

b. *Residual interest capital requirement.* Notwithstanding section III.D.1.g. of this appendix A, organizations must maintain capital for a residual interest equal to the amount of the residual interest (less any amount disallowed in accordance with section II.B.1.e. of this appendix A and net of any associated deferred tax liability), even if the amount of capital required to be maintained exceeds the standard capital charge under section IV.A. of this appendix A for the assets transferred.

c. *Multiple recourse obligations.* Where an organization holds a residual interest and another recourse obligation (such as a standby letter of credit) in connection with the same asset transfer, the organization must maintain risk-based capital equal to the greater of:

(i) The risk-based capital requirement for the residual interest as calculated under section III.*B*.6.b of this appendix A; or

(ii) The full risk-based capital requirement for the assets transferred, subject to the low-level recourse rules (section III.*D*.1.g. of this appendix A).

* * * * *

## ATTACHMENT II—SUMMARY DEFINITION OF QUALIFYING CAPITAL FOR BANK HOLDING COMPANIES*

[Using the year-end 1992 standards]

| Components | Minimum requirements after transition period |
|---|---|
| Core Capital (tier 1) | Must equal or exceed 4% of weighted-risk assets. |
| Common stockholders' equity | No limit. |
| Qualifying noncumulative perpetual preferred stock | No limit. |
| Qualifying cumulative perpetual preferred stock | Limited to 25% of the sum of common stock, qualifying perpetual preferred stock, and minority interests. |
| Minority interest in equity accounts of consolidated subsidiaries | Organizations should avoid using minority interests to introduce elements not otherwise qualifying for tier 1 capital. |
| Less: Goodwill, other intangible assets, and residual interests required to be deducted from capital [1] | |
| Supplementary Capital (tier 2) | Total of tier 2 is limited to 100% of tier 1.[2] |
| Allowance for loan and lease losses | Limited to 1.25% of weighted-risk assets.[2] |
| Perpetual preferred stock | No limit within tier 2. |
| Hybrid capital instruments, perpetual debt, and mandatory convertible securities. | No limit within tier 2. |
| Subordinated debt and intermediate-term preferred stock (original weighted average maturity of 5 years or more). | Subordinated debt and intermediate-term preferred stock are limited to 50% of tier 1;[2] amortized for capital purposes as they approach maturity. |
| Revaluation reserves (equity and building) | Not included; organization encouraged to disclose; may be evaluated on a case-by-case basis for international comparisons; and taken into account in making and overall assessment of capital. |
| Deductions (from sum of tier 1 and tier 2): | |
| Investments in unconsolidated subsidiaries | As a general rule, one-half of the aggregate investments will be deducted from tier 1 capital and one-half from tier 2 capital.[3] |

[24] To determine the amount of expected deferred-tax assets realizable in the next 12 months, an institution should assume that all existing temporary differences fully reverse as of the report date. Projected future taxable income should not include net operating loss carry-forwards to be used during that year or the amount of existing temporary differences a bank holding company expects to reverse within the year. Such projections should include the estimated effect of tax-planning strategies that the organization expects to implement to realize net operating losses or tax-credit carry-forwards that would otherwise expire during the year. Institutions do not have to prepare a new 12-month projection each quarter. Rather, on interim report dates, institutions may use the future-taxable income projections for their current fiscal year, adjusted for any significant changes that have occurred or are expected to occur.

ATTACHMENT II—SUMMARY DEFINITION OF QUALIFYING CAPITAL FOR BANK HOLDING COMPANIES*—Continued

[Using the year-end 1992 standards]

| Components | Minimum requirements after transition period |
|---|---|
| Reciprocal holdings of banking organizations' capital securities | |
| Other deductions (such as other subsidiaries or joint ventures) as determined by supervisory authority | |
| Total Capital (tier 1 + tier 2 – deductions) | Must equal or exceed 8% of weighted-risk assets. |

[1] Requirements for the deduction of other intangible assets and residual interests are set forth in section II.B.1.e. of this appendix.
[2] Amounts in excess of limitations are permitted but do not qualify as capital.
[3] A proportionally greater amount may be deducted from tier 1 capital.
* See discussion in section II of this appendix for a complete description of the requirements for, and the limitations on, the components of qualifying capital.

3. In appendix D to part 225, section II.b. is revised to read as follows:

## Appendix D to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Tier 1 Leverage Measure

* * * * *

II. * * *

b. A banking organization's tier 1 leverage ratio is calculated by dividing its tier 1 capital (the numerator of the ratio) by its average total consolidated assets (the denominator of the ratio). The ratio will also be calculated using period-end assets whenever necessary, on a case-by-case basis. For the purpose of this leverage ratio, the definition of tier 1 capital as set forth in the risk-based capital guidelines contained in appendix A of this part will be used.[3] As a general matter, average total consolidated assets are defined as the quarterly average total assets (defined net of the allowance for loan and lease losses) reported on the organization's Consolidated Financial Statements (FR Y–9C Report), less goodwill; amounts of mortgage-servicing assets, nonmortgage-servicing assets, purchased credit-card relationships, and residual interests that, in the aggregate, are in excess of 100 percent of tier 1 capital; amounts of nonmortgage-servicing assets, purchased credit-card relationships, and residual interests that, in the aggregate, are in excess of 25 percent of tier 1 capital; all other identifiable intangible assets; any investments in subsidiaries or associated companies that the Federal Reserve determines should be deducted from tier 1 capital; and deferred-tax assets that are dependent upon future taxable income, net of their valuation allowance, in excess of the limitation set forth in section II.*B*.4 of appendix A of this part.[4]

* * * * *

By order of the Board of Governors of the Federal Reserve System, September 13, 2000.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[3] Tier 1 capital for banking organizations includes common equity, minority interest in the equity accounts of consolidated subsidiaries, qualifying noncumulative perpetual preferred stock, and qualifying cumulative perpetual preferred stock. (Cumulative perpetual preferred stock is limited to 25 percent of tier 1 capital.) In addition, as a general matter, tier 1 capital excludes goodwill; amounts of mortgage servicing assets, nonmortgage servicing assets, purchased credit card relationships, and residual interests that, in the aggregate, exceed 100 percent of tier 1 capital; nonmortgage servicing assets, purchased credit card relationships, and residual interests that, in the aggregate, exceed 25 percent of tier 1 capital; all other identifiable intangible assets; and deferred-tax assets that are dependent upon future taxable income, net of their valuation allowance, in excess of certain limitations. The Federal Reserve may exclude certain investments in subsidiaries or associated companies as appropriate.

[4] Deductions from tier 1 capital and other adjustments are discussed more fully in section II.B. of appendix A of this part.

## Federal Deposit Insurance Corporation

*12 CFR Chapter III*

Authority and Issuance

For the reasons set out in the joint preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend part 325 of chapter III of title 12 of the Code of Federal Regulations as follows:

## PART 325—CAPITAL MAINTENANCE

1. The authority citation for part 325 is revised to read as follows:

**Authority:** 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note).

### § 325.2 [Amended]

2. In § 325.2:

A. Redesignate paragraphs (s) through (x) as paragraphs (v) through (aa), paragraphs (q) through (r) as paragraphs (s) through (t), and paragraphs (g) through(p) as pragraphs (h) through (q);

B. Add new paragraphs (g), (r), and (u);

C. Revise newly designated paragraphs (w) and (y) to read as follows:

### § 325.2 Definitions.

* * * * *

(g) *Financial assets* means cash, evidence of an ownership interest in an entity, or a contract that conveys to a second entity a contractual right:

(1) To receive cash or another financial instrument from a first entity; or

(2) To exchange other financial instruments on potentially favorable terms with the first entity.

* * * * *

(r) *Residual interests* means:

(1) Balance sheet assets that:

(i) Represent interests (including beneficial interests) in transferred financial assets retained by a seller (or transferor) after a securitization or other transfer of financial assets; and

(ii) Are structured to absorb more than a pro rata share of credit loss related to the transferred assets through subordination provisions or other credit enhancement techniques.

(2) *Exclusion.* Residual interests do not include interests purchased from a third party.

(3) *Examples.* Residual interests include interest only strips receivable, spread accounts, cash collateral accounts, retained subordinated interests, and other similar forms of on-balance sheet assets that function as a credit enhancement.

* * * * *

(u) *Securitization* means the pooling and repackaging of loans or other credit exposures into securities that can be sold to investors.

* * * * *

(w) *Tier 1 capital* or *core capital* means the sum of common stockholders' equity, noncumulative perpetual preferred stock (including any related surplus), and minority interests in consolidated subsidiaries, minus all intangible assets (other than mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships eligible for inclusion in core capital pursuant to § 325.5(f) and qualifying supervisory goodwill eligible for inclusion in core capital pursuant to 12 CFR part 567), minus residual

interests (other than residual interests eligible for inclusion in core capital pursuant to § 325.5(f)), minus deferred tax assets in excess of the limit set forth in § 325.5(g), minus identified losses (to the extent that Tier 1 capital would have been reduced if the appropriate accounting entries to reflect the identified losses had been recorded on the insured depository institution's books), and minus investments in securities subsidiaries subject to 12 CFR 337.4.

* * * * *

(y) *Total assets* means the average of total assets required to be included in a banking institution's ''Reports of Condition and Income'' (Call Report) or, for savings associations, the consolidated total assets required to be included in the ''Thrift Financial Report,'' as these reports may from time to time be revised, as of the most recent report date (and after making any necessary subsidiary adjustments for state nonmember banks as described in §§ 325.5(c) and 325.5(d) of this part), minus intangible assets (other than mortgage servicing assets, nonmortgage servicing assets, and purchased credit card relationships eligible for inclusion in core capital pursuant to § 325.5(f) and qualifying supervisory goodwill eligible for inclusion in core capital pursuant to 12 CFR part 567), minus residual interests (other than residual interests eligible for inclusion in core capital pursuant to § 325.5(f)), minus deferred tax assets in excess of the limit set forth in § 325.5(g), and minus assets classified loss and any other assets that are deducted in determining Tier 1 capital. For banking institutions, the average of total assets is found in the Call Report schedule of quarterly averages. For savings associations, the consolidated total assets figure is found in Schedule CSC of the Thrift Financial Report.

3. In § 325.5, revise paragraphs (f) and (g)(2) to read as follows:

**§ 325.5 Miscellaneous.**

* * * * *

(f) *Treatment of mortgage servicing assets, purchased credit card relationships, nonmortgage servicing assets, and residual interests.* For purposes of determining Tier 1 capital under this part, mortgage servicing assets, purchased credit card relationships, nonmortgage servicing assets, and residual interests will be deducted from assets and from common stockholders' equity to the extent that these items do not meet the conditions, limitations, and restrictions described in this section. Banks may elect to deduct disallowed servicing assets and disallowed residual interests on a basis that is net of any associated deferred tax liability. Any deferred tax liability netted in this manner cannot also be netted against deferred tax assets when determining the amount of deferred tax assets that are dependent upon future taxable income and calculating the maximum allowable amount of these assets under paragraph (g) of this section.

(1) *Valuation.* The fair value of mortgage servicing assets, purchased credit card relationships, nonmortgage servicing assets, and residual interests shall be estimated at least quarterly. The quarterly fair value estimate shall include adjustments for any significant changes in the original valuation assumptions, including changes in prepayment estimates or attrition rates. The FDIC in its discretion may require independent fair value estimates on a case-by-case basis where it is deemed appropriate for safety and soundness purposes.

(2) *Fair value limitation.* For purposes of calculating Tier 1 capital under this part (but not for financial statement purposes), the balance sheet assets for mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets will each be reduced to an amount equal to the lesser of:

(i) 90 percent of the fair value of these assets, determined in accordance with paragraph (f)(1) of this section; or

(ii) 100 percent of the remaining unamortized book value of these assets (net of any related valuation allowances), determined in accordance with the instructions for the preparation of the Consolidated Reports of Income and Condition (Call Reports).

(3) *Tier 1 capital limitation.* The maximum allowable amount of mortgage servicing assets, purchased credit card relationships, nonmortgage servicing assets, and residual interests in the aggregate, will be limited to the lesser of:

(i) 100 percent of the amount of Tier 1 capital that exists before the deduction of any disallowed mortgage servicing assets, any disallowed purchased credit card relationships, any disallowed nonmortgage servicing assets, any disallowed residual interests, and any disallowed deferred tax assets; or

(ii) The sum of the amounts of mortgage servicing assets, purchased credit card relationships, and nonmortgage servicing assets, determined in accordance with paragraph (f)(2) of this section, plus the amount of residual interests determined in accordance with paragraph

(f)(1) of the section.

(4) *Tier 1 capital sublimit.* In addition to the aggregate limitation on mortgage servicing assets, purchased credit card relationships, nonmortgage servicing assets, and residual interests set forth in paragraph (f)(3) of this section, a sublimit will apply to purchased credit card relationships, nonmortgage servicing assets, and residual interests. The maximum allowable amount of the aggregate of purchased credit card relationships, nonmortgage servicing assets, and residual interests, will be limited to the lesser of:

(i) Twenty-five percent of the amount of Tier 1 capital that exists before the deduction of any disallowed mortgage servicing assets, any disallowed purchased credit card relationships, any disallowed nonmortgage servicing assets, any disallowed residual interests, and any disallowed deferred tax assets; or

(ii) The sum of the amounts of purchased credit card relationships and nonmortgage servicing assets determined in accordance with paragraph (f)(2) of this section, plus the amount of residual interests determined in accordance with paragraph (f)(1) of the section.

(g)(2) * * *

(2) *Tier 1 capital limitations.* (i) The maximum allowable amount of deferred tax assets that are dependent upon future taxable income, net of any valuation allowance for deferred tax assets, will be limited to the lesser of:

(A) The amount of deferred tax assets that are dependent upon future taxable income that is expected to be realized within one year of the calendar quarter-end date, based on projected future taxable income for that year; or

(B) Ten percent of the amount of Tier 1 capital that exists before the deduction of any disallowed mortgage servicing assets, any disallowed nonmortgage servicing assets, any disallowed purchased credit card relationships, any disallowed residual interests and any disallowed deferred tax assets.

(iii) For purposes of this limitation, all existing temporary differences should be assumed to fully reverse at the calendar quarter-end date. The recorded amount of deferred tax assets that are dependent upon future taxable income, net of any valuation allowance for deferred tax assets, in excess of this limitation will be deducted from assets and from equity capital for purposes of determining Tier 1 capital under this part. The amount of deferred tax assets that can be realized from taxes paid in prior carryback years and from the reversal of existing taxable temporary differences generally would not be deducted from assets and from equity

capital. However, notwithstanding the above, the amount of carryback potential that may be considered in calculating the amount of deferred tax assets that a member of a consolidated group (for tax purposes) may include in Tier 1 capital may not exceed the amount which the member could reasonably expect to have refunded by its parent.

* * * * *

4. In appendix A to part 325:

A. Revise section I.A.l.;

B. In section II:

i. Designate the first two undesignated paragraphs as sections II.A.l. and II.A.2., respectively, and add a new section II.A.3.;

ii. Revise section II.B.5., and add new section II.B.7.;

iii. Amend paragraph II.C. by revising the second paragraph under ''*Category 4—100 Percent Risk Weight*'';

C. Revise section III; and

D. Revise Table I to read as follows:

## Appendix A to Part 325—Statement of Policy on Risk-Based Capital

* * * * *

I. * * *

A. * * *

1. *Core capital elements (Tier 1) consists of:*

i. Common stockholders' equity capital (includes common stock and related surplus, undivided profits, disclosed capital reserves that represent a segregation of undivided profits, and foreign currency translation adjustments, less net unrealized holding losses on available-for-sale equity securities with readily determinable fair values);

ii. Noncumulative perpetual preferred stock,[2] including any related surplus; and

iii. Minority interests in the equity capital accounts of consolidated subsidiaries.

At least 50 percent of the qualifying total capital base should consist of Tier 1 capital. Core (Tier 1) capital is defined as the sum of core capital elements[3] minus all intangible assets (other than mortgage servicing assets, nonmortgage servicing assets and purchased credit card relationships eligible for inclusion in core capital pursuant to § 325.5(f))[4] minus residual interests (other than residual interests eligible for inclusion in core capital pursuant to § 325.5(f)) and minus any disallowed deferred tax assets.

Although nonvoting common stock, noncumulative perpetual preferred stock, and minority interests in the equity capital accounts of consolidated subsidiaries are normally included in Tier 1 capital, voting common stockholders' equity generally will be expected to be the dominant form of Tier 1 capital. Thus, banks should avoid undue reliance on nonvoting equity, preferred stock and minority interests.

Although minority interests in consolidated subsidiaries are generally included in regulatory capital, exceptions to this general rule will be made if the minority interests fail to provide meaningful capital support to the consolidated bank. Such a situation could arise if the minority interests are entitled to a preferred claim on essentially low risk assets of the subsidiary. Similarly, although residual interests and intangible assets in the form of mortgage servicing assets, nonmortgage servicing assets and purchased credit card relationships are generally recognized for risk-based capital purposes, the deduction of part or all of the residual interests, mortgage servicing assets, nonmortgage servicing assets and purchased credit card relationships may be required if the carrying amounts of these rights are excessive in relation to their market value or the level of the bank's capital accounts. Residual interests, mortgage servicing assets, nonmortgage servicing assets and purchased credit card relationships that do not meet the conditions, limitations and restrictions described in § 325.5(g) of this part will not be recognized for risk-based capital purposes.

* * * * *

II. * * *

A. * * *

3. The Director of the Division of Supervision may, on a case-by-case basis, determine the appropriate risk weight for any asset that does not fit wholly within one of the risk categories set forth in sections II.B. and II.C. of this appendix A or that imposes risks on a bank that are not commensurate with the risk weight otherwise specified in sections II.B. and II.C. of this appendix A for the asset.

* * * * *

B. * * *

5. *Mortgage-Backed Securities.* Mortgage-backed securities, including pass-throughs and collateralized mortgage obligations (but not stripped mortgage-backed securities) that are issued or guaranteed by a U.S. Government agency or a U.S. Government-sponsored agency, normally are assigned to the risk weight category appropriate to the issuer or guarantor. Generally, a privately-issued mortgage-backed security is treated as essentially an indirect holding of the underlying assets, and assigned to the same risk category as the underlying assets, in accordance with the provisions and criteria spelled out in detail in the accompanying footnote;[14] however, such privately-issued mortgage-backed securities may not be assigned to the zero percent risk category. Privately-issued mortgage-backed securities whose structures do not comply with the specified provisions set forth in the footnote are assigned to the 100 percent risk category. In addition, any class of a mortgage-backed security, other than a residual interest, that can absorb more than its *pro rata* share of loss without the whole issue being in default (for example, a subordinated class) will also be assigned to the 100 percent risk weight category. All stripped mortgage-backed securities, including interest-only strips (IOs) (unless covered under section II.B.7. of this appendix A), principal-only strips (POs), and similar instruments, are assigned to the 100 percent risk weight category, regardless of the issuer or guarantor.

* * * * *

7. *Residual interests*—a. *General capital requirement.* All residual interests are subject to both a residual interest capital requirement and a capital concentration limitation in accordance with § 325.5 of this part. In determining the general capital requirement for a residual interest, the amount of all residual interest in excess of the capital concentration limit must be deducted from Tier 1 capital, in accordance with § 325.5 of this part, before the residual interest capital requirement in this section is applied.

b. *Residual interest capital requirement.* Notwithstanding section III. of this appendix A, a bank must maintain risk-based capital for a residual interest equal to the amount of the residual interest that is retained on the balance sheet (less any amount disallowed in accordance with § 325.5 and net of any associated deferred tax liability), even if the amount of risk-based capital required to be maintained exceeds the full risk-based capital requirement for the assets transferred.

c. *Recourse Obligation.* Where a bank holds a residual interest and another recourse obligation (such as a standby letter of credit) in connection with the same asset transfer, the bank must maintain risk-based capital equal to the greater of: The risk-based capital requirement for the residual interest as calculated under section II.B.7.b. of this appendix A; or the full risk-based capital requirement for the assets transferred, subject to the low-level recourse rules (section II.D.1.of this appendix A).

* * * * *

C. * * *

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[2] Preferred stock issues where the dividend is reset periodically based, in whole or in part, upon the bank's current credit standing, including but not limited to, auction rate, money market or remarketable preferred stock, are assigned to Tier 2 capital, regardless of whether the dividends are cumulative or noncumulative.

[3] In addition to the core capital elements, Tier 1 may also include certain supplementary capital elements during the transition period subject to certain limitations set forth in section III of this statement of policy.

[4] An exception is allowed for intangible assets that are explicitly approved by the FDIC as part of the bank's regulatory capital on a specific case basis. These intangibles will be included in capital for risk-based capital purposes under the terms and conditions that are specifically approved by the FDIC.

[14] A privately-issued mortgage-backed security may be treated as an indirect holding of the underlying assets provided that (1) the underlying assets are held by an independent trustee and the trustee has a first priority, perfected security interest in the underlying assets on behalf of the holders of the security, (2) either the holder of the security has an undivided *pro rata* ownership interest in the underlying mortgage assets or the trust or single purpose entity (or conduit) that issues the security has no liabilities unrelated to the issued securities (3) the security is structured such that the cash flow from the underlying assets in all cases fully meets the cash flow requirements of the security without undue reliance on any reinvestment income, and (4) there is no material reinvestment risk associated with any funds awaiting distribution to the holders of the security. In addition, if the underlying assets of a mortgage-backed security are composed of more than one type of asset, the entire mortgage-backed security is generally assigned to the category appropriate to the highest risk-weighted asset underlying the issue.

*Category 4—100 Percent Risk Weight*

* * * * *

This category also includes all claims on foreign and domestic private sector obligors that are not assigned to lower risk weight categories, including: loans to nondepository financial institutions and bank holding companies; claims on commercial firms owned by the bank on acceptances outstanding involving standard risk claims;[34] fixed assets, premises and other real estate owned; common and preferred stock of corporations, including stock acquired for debt previously contracted; commercial and consumer loans (except those loans assigned to lower risk categories due to recognized guarantees or collateral); real estate loans and mortgage-backed securities that do not meet the criteria for assignment to a lower risk weight (including any classes of mortgage-backed securities that can absorb more than their *pro rata* share of loss without the whole issue being in-default, such as subordinated classes, but not including residual interests); and all stripped mortgage-backed securities, including interest-only (IOs) (unless covered under section II.B.7. of this appendix A) and the principal-only (POs) strips.

* * * * *

**III. Minimum Risk-Based Capital Ratio**

Subject to section II.B.7. of this appendix A, banks generally will be expected to meet a minimum ratio of qualifying total capital to risk-weighted assets of 8 percent, of which at least 4 percentage points should be in the form of core capital (Tier 1). Any bank that does not meet the minimum risk-based capital ratio, or whose capital is otherwise considered inadequate, generally will be expected to develop and implement a capital plan for achieving an adequate level of capital, consistent with the provisions of this risk-based capital framework, the specific circumstances affecting the individual bank, and the requirements of any related agreements between the bank and the FDIC.

* * * * *

TABLE I—DEFINITION OF QUALIFYING CAPITAL

| Components | Minimum requirements and limitations |
|---|---|
| (1) Core Capital (Tier 1) | Must equal or exceed 4% of risk-weighted assets. |
| (2) Common stockholders' equity capital | No Limit.[1] |
| (3) Noncumulative perpetual preferred stock and any related surplus | No Limit.[1] |
| (4) Minority interest in equity capital accounts of consolidated subsidiaries. | No Limit.[1] |
| (5) Less: All intangible assets other than mortgage servicing assets, nonmortgage servicing assets and purchased credit card relationships. | ([2]) |
| (6) Less: Certain residual interests | ([3]) |
| (7) Less: Certain deferred tax assets | ([4]) |
| (8) Supplementary Capital (Tier 2) | Total of Tier 2 is limited to 100% of Tier 1.[5] |
| (9) Allowance for loan and lease losses | Limited to 1.25% of risk-weighted assets.[5] |
| (10) Unrealized gains on certain equity securities[6] | Limited to 45% of pretax net unrealized gains.[6] |
| (11) Cumulative perpetual and longterm preferred stock (original maturity of 20 years or more) and any related surplus. | No limit within Tier 2; long-term preferred is amortized for capital purposes as it approaches maturity. |
| (12) Auction rate and similar preferred stock (both cumulative and noncumulative). | No limit within Tier 2. |
| (13) Hybrid capital instruments (including mandatory convertible debt securities). | No limit within Tier 2. |
| (14) Term subordinated debt and intermediate-term preferred stock (original weighted average maturity of five years or more). | Term subordinated debt and intermediate term preferred stock are limited to 50% of Tier 1[5] and amortized for capital purposes as they approach maturity. |
| (15) Deductions (from the sum of Tier 1 plus Tier 2). | |
| (16) Investments in banking and finance subsidiaries that are not consolidated for regulatory capital purposes. | |
| (17) Intentional, reciprocal cross-holdings of capital securities issued by banks. | |
| (18) Other deductions (such as investments in other subsidiaries or in joint ventures) as determined by supervisory authority. | On a case-by-case basis or as a matter of policy after formal consideration of relevant issues. |
| (19) Total Capital (Tier 1 + Tier 2—Deductions). | Must equal or exceed 8% of risk-weighted assets. |

[1] No express limits are placed on the amounts of nonvoting common, noncumulative perpetual preferred stock, and minority interests that may be recognized as part of Tier 1 capital. However, voting common stockholders' equity capital generally will be expected to be the dominant form of Tier 1 capital and banks should avoid undue reliance on other Tier 1 capital elements.

[2] The amounts of mortgage servicing assets, nonmortgage servicing assets and purchased credit card relationships that can be recognized for purposes of calculating Tier 1 capital are subject to the limitations set forth in § 325.5(f). All deductions are for capital purposes only; deductions would not affect accounting treatment.

[3] The amounts of residual interests that can be recognized for purposes of calculating Tier 1 capital are subject to the limitations set forth in § 325.5(f).

[4] Deferred tax assets are subject to the capital limitations set forth in § 325.5(g).

[5] Amounts in excess of limitations are permitted but do not qualify as capital.

[6] Unrealized gains on equity securities are subject to the capital limitations set for in paragraph I.*A*2.(f) of appendix A to part 325.

[34] Customer liabilities on acceptances outstanding involving non-standard risk claims, such as claims on U.S. depository institutions, are assigned to the identity of the obligor or, if relevant, the nature of the collateral or guaranties backing the claim. Portions of acceptances conveyed as risk participations to U.S. depository institutions or foreign banks should be assigned to the 20 percent risk category that is appropriate for short-term claims guaranteed by U.S. depository institutions and foreign banks.

* * * * *

By order of the Board of Directors.

Dated at Washington, DC, this 14th day of August, 2000.

Federal Deposit Insurance Corporation.

**James D. LaPierre,**

*Deputy Executive Secretary.*

## Office of Thrift Supervision

*12 CFR Chapter V*

Authority and Issuance

For the reasons set out in the joint preamble, The Office of Thrift Supervision proposes to amend parts 565 and 567 of chapter V of title 12 of the Code of Federal Regulations as follows:

## PART 565—PROMPT CORRECTIVE ACTION

1. The authority citation for part 565 continues to read as follows:

**Authority:** 12 U.S.C. 1831o.

2. Amend § 565.2 by revising paragraph (f) to read as follows:

### § 565.2 Definitions.

* * * * *

(f) *Tangible equity* means the amount of a savings association's core capital as computed in part 567 of this chapter plus the amount of its outstanding cumulative perpetual preferred stock (including related surplus) and disallowed residual interests minus intangible assets as defined in § 567.1 of this chapter and nonmortgage servicing assets that have not been previously deducted in calculating core capital.

* * * * *

## PART 567—CAPITAL

3. The authority citation for part 567 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828(note).

4. Amend § 567.1 by adding definitions of ''financial asset'', ''residual interests,'' and ''securitization'' to read as follows:

### § 567.1 Definitions.

* * * * *

*Financial asset*. The term *financial asset* means cash, evidence of an ownership interest in an entity, or a contract that conveys to a second entity a contractual right:

(1) To receive cash or another financial instrument from a first entity; or

(2) To exchange other financial instruments on potentially favorable terms with the first entity.

* * * * *

*Residual interests*. (1) The term *residual interests* means balance sheet assets that:

(i) Represent interests (including beneficial interests) in transferred financial assets retained by a seller (or transferor) after a securitization or other transfer of financial assets; and

(ii) Are structured to absorb more than a pro rata share of credit loss related to the transferred assets through subordination provisions or other credit enhancement techniques.

(2) Residual interests do not include interests purchased from a third party.

(3) Residual interests include interest only on strips receivable, spread accounts, cash collateral accounts, retained subordinated interests, and similar on-balance sheet assets that function as a credit enhancement.

* * * * *

*Securitization*. The term *securitization* means the pooling and repackaging of loans or other credit exposures into securities that can be sold to investors.

* * * * *

5. Amend § 567.5 by adding new paragraph (a)(2)(iii) to read as follows:

### § 567.5 Components of capital.

(a) * * *

(2) * * *

(iii) Residual interests that are not includable in core capital under § 567.12 of this part are deducted from assets and capital in computing core capital.

* * * * *

6. Amend § 567.6 by revising paragraph (a) introductory text and paragraph (a)(1) introductory text, and adding paragraph (b) to read as follows:

### § 567.6 Risk-based capital credit risk-weight categories.

(a) *Risk-weighted assets*. Risk-weighted assets equal risk-weighted on-balance-sheet assets (as computed under paragraph (a)(1) of this section), plus risk-weighted off-balance-sheet activities (as computed under paragraph (a)(2) of this section). Assets not included for purposes of calculating capital under § 567.5 are not included in calculating risk-weighted assets.

(1) *On-balance-sheet assets*. Risk-weighted on-balance-sheet assets are computed by multiplying the on-balance-sheet asset amounts times the appropriate risk weight categories, except for residual interests, which are discussed in paragraph (b) of this section. The risk weight categories for on-balance-sheet assets are:

* * * * *

(b) *Residual interests*. (1) *In general*. A savings association must maintain risk-based capital for a residual interest equal to the amount of the residual interest that is retained on the balance sheet (less any amount disallowed under § 567.12(e) and net of any associated deferred tax liability), even though this risk-based capital requirement may exceed the full equivalent risk-based capital requirement for the assets transferred.

(2) *Recourse obligation*. Where a savings association holds a residual interest and another recourse obligation (such as a standby letter of credit) in connection with the same asset transfer, the savings association must maintain risk-based capital equal to the greater of:

(i) The risk-based capital requirement for the residual interest as calculated under paragraph (b)(1) of this section; or

(ii) The full risk-based capital requirement for the assets transferred, subject to the low-level recourse rules (paragraph 6(a)(2)(i)(C) of this section).

7. Amend § 567.9 by revising paragraph (c)(1) to read as follows:

### § 567.9 Tangible capital requirement.

* * * * *

(c) * * *

(1) Intangible assets as defined in § 567.1 of this part, and servicing assets and residual interests not includable in tangible capital under § 567.12 of this part.

* * * * *

8. Amend § 567.11 by redesignating paragraph (c) as paragraph (c)(1) and adding a new paragraph (c)(2) to read as follows:

### § 567.11 Reservation of authority.

* * * * *

(c) * * *

(2) If a savings association has calculated the risk-weighted asset amount under § 567.6, OTS may determine that risk-weighted asset amount does not adequately reflect the credit risk that the savings association retained in the transaction and require the institution to revise the risk-weighted asset amount to reflect the risk of, and other relevant factors associated with, the residual interest.

9. Amend § 567.12 by revising the section heading and paragraphs (a), (b), and (e) and by removing and reserving paragraph (f) to read as follows:

### § 567.12 Intangible assets, servicing assets, and residual interests.

(a) *Scope*. This section prescribes the maximum amount of intangible assets, servicing assets, and residual interests that savings associations may include in calculating tangible and core capital.

(b) *Computation of core and tangible capital*. (1) Intangible assets, as defined

in § 567.1 of this part (other than purchased credit card relationships described under paragraph (b)(2) of this section and core deposit intangibles described at paragraph (g)(3) of this section), are deducted in computing tangible and core capital.

(2) Purchase card relationships may be included (that is not deducted) in computing core capital subject to the restrictions of this section, but must be deducted in computing tangible capital.

(3) Mortgage servicing assets may be included (that is not deducted) in computing core capital subject to the restrictions in this section, and may be included in tangible capital in the same amount.

(4) Nonmortgage servicing assets may be included (that is not deducted) in computing core capital subject to the restrictions in this section. All nonmortgage servicing assets must be deducted in computing tangible capital.

(5) Residual interests may be included (that is not deducted) in computing core capital subject to the restrictions of this section, and may be included in tangible capital in the same amount.

* * * * *

(e) *Core capital limitation.* (1) *Aggregate limit.* The maximum aggregate amount of servicing assets, purchased credit card relationships, and residual interests that may be included in core capital shall be limited to the lesser of:

(i) 100 percent of the amount of core capital computed before the deduction of any disallowed servicing assets, disallowed purchased credit card relationships, and disallowed residual interests; or

(ii) The amount of servicing assets and purchased credit card relationships determined in accordance with paragraph (d) of this section plus the amount of residual interests.

(2) *Reduction by deferred tax liability.* Associations may elect to deduct disallowed servicing assets and residual interests on a basis that is net of any associated deferred tax liability.

(3) *Sublimit for purchased credit card relationships, non mortgage-related servicing assets, and residual interests.* In addition to the aggregate limitation in paragraph (e)(1) of this section, a sublimit shall apply to purchased credit card relationships, non mortgage-related servicing assets, and residual interests. The maximum allowable amount of these three types of assets combined shall be limited to the lesser of:

(i) 25 percent of the amount of core capital computed before the deduction of any disallowed servicing assets, purchased credit card relationships, and residual interests; or

(ii) The amount of purchased credit card relationships and non mortgage-related servicing assets determined in accordance with paragraph (d) of this section plus the amount of residual interests.

(f) [Reserved]

* * * * *

Dated: August 4, 2000.

By the Office of Thrift Supervision.

**Ellen Seidman,**

*Director.*

[FR Doc. 00–24203 Filed 9–26–00; 8:45 am]

BILLING CODES 4810–33–P, 6210–01–P, 6714–01–P, 6720–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–15–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier Model DHC–8–100, –200, and –300 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 Bombardier Model DHC–8–100, –200, and –300 series airplanes. This proposal would require inspecting the endcaps of the main landing gear selector valve for leaks of hydraulic oil and, if leaks are detected, replacing the leaking endcaps or the entire selector valve. This proposal would also require eventual replacement or rework of certain selector valves, which would terminate the repetitive inspections. This action is prompted by a report of the collapse of the main landing gear due to an external leak of hydraulic oil in the landing gear selector valve, resulting from a fracture of the endcap. This action is intended to prevent leaks of hydraulic oil from the main landing gear selector valve, which could result in the collapse of the main landing gear.

**DATES:** Comments must be received by October 27, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–15–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 am and 3:00 pm, 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–15–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 examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

**FOR FURTHER INFORMATION CONTACT:** James E. Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7521; fax (516) 568–2716.

**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 No. 2000–NM–15–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–15–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model DHC–8–100, –200, and –300 series airplanes. TCCA advises that an investigation of the collapse of the main landing gear of a model DHC–8 series airplane identified the cause as an external hydraulic oil leak in the landing gear selector valve due to a fracture of the endcap. TCCA further advises that main landing gear selector valves that have not been upgraded to part number (P/N) 57420–5 configuration are more susceptible to internal leaks and that excessive internal leaks can also contribute to the collapse of the main landing gear.

**Explanation of Relevant Service Information**

Bombardier has issued Alert Service Bulletin A8–32–145, Revision 'A', dated December 3, 1999, which describes procedures for inspection of the endcaps of the main landing gear selector valve for leaks of hydraulic oil and replacement of either the endcaps or the complete main landing gear selector valve, if necessary. The service bulletin also describes procedures for replacement or rework of certain selector valves, which will eliminate the need for the repetitive inspections. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–99–22, dated August 30, 1999, in order to assure the continued airworthiness of these airplanes in Canada.

**FAA's Conclusions**

This airplane model is manufactured in Canada 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, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, 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 Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

**Cost Impact**

The FAA estimates that 235 airplanes of U.S. registry would be affected by this proposed AD, that it would take 9 work hours per airplane to accomplish the proposed inspection and replacement of the main landing gear selector valve (if a leak of hydraulic oil is detected at the first inspection), and that the average labor rate is $60 per work hour. If the operator chooses to replace the endcaps and do repetitive inspections prior to replacing the main landing gear selector valve, the number of work hours will be greater. Required parts would be provided at no charge to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $126,900, or $540 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:

**Bombardier: Docket 2000–NM–15–AD.**

*Applicability:* Model DHC–8–100, –200, and –300 series airplanes, serial numbers 003 through 182 inclusive and 184 through 531 inclusive; certificated in any category.

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

been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent the collapse of the main landing gear due to leaks of hydraulic oil from the main landing gear selector valve, accomplish the following:

**Inspection**

(a) Within 100 flight cycles after the effective date of this AD, perform a general visual inspection of the endcaps of the main landing gear selector valve for the presence of hydraulic oil, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A8–32–145, Revision 'A', dated December 3, 1999. Repeat the inspection thereafter at intervals not to exceed 400 flight hours until the requirements of paragraph (c) are accomplished.

**Note 2:** For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or 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.''

**Replacement or Modification**

(b) If any hydraulic oil is detected on either endcap during any inspection required by paragraph (a) of this AD: Prior to further flight, perform the actions specified in either paragraph (b)(1) or (b)(2) of this AD.

(1) Replace the existing aluminum endcaps, part number (P/N) 34629, with new stainless steel endcaps having P/N 52982, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin S.B. A8–32–145, Revision 'A', dated December 3, 1999. Repeat the inspections required by paragraph (a) at intervals not to exceed 400 flight hours until the requirements of paragraph (c) are met.

(2) Replace the main landing gear selector valve with a valve having P/N 57420–5A, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A8–32–145, Revision 'A', dated December 3, 1999. This action terminates the inspections required by paragraph (a) of this AD.

**Note 3:** Use care when removing the endcaps, so that the internal components do not fall on the ground and get damaged.

(c) Within 12 months after the effective date of this AD: Perform the actions specified in either paragraph (c)(1) or (c)(2) of this AD as applicable, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A8–32–145, Revision 'A', dated December 3, 1999. Accomplishment of either paragraph (c)(1) or (c)(2) terminates the repetitive inspection requirements of this AD.

(1) If a main landing gear selector valve having P/N 57420, P/N 57420–1, or P/N 57420–3 is installed, remove it and replace it with a valve having P/N 57420–5A.

(2) If a main landing gear selector valve having P/N 57420–5 is installed, remove it and replace it with a valve having P/N 57420–5A or modify the valve to the P/N 57420–5A configuration (ModSum 8Q100802).

**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, New York 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, New York ACO.

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York 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.

**Note 5:** The subject of this AD is addressed in Canadian airworthiness directive CF–99–22, dated August 30, 1999.

Issued in Renton, Washington, on September 21, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–24752 Filed 9–26–00; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–79–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A330 and A340 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 Airbus Model A330 and A340 series airplanes. This proposal would require modification of the rib 1/wing center spar attachment. This action is necessary to prevent fatigue cracking at the rib 1/center spar angle and bottom corner fitting, which could result in reduced structural capability of the wing. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by October 27, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–79–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-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–79–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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

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–79–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–79–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A330 and A340 series airplanes. The DGAC advises that, during fatigue testing on a test article, cracks were found at the rib 1/center spar angle and bottom corner fitting. Certain cracks (in the bottom corner fitting and the vertical angle) were attributed to local bending. Such cracking, if not corrected, could result in reduced structural capability of the wing.

**Explanation of Relevant Service Information**

Airbus has issued Service Bulletins A330–57–3017 including Appendix 01, Revision 02, dated October 11, 1999 (for Model A330 series airplanes); and A340–57–4022 including Appendixes 01 and 02, dated October 8, 1999 (for Model A340 series airplanes). These service bulletins describe procedures for modification of the rib 1/wing center spar attachment. The modification involves:

- Installing washers on the bottom corner fitting of the wing center spar to reduce local bending when a tension load is applied through the fasteners, and
- Installing a new vertical angle with a reduced thickness to reduce the stress generated in the angle.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directives 2000–073–111(B), dated February 23, 2000, and 2000–074–136(B), both dated February 23, 2000, in order to ensure the continued airworthiness of these airplanes in France.

**FAA's Conclusions**

These airplane models are manufactured in France and are 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 DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, 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 Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously.

**Cost Impact**

The following information describes the anticipated cost impact on U.S. operators for the proposed modification.

| Model | Number of airplanes on U.S. Register | Number of work hours | Average labor rate per work hour | Cost of required parts | Per-airplane cost |
|---|---|---|---|---|---|
| A330 | 5 | 42 | $60 | $9,950 | $12,470 |
| A340 | 0 | 42 | 60 | 10,099 | 12,619 |

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished the modification of this proposed AD, and that no operator would accomplish these actions in the future if this AD were not adopted. However, the FAA has been advised that the 5 airplanes currently on the U.S. Register have been modified in accordance with the proposed requirements. Therefore, until additional affected airplanes (unmodified) are added to the U.S. Register, this proposed AD would impose no cost on U.S. operators.

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:

**Airbus Industrie:** Docket 2000–NM–79–AD.

*Applicability:* Model A330 and A340 series airplanes, certificated in any category; excluding those on which Airbus Modification 43021 has been installed.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent fatigue cracking at the rib 1/center spar angle and bottom corner fitting, which could result in reduced structural capability of the wing, accomplish the following:

**Modification**

(a) Modify the rib 1/wing center spar attachment, as specified by paragraph (a)(1) or (a)(2), as applicable, of this AD.

(1) For Model A330 series airplanes: Modify before the accumulation of 9,600 total flight cycles or 29,900 total flight hours, whichever occurs first. Do the modification in accordance with Airbus Service Bulletin A330–57–3017 including Appendix 01, Revision 02, dated October 11, 1999.

(2) For Model A340 series airplanes: Modify before the accumulation of 9,300 total flight cycles or 37,200 total flight hours, whichever occurs first. Do the modification in accordance with Airbus Service Bulletin A340–57–4022 including Appendixes 01 and 02, dated October 8, 1999.

**Note 2:** Modification prior to the effective date of this AD in accordance with Airbus Service Bulletin A330–57–3017, dated October 14, 1998, or Revision 01, dated April 9, 1999, is acceptable for compliance with the requirements of paragraph (a) of this AD.

**Alternative Methods of Compliance**

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

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

**Special Flight Permits**

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

**Note 4:** The subject of this AD is addressed in French airworthiness directives 2000–073–111(B) and 2000–074–136(B), both dated February 23, 2000.

Issued in Renton, Washington, on September 21, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–24753 Filed 9–26–00; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 261

**[SW–FRL–6878–3]**

## Hazardous Waste Management System; Proposed Exclusion for Identification and Listing Hazardous Waste

**AGENCY:** Environmental Protection Agency, (EPA).

**ACTION:** Proposed rule and request for comment.

**SUMMARY:** The EPA (also, ''the Agency'' or ''we'' in this preamble) is proposing to grant a petition submitted by USG Corporation (USG), Chicago, Illinois, to exclude (or ''delist''), on a one-time basis, certain solid wastes that are interred at an on-site landfill at its American Metals Corporation (AMC) facility in Westlake, Ohio from the lists of hazardous wastes contained in Subpart D of 40 Code of Federal Regulations (CFR) Part 261. This landfill was used exclusively by Donn Corporation, the original site owner, for disposal of its wastewater treatment plant (WWTP) sludge from 1968 to 1978.

USG submitted the petition under 40 CFR 260.20 and 260.22(a). Section 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268 and 273. Section 260.22(a) specifically provides a generator the opportunity to petition the Administrator to exclude a waste on a ''generator specific'' basis from the hazardous waste lists.

The Agency has tentatively decided to grant the petition based on an evaluation of waste-specific information provided by USG. This proposed decision, if finalized, conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

We conclude that USG's petitioned waste is nonhazardous with respect to the original listing criteria or factors which could cause the waste to be hazardous.

**DATES:** *Comments.* We will accept public comments on this proposed decision until November 13, 2000. We will stamp comments postmarked after the close of the comment period as ''late.'' These ''late'' comments may not be considered in formulating a final decision.

*Request for Public Hearing.* Your request for a hearing must reach EPA by October 12, 2000. The request must contain the information prescribed in § 260.20(d).

**ADDRESSES:** *Comments.* Please send two copies of your comments to Todd Ramaly, Waste Management Branch (DW–8J), Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, IL 60604.

*Request for Public Hearing.* Any person may request a hearing on this proposed decision by filing a request with Robert Springer, Director, Waste, Pesticides and Toxics Division, Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, IL 60604.

**FOR FURTHER INFORMATION CONTACT:** For technical information concerning this document, contact Todd Ramaly at the address above or at 312–353–9317. The RCRA regulatory docket for this proposed rule is located at the EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, and is available for viewing from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays. Call Todd Ramaly at (312) 353–9317 for appointments. The public may copy material from the regulatory docket at $0.15 per page.

**SUPPLEMENTARY INFORMATION:**

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## I. Overview Information

### *A. What Action Is EPA Proposing?*

The EPA is proposing to grant USG's petition to have its wastewater treatment sludge excluded, or delisted, from the definition of a hazardous waste. We evaluated the petition using a fate and transport model to predict the concentration of hazardous constituents which could be released from the petitioned waste after it is disposed.

### *B. Why Is EPA Proposing To Approve This Delisting?*

USG petitioned EPA to exclude, or delist, the wastewater treatment sludge because USG believes that the petitioned waste does not meet the criteria for which EPA listed it. USG also believes there are no additional constituents or factors which could cause the wastes to be hazardous. Based on our review described below, we agree with the petitioner that the waste is nonhazardous.

In reviewing this petition, we considered the original listing criteria and the additional factors as required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(2) through (4). We evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (3) and in the background documents.

We also evaluated the waste for other factors including (1) the toxicity of the constituents; (2) the concentration of the constituents in the waste; (3) the tendency of the hazardous constituents to migrate and to bioaccumulate; (4) persistence in the environment of any constituents released from the waste; (5) plausible and specific types of management of the petitioned waste; (6) the quantity of waste produced; and (7) waste variability.

We believe that the petitioned waste does not meet the criteria for which the waste was listed, and have tentatively decided to delist waste from the AMC Westlake landfill.

### *C. How Will USG Manage the Waste If It Is Delisted?*

If the petitioned waste is delisted, USG must dispose of it in a Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial waste. This exclusion does not change the regulatory status of the landfill in Westlake, Ohio where the waste has been disposed.

### *D. When Would EPA Finalize the Proposed Delisting Exclusion?*

HSWA specifically requires the EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, EPA will not make a final decision or grant an exclusion until it has addressed all timely public comments (including those at public hearings, if any) on today's proposal.

Since this rule would reduce the existing requirements for persons generating hazardous wastes, the regulated community does not need a six-month period to come into compliance in accordance with section 3010 of RCRA as amended by HSWA. Therefore, the exclusion would become effective upon finalization.

### *E. How Would This Action Affect the States?*

Because EPA is issuing today's exclusion under the federal RCRA delisting program, only states subject to federal RCRA delisting provisions would be affected. This exclusion may not be effective in states having a dual system that includes federal RCRA requirements and their own requirements, or in states which have received our authorization to make their own delisting decisions.

Under section 3009 of RCRA, EPA allows states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. Because a dual system (that is, both federal (RCRA) and state (non-RCRA) programs) may regulate a petitioner's waste, we urge petitioners to contact the state regulatory authority to establish the status of their wastes under the state law.

EPA has also authorized some states to administer a delisting program in place of the federal program, that is, to make state delisting decisions. Therefore, this exclusion does not apply in those authorized states. If USG transports the petitioned waste to or manages the waste in any state with delisting authorization, USG must obtain a delisting from that state before it can manage the waste as nonhazardous in the state.

## II. Background

### *A. What Is the History of the Delisting Program?*

The EPA published an amended list of hazardous wastes from nonspecific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA. The EPA has amended this list several times and published it in 40 CFR 261.31 and 261.32.

We list wastes as hazardous because: (1) they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of Part 261 (that is, ignitability, corrosivity, reactivity, and toxicity) or (2) they meet the criteria for listing contained in § 261.11(a)(2) or (3).

Individual waste streams may vary depending on raw materials, industrial processes, and other factors. Thus, while a waste described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be.

For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, called delisting, which allows a person to demonstrate that EPA should not regulate a specific waste from a particular generating facility as a hazardous waste.

*B. What Is a Delisting Petition, and What Does It Require of a Petitioner?*

A delisting petition is a request from a facility to EPA or an authorized state to exclude waste generated at a particular facility from the list of hazardous wastes.

In a delisting petition, the petitioner must show that wastes generated does not meet any of the criteria for listed wastes and does not exhibit any of the hazardous waste characteristics in 40 CFR Part 261, Subpart C. The criteria for which EPA lists a waste are in 40 CFR 261.11 and in the background documents. The petitioner must also present sufficient information to determine whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. (See § 260.22, 42 U.S.C. 6921(f) and the background documents for the listed wastes.)

A generator remains obligated under RCRA to confirm that its waste remains nonhazardous based on the hazardous waste characteristics even if EPA has ''delisted'' the wastes.

*C. What Factors Must EPA Consider in Deciding Whether To Grant a Delisting Petition?*

EPA must also consider as a hazardous waste, a mixture containing listed hazardous wastes and wastes derived from treating, storing, or disposing of a listed hazardous waste. See 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), called the ''mixture'' and ''derived-from'' rules, respectively. These wastes are also eligible for exclusion and remain hazardous wastes until excluded.

The ''mixture'' and ''derived-from'' rules are now final, after having been vacated, remanded, and reinstated.

## III. EPA's Evaluation of the Waste Information and Data

*A. What Wastes Did USG Petition EPA To Delist?*

On May 22, 1997, USG petitioned EPA to exclude the estimated total landfill volume of the WWTP sludge (estimated at 12,400 cubic yards) from the list of hazardous wastes contained in 40 CFR 261.31 in order to facilitate ongoing corrective action at the AMC site. The WWTP sludge is described in USG's petition as a mixture of (1) EPA Hazardous Waste Number F019 wastewater treatment sludge that was generated from the chemical coating of aluminum, (2) other nonhazardous wastewater treatment sludges derived from the chemical coating of steel and galvanized steel, and (3) various nonhazardous solid wastes. F019 is defined as ''Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process.'' The constituents of concern for which F019 is listed are hexavalent chromium and complexed cyanide.

*B. What Information and Analyses Did USG Submit To Support This Petition?*

To support its petition, USG submitted (1) descriptions and schematic diagrams of its manufacturing and wastewater treatment processes, including historical information on past waste generation and management practices; (2) detailed chemical and physical analysis of the landfilled sludge (see Section III.D.); and (3) environmental monitoring data from recent studies of the facility, including groundwater data from wells located in and around the on-site landfill.

*C. How Did USG Generate the Petitioned Waste?*

AMC began generating wastewater treatment sludge in 1965 with the start of its metal coil coating line. After 1967, AMC cleaned, chemically coated, painted, and slit large coils of steel, galvanized steel, and aluminum, into metal strips that were fabricated into the structural components for suspended ceiling panels. Wastewater from the coil coating line contained dissolved metals and vegetable oils that were treated in the AMC WWTP. As part of the wastewater treatment process, oils were removed in an oil/water separator and metals were precipitated in a ''lime'' sludge. The AMC wastewater treatment system received process water from the coil coating process line from the initial wash and rinse phase and from the chemical processing phase. The pH was adjusted and the solid materials were precipitated. When steel or galvanized coils were processed, wastewater treatment sludges were generated which were not listed RCRA hazardous waste. The F019 listed wastes were generated when aluminum coils were processed. Both the listed and the non-listed sludges were commingled and pumped into several on-site surface impoundments for settling and drying. In 1965 and 1966, sludges were transferred to surface impoundments for settling and drying. From 1968 to 1978, this sludge was transferred from the surface impoundments to the landfill or were disposed of off-site. Sludges that were placed in the landfill were co-mingled with other waste debris. The landfill was covered with a layer of clay soils obtained from an off-site highway construction project. In 1978, the use of the landfill was discontinued and the landfill was covered with approximately 1 to 5 feet of fill soils.

The AMC WWTP would batch treat process wastewater from the coil coating final hot rinse step in order to reduce hexavalent chromium to trivalent chromium. The wastewater was treated with sodium metabisulfite and emptied once a week into the chemical sump for further treatment in the WWTP.

*D. How Did USG Sample and Analyze the Data in This Petition?*

USG analyzed the landfilled sludge and groundwater samples from the monitoring well network for hazardous constituents listed in 40 CFR Part 264, Appendix IX and for other parameters.

USG's sampling strategy consisted of dividing the landfill surface area into four equal quadrants. One boring was drilled near the center of each quadrant. One composite sample representing the total depth of the landfill was collected and submitted. The Agency evaluated the petitioned waste using these four samples in combination with data from the RCRA Facility Investigation (up to 20 additional samples) and subsequent waste designation studies (up to 13 additional samples).

To quantify the total constituent and leachate concentrations, USG used the following SW–846 Methods: 6010/7000 series for antimony, arsenic, barium, beryllium, cadmium, chromium, hexavalent chromium, cobalt, copper, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, tin, vanadium, and zinc; 8240 for Appendix IX Volatile Organic Compounds (VOCs); 8270 for Appendix IX Semi-Volatile Organic Compounds (SVOCs); 8080 for organochlorine pesticides and polychlorinated biphenyls (PCBs); 8140 for organochlorine pesticides; 8150 for chlorinated herbicides. USG used these methods along with the Toxicity Characteristic Leaching Procedure (TCLP, SW–846 Method 1311) to determine leachate concentrations of metals, herbicides, pesticides, PCBs, VOCs, and SVOCs. Characteristic testing of the filter cake samples also included analysis of ignitability (SW–846 Method 1010) and corrosivity (SW–846 Method 9095). Historical analysis for dioxins and furans was done using method 8280. More recent dioxins and furans data was submitted using EPA Method 8290.

*E. What Were the Results of USG's Analysis?*

The maximum total and leachate concentrations for 17 metals, total cyanide and all detected organic

constituents in USG's waste samples are summarized in the table found in section VI.A. below. We believe it is inappropriate to evaluate a constituent in our modeling efforts if the constituent was not detected using an appropriate analytical method. EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with the petition binds the petitioner to present truthful and accurate results. USG submitted a signed Certification of Accuracy and Responsibility statement presented in 40 CFR 260.22(i)(12).

## IV. Methodology for Risk Assessment

### *A. How Did EPA Evaluate the Risk of Delisting This Waste?*

For this delisting determination, we used information gathered to identify plausible exposure routes (*i.e.,* groundwater, surface water, air) to hazardous constituents present in the petitioned waste. We estimated the risk posed by the waste if disposed of in an unlined Subtitle D landfill which, under a plausible mismanagement scenario, did not receive daily cover for 30 days at a time. Constituents of concern are assumed to migrate to a receptor through groundwater, air, and surface water routes. We used a Windows based software tool, the Delisting Risk Assessment Software Program (DRAS) developed by Region 6, to estimate the potential releases of waste constituents and to predict the risk associated with those releases. A detailed description of DRAS and the fate, transport and risk models it uses follows.

#### 1. Introduction

During a delisting determination, the Agency uses risk assessment methodologies to predict the concentration of hazardous constituents released from the petitioned waste after disposal to determine the potential impact on human health and the environment. The DRAS Program has been used to estimate the potential releases of waste constituents to waste management units. The program also predicts the risk associated with exposure to those releases using fate and transport mechanisms to predict releases and risk assessment algorithms to estimate adverse effects from exposure to those chemical releases. The DRAS computes chemical-specific exit values or ''delisting levels.'' The delisting levels are calculated using modeled, medium-specific chemical concentrations and standard EPA exposure assessment and risk characterization algorithms. We detailed all chemical release, exposure, and risk characterization methodologies in the EPA Region 6 RCRA Delisting Technical Support Document.

The Agency has used the maximum estimated annual waste volume and the maximum reported leachate and total waste constituent concentrations as the input data into the DRAS program to generate compliance point concentrations and estimate risk. The compliance point is the location of an individual exposed to potential releases of delisted wastes for the purpose of evaluating risk. Compliance point concentrations are generated in a two-part process. First, the DRAS back-calculates a waste constituent concentration that an individual (receptor) may be exposed to without unacceptable risk. Then, knowing the maximum concentration permitted at the compliance point, the fate and transport models are used to back-calculate the maximum permissible concentration at the waste management unit that could be disposed of without exceeding the compliance point concentration.

The risk assessment performed by the DRAS program which underlies the proposed rule is based upon a comprehensive approach to evaluating the movement of waste constituents from their waste management units, through different routes of exposure or pathways, to the points where human and ecological receptors are potentially exposed to these constituents. This risk assessment is being used in today's proposed rule to determine whether the petitioned RCRA listed waste can be defined as ''low-risk'' waste, able to exit the Subtitle C system and be managed in Subtitle D units. Low risk wastes are generally defined by Region 5 as wastes with a cancer risk of no more than $1\times10^{-6}$ or a hazard quotient of no more than 1.0. A cancer risk of $1\times10^{-6}$ indicates a one in 1,000,000 probability of an individual developing cancer over a lifetime. For noncarcinogenic chemicals, a hazard quotient of one represents potential exposure equal to the safe toxicity threshold value. The program back-calculates allowable waste constituent concentrations at the selected risk levels.

Although the pathway of ingestion of contaminated groundwater may be appropriate to propose exit levels for some wastes and constituents, it may not be protective for others, depending on the physical and chemical properties of each waste constituent. Some constituents have a high potential to bioaccumulate or bioconcentrate in living organisms. Pathways in which these constituents come in contact with fish would be important to evaluate.

The DRAS program performs an extensive risk assessment that examines numerous exposure pathways, rather than just the groundwater ingestion pathway. The DRAS program evaluates exposures associated with managing wastes in Subtitle D landfills or surface impoundments. Elements of the risk assessment procedure performed by the DRAS that support this proposal have undergone review by the Science Advisory Board and EPA's Office of Research and Development. The use of CMTP as used in the DRAS was favorably received by the SAB. ORD reviewed all other aspects of the DRAS program and responded favorably with comments. All ORD comments were addressed and incorporated into the DRAS program.

#### 2. What Conditions Does the Agency Use in Determining Whether a Waste May Be Delisted?

The EPA's approach in RCRA delisting risk analyses has typically been to represent a reasonable worst-case waste disposal scenario for the petitioned waste rather than use of site-specific factors. The Agency believes that a reasonable worst-case scenario results in conservative values for the compliance point concentrations and is appropriate when determining whether a waste should be relieved of the management constraints of RCRA Subtitle C. Site-specific factors (*e.g.,* site hydrogeology) are not considered because a delisted waste is no longer subject to hazardous waste control, and therefore, the Agency is generally unable to predict and does not control where and how a waste will be managed after delisting.

#### 3. How Is the Risk Assessment in the DRAS Program Structured?

The assessment estimated the risk associated with constituent-specific concentrations in the petitioned waste at the management unit that could be expected to result in an acceptable exposure to human or ecological receptors (determined through using the toxicity benchmarks such as reference doses—RfDs). The risk assessment took into account the various pathways by which waste constituents may move through the environment from the waste management unit to a receptor. The DRAS uses the fate and transport mechanisms to predict waste constituent movement. The potential exposure pathways considered in the assessment are not all-inclusive but were selected to reflect those that might be commonly associated with the management of wastes in Subtitle D units. The management units could

potentially be located in the range of environments that exist across the United States. Various environments have differing characteristics (*e.g.,* meteorological conditions, soil type) with some environments more conducive for the movement of certain constituents in certain pathways. Conditions resulting in a conservative evaluation were used for each pathway, regardless of whether or not these conditions are likely to occur simultaneously at any one location. The assessment was structured using a deterministic approach. A deterministic approach uses a single, point estimate of the value of each input or parameter and calculates a single result based on those point estimates. The assessment used the best data available to select typical (*i.e.,* approximately 50th percentile) and high-end (*i.e.,* approximately 90th percentile) values for each parameter or parameter. The DRAS code which performs the assessment is constructed as a set of calculations that begin with an acceptable exposure level for a constituent to a receptor, and back-calculates to a waste constituent concentration in the management unit that corresponds to the acceptable risk level.

The steps of the assessment which provide estimates of acceptable constituent-specific concentrations in waste include the following:

Step 1—Specify acceptable risk levels for each constituent and each receptor.

Step 2—Specify the exposure medium. Using the toxicity benchmarks as a starting point and the exposure equations, the assessment back calculates the concentration of contaminant in the medium (*e.g.,* air, water, soil) that corresponds to ''acceptable'' exposure at the specified risk level. The exposure equations coded into the DRAS software include a quantitative description of how a receptor comes into contact with the contaminant and how much the receptor takes in through specific mechanisms (*e.g.,* ingestion, inhalation, dermal adsorption) over some specified period of time.

Step 3—Calculate the point of release concentration from the exposure concentration. Based on the back-calculated concentration in the exposure medium (from Step 2), the concentration in the medium to which the contaminant is released to the environment (*i.e.,* air, soil, groundwater) for each pathway/receptor was modeled. The end result of this calculation is a waste constituent concentration at the point of release from the waste management unit (where the exempted waste is disposed) that will not result in adverse effects to human health and the environment.

4. When Assessing the Risk of the Exempted Waste, Where Does the DRAS Assume the Waste is Deposited?

The DRAS risk assessment evaluates risks associated with petitioned RCRA wastes deposited to two waste management scenarios: landfills and surface impoundments. A landfill waste management scenario is used for the evaluation of solid wastes, while a surface impoundment waste management scenario is used for the evaluation of liquid wastes. The determination of whether a waste is a liquid waste is made using EPA approved Test Method 9095, referred to as the Paint Filter Test. Data to characterize landfills were obtained from a 1987 nationwide survey of industrial Subtitle D landfills. For releases to groundwater, EPA's Composite Model for leachate migration with Transformation Products (EPACMTP) fate and transport model was used by DRAS. The model assumes that solid wastes remain uncovered for thirty days after disposal and that the landfill will finally be covered with a 2-foot-thick native soil layer. The Subtitle D landfill is assumed to be unlined or if lined, that any liner at the base of the landfill will eventually completely fail.

The DRAS assumes that liquid industrial wastes are disposed of in an unlined surface impoundment with a sludge or sediment layer at the base of the impoundment and that releases of contaminants originate from the surface impoundment. The surface impoundment is taken to have a 20-year operational life. After this period, the impoundment may be filled in, or simply abandoned. In either case, the remaining waste in the impoundment will leach into the unsaturated zone relatively quickly. Therefore, the duration of the leaching period in the modeling analysis is set equal to 20-years.

5. What Types of Chemical Releases From the Waste Management Units Does the DRAS Evaluate?

The DRAS evaluates chemical releases of waste constituents from the waste management units to air, surface runoff and ground water. Using the EPACMTP fate and transport model, DRAS evaluates the potential release of waste contaminants to the ground water. In this evaluation, the differences between waste management units are represented by different values or frequency distributions of the source-specific parameters. Source-specific parameters used by the EPACMTP predict releases to the ground water from landfills include:

- Capacity and dimensions of the waste management unit;
- Leachate concentration;
- Infiltration and recharge rates;
- Pulse duration;
- Fraction of hazardous waste in the waste management unit;
- Density of the waste and;
- Concentration of the chemical constituent in the hazardous waste.

The source-specific parameters used by the model for surface impoundments include:

- The area;
- The ponding depth (such as the depth of liquid in the impoundment) and;
- The thickness and hydraulic conductivity of the sludge or sediment layer at the bottom of the impoundment.

Data on the areas, volumes, and locations of waste management units were obtained from the 1987 EPA Survey of Industrial Subtitle D waste facilities in the United States. Derivation of the parameters for each type of waste management unit is described in the EPACMTP Background Document and User's Guide.

For finite-source scenarios, simulations are performed for transient conditions, and the source is assumed to be a pulse of finite duration. In the case of landfills, the pulse duration is based on the initial amount of contaminant in the landfill, infiltration rate, landfill dimensions, waste and leachate concentration, and waste density. For surface impoundments, the duration of the leaching period is determined by the waste management unit's lifetime (the default value is 20 years). For a finite-source scenario, the model can calculate either the peak receptor well concentration for noncarcinogens or an average concentration over a specified period for carcinogens. The finite-source methodology in the EPACMTP is discussed in detail in the background document.

The DRAS evaluates releases of waste constituents from the waste management to the air. Releases of chemicals to the air may be in the form of either particulates or volatile concentrations. Inhalation of particulates and their absorption into the lungs at the point of exposure (POE) and air deposition of particulates and subsequent ingestion of the soil-waste mixture at the POE are a function of particulate releases. The DRAS calculates particulate emissions resulting from wind erosion of soil-waste surfaces, from vehicular traffic, and from waste loading and unloading. To estimate the respirable particulate

emissions resulting from wind erosion of surfaces with an infinite source of erodible particles, DRAS uses the methodology documented in Rapid Assessment of Exposure to Particulate Emissions from Surface Contamination Sites (RAEPE). The methodologies documented in Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources (AP–42) were employed to calculate the dust and particulate emissions resulting both from vehicular traffic and from waste loading and unloading operations at a facility.

Particulate emission rates computed using these methodologies were summed and entered in the Ambient Air Dispersion Model, a steady-state, Gaussian plume dispersion model developed by EPA to predict the concentrations of constituents 1,000 feet downwind of a hypothetical land disposal facility. For a complete description and discussion, refer to the 1985 Ambient Air Dispersion Model (AADM). The model assumes that:

1—the emission rate is constant over time;

2—the emissions arise from an upwind virtual point source with emissions occurring at ground level and;

3—no atmospheric destruction or decay of the constituent occurs.

The DRAS assumes typical or conservative values for all variables that are likely to influence the potential for soil erosion, including wind velocity and vegetative cover. The AADM unit dimension assumptions were modified to more closely resemble a landfill's. The DRAS equations compute emissions resulting from wind erosion, vehicular traffic, and waste loading and unloading. These equations are thoroughly described in the Region 6 Delisting Technical Support Document. For the landfill waste disposal scenario, the DRAS assumed that no vegetative cover is present, thereby assuming enhanced erodability of soil or waste. The mean annual wind speed is assumed to be 4 meters per second. This value represents the average of the wind speeds registered at U.S. climatological stations as documented in Table 4–1 of RAEPE. The DRAS assumes a month's (30 days') worth of waste would be uncovered at any one time.

Although particulates greater than 10 micrometers (μm) in size generally are not considered respirable, the DRAS calculates the emission rate for particle sizes up to 30 μm in order to assess the potential impact of deposition and ingestion of such particulates using the distributions of wind-eroded particulates presented in RAEPE. Specifically, these distributions indicate that the release rate for particulates up to 30 μm in size should be approximately twice the release rate calculated for particulates 10 μm in size. The DRAS calculates the total annual average emissions of respirable particulates by summing for wind erosion, for vehicle travel, and for waste loading and unloading operations. The DRAS evaluates air deposition of the annual total emissions of particulates less than or equal to 30 μm in size to soil 1,000 feet from the edge of a disposal unit. DRAS calculates the resulting soil concentration after one year of accumulation, conservatively assuming no constituent removal (no leaching, volatilization, soil erosion, or degradation).

The DRAS also evaluates the atmospheric transport and inhalation of volatile constituents which was developed by EPA's Office of Air Quality Planning and Standards (OAQPS) and has been recommended for use in risk assessments conducted under the Superfund program. The DRAS program, is currently being revised to incorporate Shen's modification of Farmer's equation which will result in a better estimate of volatile emissions. Since the maximum concentration of volatiles in USG's waste is low, this pathway will not be reevaluated using the revised approach, unless the revised version of DRAS becomes available. Estimates of emissions of VOCs from disposal of wastewaters in surface impoundments are computed with EPA's Surface Impoundment Modeling System (SIMS). SIMS was developed by EPA's OAQPS. Further information can be found in the Background Document for the Surface Impoundment Modeling System Version 2.0. The volatile emission rates derived from the respective waste management scenario are used by the AADM steady-state Gaussian plume dispersion model to predict the concentrations of constituents 1,000 feet downwind of a hypothetical disposal facility.

The DRAS evaluates potential releases of waste constituents to accessible surface waters. Exposure through the surface water pathway results from erosion of hazardous materials from the surface of a solid waste landfill and transport of these constituents to nearby surface water bodies. The DRAS uses the universal soil loss equation (USLE) to compute long-term soil and waste erosion from a landfill in which delisted waste has been disposed of. The USLE is used to calculate the amount of waste that will be eroded from the landfill. In addition, the size of the landfill is computed using the waste volume estimate provided by the petitioner. The volume of surface water into which runoff occurs is determined by estimating the expected size of the stream into which the soil is likely to enter. The amount of soil delivered to surface water is calculated using a sediment delivery ratio. The sediment delivery ratio determines the percentage of eroded material that is delivered to surface water based on the assumption that some eroded material will be redeposited between the landfill and the surface water body. A distance of 100 meters (m) to the nearest surface water body is assumed. The DRAS program as used here is currently being revised to account for partitioning between water and suspended solids when the eroded waste enters the stream. Due to the significant impact of this pathway in the evaluation of USG's petition, the risk posed through this pathway was reevaluated manually using the same partitioning approach which is being incorporated into the next version of the DRAS program (See the Docket Report on Evaluation of Contaminant Releases to Surface Water Resulting from American Metals' Petitioned Waste). Conservative values are used in the manual recalculation for variables likely to influence the potential for soil erosion and subsequent discharge to surface water. Rainfall erosion factor values range from 20 to 550 per year. Values greater than 300 occur in only a small proportion of the southeastern United States. A value of 300 was chosen as a conservative estimate ensuring that a reasonable worst-case scenario is provided for most possible landfill locations. Soil erodibility factors range from 0.1 to 0.69 ton per acre. A value of 0.3 was selected for the analysis, which is estimated to exceed 66% of all values assuming a normal distribution. One month's worth of waste is assumed to be left uncovered at any one time and thus would be readily transportable by surface water runoff. Other variables used by the DRAS and in the manual calculation to evaluate releases to surface waters employed conservative assumptions. Both the DRAS and the manual recalculation multiply the total annual mass of eroded material by the sediment delivery ratio to determine the mass of soil and waste delivered to surface water.

The predicted erosion capacity is gradually diluted as it mixes with nearby surface waters. DRAS selects a representative volume or flux rate of surface water based on stream order, which is a system of taxonomy for streams and rivers. A stream that has no other streams flowing into it is referred to as a first-order stream. Where two

first-order streams converge, a second-order stream is created. Where two second-order streams converge, a third-order stream is created. Data indicate that second-order streams have an estimated flow rate of 3.7 cubic feet per second. The second-order stream was selected for analysis as the smallest stream capable of supporting recreational fishing. Fifth-order streams were also chosen for analysis as the smallest streams capable of serving as community water supplies. Fifth-order stream flow is estimated to be 380 cubic feet per second.

6. By What Means May an Individual Be Exposed to the Proposed Exempted Waste?

An exposure scenario is a combination of exposure pathways through which a single receptor may be exposed to a waste constituent. Receptors may be human or other animal in an ecosystem. There are many potential exposure scenarios. The DRAS evaluated the risks of the proposed waste associated with the exposure scenarios most likely to occur as a result of releases from the waste management unit. Receptors may come into contact with delisted waste constituent releases from a waste management unit via two primary exposure routes, either (1) directly via inhalation or ingestion of water or (2) indirectly via subsequent ingestion of soil and foodstuffs (such as fish) that become contaminated by waste constituents through the food chain. Receptors may also be exposed to waste constituents released from a waste management unit to surface media (via volatilization to air or via windblown particulate matter) or to groundwater (via ingestion of groundwater). The exposure scenarios assessed by DRAS are generally conservative in nature and are not intended to be entirely representative of actual scenarios at all sites. Rather, they are intended to allow standardized and reproducible evaluation of risks across most sites and land use areas. Conservatism is incorporated to ensure protection of potential receptors not directly evaluated, such as special subpopulations. The recommended exposure scenarios and associated assumptions assessed by DRAS are reasonable and conservative and they represent a scientifically sound approach that allows protection of human health and the environment.

7. What Receptors Are Assessed for Risk From Exposure to the Proposed Exempted Waste?

Adult and child residents are the two receptors evaluated in this analysis. The adult resident exposure scenario is evaluated to account for the combination of exposure pathways to which an adult receptor may be exposed in an urban or rural (nonfarm) setting. The adult resident is assumed to be exposed to waste constituents from an emission source through the following exposure pathways:

1—Direct inhalation of vapors and particles;

2—Ingestion of fish;

3—Ingestion of drinking water from surface water sources;

4—Ingestion of drinking water from groundwater sources;

5—Dermal absorption from groundwater sources via bathing;

6—Inhalation from groundwater sources via showering.

DRAS evaluates two exposure pathways for children: (1) dermal absorption while bathing with potentially contaminated groundwater and (2) the ingestion of soil containing contaminated particulates which have need emitted from the landfill and deposited on the soil. Child residents (1 to 6 years old) were not selected as receptors for the groundwater ingestion and inhalation pathways, the surface water pathways, or the direct air inhalation pathways because the adult resident receptor scenario has been found to be protective of children with regard to these pathways. There is no indication that children consume more drinking water or inhale more air per unit of body weight, factoring in the recognized exposure duration, than adults. Therefore, average daily exposure normalized to body weight would be identical for adults and children. Likewise, a child receptor was not included for the freshwater fish ingestion pathway because there is no evidence that children consume more fish relative to their body weight, factoring in exposure duration, than do adults. The dermal absorption while bathing with groundwater exposure pathway is evaluated differently for child residents than it is for adult residents because of the following considerations: (1) The ratio of exposed skin surface area to body weight is slightly higher for children than for adults, resulting in a slightly larger average daily exposure for children than for adults; and (2) the exposure duration for such children is limited to 6 years, thus lowering the lifetime average exposure to carcinogens. Typically, the adult scenario is more protective with regard to carcinogens (because of the longer exposure duration), and the child scenario is more protective with regard to noncarcinogens (because of the greater skin surface area to body weight ratio).

8. Where Does the DRAS Assume That Receptors Are Located When Performing the Risk Evaluation?

The EPACMTP, a probabilistic groundwater fate and transport model, was used to predict groundwater constituent concentrations at a hypothetical receptor well located downgradient from a waste management unit. This receptor well represents the POE. That is, the predicted waste constituent concentration at the POE is used to assess the risk of the proposed exempted waste. The distance to the well is based on the results of the 1987 nationwide survey of landfills conducted by EPA's Office of Solid Waste (OSW) which determined the distance to the nearest drinking water well downgradient from municipal landfills. The survey data are entered in the EPACMTP model as an empirical distribution: minimum = 0 m, median = 427 m, and maximum = 1,610 m (approximately 1 mile). In contrast to the 1990 Toxicity Characteristic (TC) Rule (55 FR 11798), there is no requirement that the well lie within the leachate plume.

For carcinogenic waste constituents, the exposure concentration is defined as the maximum 30 year average receptor well concentration; for noncarcinogens, the exposure concentration is taken to be the highest receptor well concentration during the modeled 10,000 year period. A 10,000 year limit was imposed on the exposure period; that is, the calculated exposure concentration is the peak or highest 30 year average concentration occurring within 10,000 years following the initial release from the waste management unit. The fate and transport simulation within the CMTP provided a probability distribution of receptor well concentrations as a function of expected leachate concentration. Using the receptor well concentrations as a function of the waste constituent concentration, the EPACMTP derived chemical-specific dilution attenuation factors (DAFs) which convert a leachate concentration in the landfill to a groundwater concentration at the receptor well.

Human exposure routes for surface water include ingestion of surface water used as drinking water and ingestion of fish from nearby surface water bodies. For the surface water ingestion exposure route, the surface water POE modeled is a fifth-order stream 100 m from the waste management unit. Fifth-order streams were chosen for analysis because EPA assumes that a fifth-order

stream is the smallest stream capable of serving as a community water supply. The assumption of a 100 m distance to the nearest surface water body is a conservative assumption based on available data. An EPA survey of municipal landfill facilities showed that 3.6 percent of the surveyed facilities are located within 1 mile of a river or stream and that the average distance from these facilities to the closest river or stream is 586 m. For the fish ingestion exposure route, a second-order stream was chosen for analysis. This stream segment was determined to be the smallest stream capable of supporting fisheries. The POE in the surface water body for collection of fish is assumed to be 100 m downgradient from the disposal facility. Human exposure to emissions of windblown particulates from landfills and to emissions of volatiles from landfills and surface impoundments is assessed by the DRAS. For the air pathway, the DRAS assumes the POE is 305 m (1,000 feet) downwind of the waste management unit.

9. How Does DRAS Determine Rates of Exposure?

The calculation of constituent-specific exposure rates for each exposure pathway evaluated were based on:

1—The estimated concentration in a given medium as calculated in DRAS;

2—The contact rate;

3—Receptor body weight, and;

4—The frequency and duration of exposure.

This calculation is repeated for each constituent and for each exposure pathway included in an exposure scenario. Exposure to hazardous constituents is assumed to occur over a period of time. To calculate an average exposure per unit of time, the DRAS divides the total exposure by the time period. Exposures are intended to represent reasonable maximum exposure (RME) estimates for each applicable exposure route. The RME approach is intended to combine upper-bound and mid-range exposure factors so that the result represents an exposure scenario that is both protective and reasonable, not the worst possible case.

10. What Rate of Contact With a Contaminated Media Does the DRAS Use?

The contact rate is the amount of contaminated medium contacted per unit of time or event. Contact rates for subsistence food types (fish for the fish ingestion pathway) are assumed to be 100 percent from the hypothetical assessment area (surface water body). The following sections describe exposure pathway-specific contact rates.

11. What Are the Contact Rates at Which Individuals Are Exposed to Contaminated Media?

For groundwater and surface water ingestion, the intake rate is assumed to be 2.0 liters per day (l/day), the average amount of water that an adult ingests. This value, which is currently used to set drinking water standards, is close to the current 90th percentile value for adult drinking water ingestion (2.3l/day) reported in the EPA Exposure Factors Handbook. This value approximates the 8 glasses of water per day historically recommended by health authorities. The contact for the dermal exposure pathway is assumed to occur while bathing with contaminated groundwater. In this analysis, the DRAS assumes that the average adult resident is in contact with groundwater during bathing for 0.25 hour per event and that the average child resident is in contact with groundwater during bathing for 0.33 hour per event, with one event per day. For dermal bathing exposure to contaminated groundwater, the selected receptors are an adult and a young child (1 to 6 years old). During bathing, generally all of the skin surface is exposed to water. The total adult body surface area can vary from about 17,000 to 23,000 square centimeters ($cm^2$). The EPA Exposure Factors Handbook (EFH) reports a value of 20,000 $cm^2$ as the median value for adult skin surface area. A value of 6,900 $cm^2$ has been commonly used for a child receptor in EPA risk assessments; this value is approximately the average of the median values for male children aged 2 to 6. The EFH presents a range of recommended values for estimates of the skin surface area of children by age. The mean skin surface area at the median for boys and girls 5 to 6 years of age is 0.79 square meters ($m^2$) or 7,900 $cm^2$. Given that the age for children is defined as 0 to 6 years (see EFH Section 3.3.4), a skin surface area value for ages 5 to 6 years would be a conservative estimate of skin surface area for children. For calculation of dermal exposure to waste constituents, the DRAS uses a value of 7,900 $cm^2$ for the skin surface area of children and a value of 20,000 $cm^2$ for the skin surface area of adults.

For the groundwater pathway of inhalation exposure during showering, the contact with water is assumed to occur principally in the shower and in the bathroom. The DRAS analysis assumes that the average adult resident spends 11.4 minutes per day in the shower and an additional 48.6 minutes per day in the bathroom. Daily inhalation rates vary depending on activity, gender, age, and so on. Citing a need for additional research, the EFH does not recommend a reasonable upper-bound inhalation rate value. The EFH recommended value for the average inhalation rate is 15.2 cubic meters per day ($m^3$/day) for males and 11.3 $m^3$/day for females. The EPA established an upper-bound value for an individual's inhalation rate at 20 $m^3$/day which has been commonly used in past EPA risk assessments. This value is used by the DRAS for assessment of inhalation exposure.

The DRAS assesses the ingestion of soil contaminated with air-deposited particulates from a nearby landfill. The potential for exposure to constituents via soil ingestion is greater for children because they are more likely to ingest more soil than adults as a result of behavioral patterns present during childhood. Therefore, exposure to waste constituents through ingestion of contaminated soils is evaluated for the child in a delisting risk assessment. The mean soil ingestion values for children range from 39 to 271 milligrams per day (mg/day), with an average of 146 mg/day for soil ingestion and 191 mg/day for soil and dust ingestion (see EPA EFH). Based on the EFH statement that 200 mg/day may be used as a conservative estimate of the mean, the DRAS uses 200 mg/day as the soil ingestion rate for children.

Fish consumption rates vary greatly, depending on geographic region and social or cultural factors. The recommended value for fish consumption for all fish is 0.28 grams of fish per kilogram body weight per day for an average adult (see EPA EFH). This value equates with a fish consumption rate of 20.1 grams per day (g/day) for all fish. The DRAS estimated that an exposed individual eats 20 g of fish per day, representing one 8-ounce serving of fish approximately once every 11 days.

A consumption rate of 57.9 g/day was used in the manual reevaluation of risk posed through fish ingestion. This higher consumption rate, corresponding to a high-risk subpopulation present in Region 5 (low income minority sport fisherman) was added to the evaluation for USG's waste at the request of Regional risk assessors.

12. At What Frequency Does the DRAS Assume That Receptors Are Exposed to Contaminated Media?

An exposure frequency of 350 days per year is applied to all exposure scenarios (see EPA EFH). Until better data become available, the common assumption that residents take 2 weeks

of vacation per year is used to support a value of 15 days per year spent away from home, leaving 350 days per year spent at home and susceptible to exposure.

13. For What Duration Does the DRAS Assume Receptors Are Exposed to Contaminated Media?

The exposure duration reflects the length of time that an exposed individual may be expected to reside near the constituent source. For the adult resident, this value is taken to be 30 years, and for the child resident, this value is taken to be 6 years (see EPA EFH). The adult resident is assumed to live in one house for 30 years, the approximate average of the 90th percentile residence times from two key population mobility studies. For the child resident, the exposure duration is assumed to be 6 years, the maximum age of the young child receptor. For carcinogens, exposures are combined for children (6 years) and adults (24 years). For noncarcinogenic constituents, the averaging time (AT) equals the exposure duration in years multiplied by 365 days per year. For an adult receptor, the exposure duration is 30 years, and for a child receptor, the exposure duration is 6 years. For carcinogenic constituents, the AT has typically been 25,550 days, based on a lifetime exposure of 70 years at 365 days per year. The life expectancy value in the EFH is 75 years. Given this life expectancy value, the AT for a delisting risk assessment is 27,375 days, based on a lifetime exposure of 75 years at 365 days per year.

14. What Body Weights Are Assumed for Receptors in the DRAS Evaluation?

Risk Assessment Guidance for Superfund defines the body weight of the receptor as either adult weight (70 kilograms (kg)) or child weight (1 to 6 years, 15 kg). The EFH recommended value of 71.8 kg for an adult differs from the 70-kg value commonly used in EPA risk assessments. In keeping with the latest EFH recommendation, the DRAS used a 72-kg adult weight and a 15-kg child weight for the proposed delisting determination.

*B. What Risk Assessment Methods Has the Agency Used in Previous Delisting Determinations That Are Being Revised in This Proposal?*

1. Introduction

The fate and transport of constituents in leachate from the bottom of the waste unit through the unsaturated zone and to a drinking water well in the saturated zone was previously estimated using the EPA Composite Model for Landfill (EPACML) (See 55 FR 11798). The EPACML accounts for:

- One-dimensional steady and uniform advective flow;
- Contaminant dispersion in the longitudinal, lateral, and vertical directions;
- Sorption.

However, advances in groundwater fate and transport have been made in recent years and the Agency proposes the use of a more advanced groundwater fate and transport model for RCRA exclusions.

2. What Fate and Transport Model Does the Agency Use in the DRAS for Evaluating the Risks to Groundwater From the Proposed Exempted Waste?

The Agency proposes to use the EPACMTP in this delisting determination. The EPACMTP considers the subsurface fate and transport of chemical constituents. The EPACMTP is capable of simulating the fate and transport of dissolved contaminants from a point of release at the base of a waste management unit, through the unsaturated zone and underlying groundwater, to a receptor well at an arbitrary downstream location in the aquifer. The model accounts for the following mechanisms affecting contaminant migration: transport by advection and dispersion, retardation resulting from reversible linear or nonlinear equilibrium adsorption onto the soil and aquifer solid phase, and biochemical degradation processes.

3. Why Is the EPACMTP Fate and Transport Model an Improvement Over the EPACML?

The modeling approach used for this proposed rulemaking includes three major categories of enhancements over the EPACML. The enhancements include:

1—Incorporation of additional fate and transport processes (*e.g.,* degradation of chemical constituents);

2—Use of enhanced flow and transport solution algorithms and techniques (*e.g.*, three-dimensional transport) and;

3—Revision of the probabilistic methodology (*e.g.,* site-based implementation of available input data)

A discussion of the key enhancements which have been implemented in the EPACMTP is presented here and the details are provided in the proposed 1995 Hazardous Waste Identification Rule (HWIR) background documents (60 FR 66344–December 21, 1995).

The EPACML was limited to conditions of uniform groundwater flow. It could not handle accurately the conditions of significant groundwater mounding and non-uniform groundwater flow due to a high rate of infiltration from the waste units. These conditions increase the transverse horizontal as well as the vertical spreading of a contaminant plume. The EPACMTP accounts for these effects directly by simulating groundwater flow in the vertical as well as horizontal directions.

The EPACMTP can simulate fate and transport of metals, taking into account geochemical influences on the mobility of metals. The EPA's MINTEQA2 metals speciation model is used to generate effective sorption isotherms for individual metals, corresponding to a range of geochemical conditions. The transport modules in EPACMTP have been enhanced to incorporate the nonlinear MINTEQ sorption isotherms. This enhancement provides the model with capability to simulate, in the unsaturated and in the saturated zones, the impact of pH, leachate organic matter, natural organic matter, iron hydroxide and the presence of other ions in the groundwater on the mobility of metals. The saturated zone module implemented in the EPACML was based on a Gaussian distribution of concentration of a chemical constituent in the saturated zone. The module also used an approximation to account for the initial mixing of the contaminant entering at the water table underneath the waste unit. The approximate nature of this mixing factor could sometimes lead to unrealistic values of contaminant concentration in the groundwater close to the waste unit, especially in cases of a high infiltration rate from the waste unit. The enhanced model incorporates a direct linkage between the unsaturated zone and saturated zone modules which overcomes these limitations of the EPACML.

To enable a greater flexibility and range of conditions that can be modeled, the analytical saturated zone transport module has been replaced with a numerical module, based on the highly efficient state-of-the-art Laplace Transform Galerkin (LTG) technique. The enhanced module can simulate the anisotropic, non-uniform groundwater flow, and transient, finite source, conditions. The latter requires the model to calculate a maximum receptor well concentration over a finite time horizon, rather than just the steady state concentration which was calculated by the EPACML. The saturated zone modules have been implemented to provide either a fully three-dimensional solution, or a highly efficient quasi-3D solution. The latter has been implemented for probabilistic

applications and provides nearly the same accuracy as the fully three dimensional option, but is more computationally efficient. Both the unsaturated zone and the saturated zone transport modules can accommodate the formation and the transport of parent as well as of the transformation products.

A highly efficient semi-analytical unsaturated zone transport module has been incorporated to handle the transport of metals in the unsaturated zone and can use MINTEQA2 derived linear or nonlinear sorption isotherms. Conventional numerical solution techniques are inadequate to handle extremely nonlinear isotherms. An enhanced method-of-characteristic based solution has been implemented which overcomes these problems and thereby enables the simulation of metals transport in the probabilistic framework. Non-linearity in the metals sorption isotherms is primarily of concern at higher concentration values; for low concentrations, the isotherms are linear or close to linear. Because of the attenuation in the unsaturated zone, and the subsequent dilution in the saturated zone, concentrations in the saturated zone are usually low enough so that properly linearized isotherms are used by the model in the saturated zone without significant errors.

The internal routines in the model which determine placement of the receptor well relative to the areal extent of the contaminant plume have been revised and enhanced to eliminate bias which was present in the implementation in the EPACML. The calculation of the areal extent of the plume has been revised to take into consideration the dimensions of the waste unit. The logic for placing a receptor well inside the plume limits has been improved to eliminate a bias towards larger waste unit areas and to ensure that the placement of the well inside these limits, for a given radial distance from the unit, is truly randomly uniform. However, for this proposal, the closest drinking water well is located anywhere on the downgradient side of the waste unit.

The data sources from which parameter distributions for nationwide probabilistic assessments are obtained have been evaluated, and where appropriate, have been revised to make use of the latest data available for modeling. Leachate rates for Subtitle D waste units have been revised using the latest version of the Hydrologic Evaluation of Landfill Performance (HELP) model with the revised data inputs. Source specific input parameters (*e.g.*, waste unit area and volume) have been developed for various different types of industrial waste units besides landfills. Input values for the groundwater related parameters have been revised to utilize information from a nationwide industry survey of actual contaminated sites. The original version of the model was implemented for probabilistic assessments assuming continuous source (infinite source) conditions only. This methodology did not take into account the finite volume and/or operational life of waste units. The EPACMTP model has been implemented for probabilistic assessments of either continuous source or finite source scenarios. In the latter scenario, predicted groundwater impact is not only based on the concentrations of contaminants in the leachate, but also on the amount of constituent in the waste unit and/or the operational life of the unit.

The landfill is taken to be filled to capacity and covered when leaching begins. The time period during which the landfill is filled-up, usually assumed to be 20 years, is considered to be small relative to the time required to leach all of the constituent mass out of the landfill. The model simulation results indicate that this assumption is not unreasonable; the model calculated leaching duration is typically several hundred years. The leachate flux, or infiltration rate, is determined using the HELP model. The net infiltration rate is calculated using a water balance approach, which considers precipitation, evapo-transpiration, and surface run-off. The HELP model was used to calculate landfill infiltration rates for a representative Subtitle D landfill with 2-foot earthen cover, and no liner or leachate collection system, using climatic data from 97 climatic stations located throughout the US. These correspond to the reasonable worst case assumptions as explained in the HWIR Risk Assessment Background Document for the HWIR proposed notice (60 FR 66344–December 21, 1995). Additional details on the methodologies used by the EPACMTP to derive DAFs for waste constituents modeled for the landfill scenario are presented in the Background Documents for the proposed HWIR docket (60 FR 66344–December 21, 1995). The fraction of waste in the landfill is assigned a uniform distribution with lower and upper limits of 0.036 and 1.0, respectively, based on analysis of waste composition in Subtitle D landfills. The lower bound assures that the waste unit will always contains a minimum amount of the waste of concern. The waste density is assigned a value based on reported densities of hazardous waste, and varies between 0.7 and 2.1 grams per cubic centimeter ($g/cm^3$.

The area of the surface impoundment and the impoundment depth used by the EPACMTP are obtained from the OSW Subtitle D Industrial Survey and were entered into the probabilistic analyses as distributions. The sediment layer at the base of the impoundment is taken to be 2 feet thick, and have an effective equivalent saturated conductivity of $10^{-7}$ centimeters per second (cm/s). These values were selected in recognition of the fact that most non-hazardous waste surface impoundments do have some kind of liners in place. Additional details on the methodologies used by the EPACMTP to derive DAFs for waste constituents modeled for the surface impoundment waste management scenario are presented in the Background Documents for the 1995 proposed HWIR docket (60 FR 66344–December 21, 1995).

4. Has the EPACMTP Methodology Been Formally Reviewed?

The Science Advisory Board (SAB), a public advisory group that provides information and advice to the EPA, reviewed the EPACMTP model as part of a continuing effort to provide improvements in the development and external peer review of environmental regulatory models. Overall, the SAB commended the Agency for making significant enhancements to the EPACMTP's predecessor (EPACML) and for responding to previous SAB suggestions. The SAB also concluded that the mathematical formulation incorporating transformation or degradation products into the model appeared to be correct and that the site-based approach using hydrogeologic regions is superior to the previous approach used in EPACML. The model underwent public comment during the 1995 proposed HWIR (60 FR 66344–December 21, 1995).

5. Has the Agency Modified the EPACMTP as Utilized in the HWIR Proposal?

The EPACMTP, as developed for HWIR, determined the DAF using a probabilistic approach that selected, at random, a waste volume from a range of waste volumes identified in EPA's 1987 Subtitle D landfill survey. In delisting determinations, the waste volume of the petitioner is known. Therefore, application of EPACMTP to the delisting program has been modified to evaluate the specific waste volume. The Agency modified the DAFs determined under the HWIR proposal to account for a known waste volume. To generate waste volume-specific DAFs, EPA

developed ''scaling factors'' to modify DAFs developed for HWIR (based on the entire range of disposal unit areas) to DAFs for delisting waste volumes. This was accomplished by computing a 90th percentile DAF for a conservative chemical for 10 specific waste volumes (ranging from 1,000 cu. yds. to 300,000 cu. yds.) for each waste management scenario (landfill and surface impoundment). The Agency assumed that DAFs for a specific waste volume are linearly related to DAFs developed by EPACMTP for the HWIR. DAF scaling factors were computed for the ten increment waste volumes. Using these ten scaling factor DAFs, regression equations were developed for each waste management scenario to provide a continuum of DAF scaling factors as a function of waste volume.

The regression equations are coded into the DRAS program which then automatically adjusts the DAF for the waste volume of the petitioner. The method used to verify the scaling factor approach is presented in Application of EPACMTP to Region 6 Delisting Program: Development of Volume-adjusted Dilution Attenuation Factors. For the landfill waste management scenario, the DAF scaling factors ranged from 9.5 for 10,000 cu. yard to approximately 1.0 for waste volumes greater than 200,000 cu. yards. Therefore, for solid waste volumes greater than 200,000 cu. yds., the waste volume-specific DAF is the same as the DAF computed for the proposed HWIR. The regression equation that can be used to determine the DAF scaling factor (DSF) as a function of waste volume (in cubic yards) for the landfill waste management unit is: DSF = 6152.7 * (waste volume)—0.7135. The correlation coefficient of this regression equation is 0.99, indicating a good fit of this line to the data points. DAF scaling factors for surface impoundment waste volumes ranged from 2.4 for 2,000 cu. yards to approximately 1.0 for 100,000 cu. yds. For liquid waste volumes greater than 200,000 cu. yds., the waste volume-specific DAF is the same as the DAF computed for the proposed HWIR. The regression equation for DSF as a function of waste volume for surface impoundment wastes is: DSF = 14.2 * (waste volume)—0.2288. The correlation coefficient of this regression equation is also 0.99, indicating an extremely good fit of this line to the data points.

## V. Evaluation of This Petition

### *A. What Other Factors Did EPA Consider in Its Evaluation?*

We also consider the applicability of ground-water monitoring data during the evaluation of delisting petitions where the waste in question is or has ever been placed on land. In this case, a substantial record of groundwater analysis from monitoring wells in and around the existing landfill which contains the waste was available and submitted as part of the petition. Historical data showed elevated levels of hazardous constituents in the groundwater and indicated that the landfilled waste was a possible source. Additional groundwater analysis became available utilizing a more sophisticated EPA recommended sampling technique. The new data could not establish that hazardous substances were currently leaching from the landfill sludge at levels exceeding those predicted by the EPACMTP model in the DRAS program. The evaluation was based on a statistical analysis conducted in accordance with *Statistical Analysis of Ground-Water Monitoring Data at RCRA Facilities—Interim Final Guidance, EPA, April 1989 and Statistical Analysis of Ground-Water Monitoring Data at RCRA Facilities—Addendum to Interim Final Guidance,* EPA, July 1992. Leachate analysis of sludge samples generally supported the conclusion that the landfilled sludge was not currently a source of groundwater contamination above health-based levels.

Specifically, the landfilled sludge did not appear to be leaching arsenic, cadmium, lead, or nickel to groundwater at this time. Cadmium and nickel in groundwater appear to be a concern at the facility, but the cadmium and nickel contamination could not be attributed to the landfilled sludge based only on the recent data. The landfilled sludge could be contributing chromium, zinc and/or thallium to the groundwater, but currently at levels below concern. The elevated thallium was detected in upgradient wells and all detections were very close to the detection levels. Based on most recent data, the landfilled sludge does not appear to currently leach hazardous constituents to groundwater at significantly different levels than predicted by leachate analysis and subsequent modeling (See Docket Report for Statistical Analysis of Recent Groundwater Analysis).

### *B. What Did EPA Conclude About USG's Analysis?*

The total cumulative risk posed by the waste, including the revised dioxin risk through fish ingestion is approximately $9.69 \times 10^{-6}$. EPA believes that this risk is acceptable because the value is within a generally acceptable range of $1 \times 10^{-4}$ to $1 \times 10^{-6}$ and a large portion of the estimated risk is associated with a single contaminant/pathway which may be evaluated in more than one way. Specifically, ingestion of carcinogenic arsenic in groundwater contributes 8.39 $\times 10^{-6}$, or 86.5% of the total risk. Total arsenic levels in the landfilled waste were not statistically different than arsenic levels in soils not associated with the landfill and recent ground-water monitoring at the facility did not detect arsenic at a detection level of 0.005 milligrams per liter (mg/L). Furthermore, if the POE target concentration was set at the Safe Drinking Water Act (SWDA) Maximum Contaminant Level (MCL), the maximum allowable waste leachate concentration would be 7.09 mg/L TCLP arsenic, over 100 times higher than the maximum observed leachate concentration in the waste. EPA's July 1996 *Soil Screening Guidance: User's Guide*, EPA/540/R–96/018, states that acceptable levels of contaminants in soils for the ground-water pathway should be derived from SWDA Maximum Contaminant Level Goals (MCLG) or MCLs. Health-based limits as used in the DRAS program can be used if MCLs are not available. Given that the difference between the MCL for arsenic and the health-based POE concentration is three orders of magnitude, we believe that some allowance can be exercised in setting the allowable level for arsenic in the leachate. EPA proposes to set the allowable arsenic leachate level at a concentration which corresponds to a total waste cancer risk of $1 \times 10^{-4}$ which is still within the generally acceptable range of $1 \times 10^{-4}$ to $1 \times 10^{-6}$. Delisting levels for constituents other than arsenic will still be set at concentrations corresponding to the original Region 5 target of $1 \times 10^{-6}$. By this method, the delisting level for leachable arsenic in this proposed exclusion will be set at a value which corresponds to a POE concentration of approximately one tenth of the existing MCL. The EPA has recently proposed to lower the arsenic MCL to one tenth its current value and thus, if finalized, would correspond well with the delisting level we are setting.

After reviewing USG's processes, the EPA concludes that (1) hazardous constituents of concern are present in USG's waste, but not at levels which are likely to pose a threat to human health and the environment when placed in a solid waste landfill; and (2) the petitioned waste does not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23, respectively.

*C. What is EPA's Final Evaluation of This Delisting Petition?*

The descriptions of the USG hazardous waste process and analytical characterization, with the proposed verification testing requirements (as discussed later in this document, provide a reasonable basis for EPA to grant the exclusion.

We have reviewed the sampling procedures used by USG and have determined they satisfy EPA criteria for collecting representative samples of constituent concentrations in the wastewater treatment sludge.

We believe the data submitted in support of the petition show that USG's waste will not pose a threat when disposed of in a Subtitle D landfill regulated by a state. We therefore, propose to grant USG an exclusion for its WWTP sludge.

If we finalize the proposed rule, the Agency will no longer regulate the petitioned waste under 40 CFR Parts 262 through 268 and the permitting standards of Part 270.

## VI. Conditions for Exclusion

*A. What Are the Maximum Allowable Concentrations of Hazardous Constituents in the Waste?*

The following table summarizes maximum observed total and TCLP concentrations in USG's waste, maximum allowable leachate levels for USG's waste, and the level of regulatory concern at the point of exposure for groundwater. The EPA calculated delisting levels for most constituents detected.

Maximum allowable leachate concentrations (expressed as a result of the TCLP test) were calculated for all constituents for which leachate was analyzed. Most of the allowable leachate concentrations were derived from the health-based calculation within the DRAS program. The remaining maximum allowable leachate levels were derived from MCLs, SDWA Treatment Technique (TT) action levels, or toxicity characteristic levels from 40 CFR 261.24 if they resulted in a more conservative delisting level. The singular exception is arsenic which was discussed in section V.B. The maximum allowable point of exposure groundwater concentrations correspond to the lesser of the health-based values calculated within the DRAS program or the MCLs or TT action levels. MCLs were used for maximum point of exposure groundwater concentrations for constituents which were not analyzed for in leachate extracts.

A statistical review of some of the data indicates that the maximum values used in the modeling and risk estimation correspond to a very high confidence interval (See *Docket Report on Degree of Characterization of Existing Landfilled Sludge at the American Metals Corporation Facility, Westlake, Ohio*). Assuming that the distribution of the data is adequately defined, future samples are likely to exhibit concentrations which are less than the maximum values used in this evaluation. All of the maximum waste concentrations observed are less than the corresponding delisting levels assigned. The maximum observed concentration of PCBs was close to the delisting level. However, PCBs were not detected in most samples.

| Constituent | Maximum [1] observed total concentration (mg/kg) | Maximum [1] observed leachate concentration (mg/L TCLP) | Maximum allowable leachate concentration (mg/L TCLP) | Maximum allowable point of exposure concentration (mg/L in groundwater) |
|---|---|---|---|---|
| **Inorganic Constituents** | | | | |
| Antimony | 1.2 | <0.023 | [2] 1.52 | [2] 0.006 |
| Arsenic | 19.0 | 0.058 | 0.691 | 0.005 |
| Barium | 120 | 0.215 | [3] 100 | [2] 2.0 |
| Beryllium | 0.86 | 0.003 | [2] 3.07 | [2] 0.004 |
| Cadmium | 2.8 | 0.013 | [3] 1.0 | [2] 0.005 |
| Chromium (total) | 3660 | 0.277 | [3] 5.0 | [2] 0.1 |
| Chromium (hexavalent) | 0.60 | NR | NA | [2] 0.1 |
| Cobalt | 142 | 0.223 | 166 | 2.25 |
| Copper | 31.9 | 0.010 | [2] 67,300 | [2] 1.3 |
| Lead | 130 | 0.036 | [3] 5 | [2] 0.015 |
| Mercury | 0.23 | 0.012 | [3] 0.2 | [2] 0.002 |
| Nickel | 76.9 | 0.128 | 209 | 0.75 |
| Selenium | 5.1 | 0.053 | [3] 1 | [2] 0.05 |
| Silver | 0.5 | <0.018 | [3] 5 | [2] 0.188 |
| Thallium | 1.5 | <0.002 | [2] 0.65 | [2] 0.002 |
| Tin | 12.1 | 0.025 | 1,660 | 22.46 |
| Vanadium | 75.5 | 0.014 | 156 | 0.263 |
| Zinc | 104000 | 70.9 | 2,070 | 11.25 |
| Cyanide (total) | <1.0 | NR | NA | [2] 0.2 |
| Cyanide (amenable) | NA | NR | NA | NA |
| **Organic Constituents** | | | | |
| Acetone | 0.16 | NR | NA | NA |
| Benzene | 0.009 | <0.025 | 0.089 | 0.00067 |
| Bis(2-ethylhexyl) phthalate | 1.6 | NR | NA | [2] 0.006 |
| Fluoranthene | 0.2 | NR | NA | NA |
| Methyl ethyl ketone | 0.071 | <0.250 | [3] 200 | 22.57 |
| Methylene chloride | 0.019 | NR | NA | [2] 0.005 |
| Phenanthrene | 0.17 | <0.010 | NA | NA |
| Polychlorinated biphenyls | 0.22 | NR | NA | [2] 0.0005 |
| Pyrene | 0.29 | <0.010 | 9.12 | 0.065 |
| Tetrachlorethylene | 0.034 | <0.025 | 0.197 | 0.0014 |
| Xylenes | 0.051 | NR | NA | [2] 10 |

| Constituent | Maximum [1] observed total concentration (mg/kg) | Maximum [1] observed leachate concentration (mg/L TCLP) | Maximum allowable leachate concentration (mg/L TCLP) | Maximum allowable point of exposure concentration (mg/L in groundwater) |
|---|---|---|---|---|
| **Dioxins and furans** | | | | |
| 2,3,7,8-TCDD | 0.000008 | NR | NA | NA |
| 1,2,3,7,8-PeCDD | 0.0000026 | NR | NA | NA |
| 1,2,3,4,7,8-HxCDD | 0.0000052 | NR | NA | NA |
| 1,2,3,6,7,8-HxCDD | 0.0000074 | NR | NA | NA |
| 1,2,3,7,8,9-HxCDD | 0.000011 | NR | NA | NA |
| 1,2,3,4,6,7,8-HpCDD | 0.00109 | NR | NA | NA |
| OCDD | 0.159 | NR | NA | NA |
| 2,3,7,8-TCDF | 0.0000017 | NR | NA | NA |
| 1,2,3,7,8-PeCDF | <0.0000082 | NR | NA | NA |
| 2,3,4,7,8-PeCDF | <0.000088 | NR | NA | NA |
| 1,2,3,4,7,8-HxCDF | <0.0000086 | NR | NA | NA |
| 1,2,3,6,7,8-HxCDF | <0.0000074 | NR | NA | NA |
| 2,3,4,6,7,8-HxCDF | <0.0000086 | NR | NA | NA |
| 1,2,3,7,8,9-HxCDF | <0.0000097 | NR | NA | NA |
| 1,2,3,4,6,7,8-HpCDF | 0.0000062 | NR | NA | NA |
| 1,2,3,4,7,8,9-HpCDF | <0.000013 | NR | NA | NA |
| OCDF | 0.000052 | NR | NA | NA |
| 2,3,7,8-TCDD TEQ[4] | 0.000182 | NR | NA | NA |

[1] These levels represent the highest constituent concentration found in any one sample, not necessarily the specific levels found in one sample.
[2] The concentration is based on the MCL or TT action level.
[3] The concentration is based on the toxicity characteristic level in 40 CFR 261.24.
[4] Concentrations of individual dioxin and furan congeners in a given sample were combined into a single concentration representing the equivalent concentration of 2,3,7,8-TCDD based on toxicity.
< The constituent was not detected at the stated concentration.
NA Not Applicable.
NR Analysis not run.

In addition to the delisting values in the table, several delisting levels based on total concentrations were also established for USG's waste. Total arsenic is limited to 9,280 mg/kg. Total mercury is limited to 94 mg/kg. Total PCBs are limited to 0.265 mg/kg. Since all of the dioxin and furan congeners exhibit a toxicity which can be related to 2,3,7,8-TCDD, delisting levels were not calculated for each congener. Since the dioxin and furan congeners also bioaccumulate at different rates than 2,3,7,8-TCDD, the cumulative risk varies among all dioxin and furan congeners. The Docket Report on Evaluation of Contaminant Releases to Surface Water Resulting from American Metal's Petitioned Waste contains congener specific factors which, when multiplied by the congener concentration in the waste, provides the individual risk posed by each congener. These risks were summed and compared to the target risk level of $1\times10^{-6}$. None of the samples analyzed for dioxins and furans exceeded the target level. The congener-specific factors for the combined 2,3,7,8-TCDD delisting level are as follows:

2,3,7,8-TCDD—$3.8\times10^{-2}$;
1,2,3,7,8-PeCDD—$1.8\times10^{-2}$;
1,2,3,4,7,8-HxCDD—$1.2\times10^{-3}$;
1,2,3,6,7,8-HxCDD—$4.9\times10^{-4}$;
1,2,3,7,8,9-HxCDD—$5.43\times10^{-4}$
1,2,3,4,6,7,8-HpCDD—$2.09\times10^{-5}$;
OCDD—$5\times10^{-7}$;
2,3,7,8-TCDF—$2.72\times10^{-3}$;
1,2,3,7,8-PeCDF—$4.17\times10^{-4}$;
2,3,4,7,8-PeCDF—$3.04\times10^{-2}$;
1,2,3,4,7,8-HxCDF—$2.99\times10^{-4}$;
1,2,3,6,7,8-HxCDF—$7.33\times10^{-4}$;
2,3,4,6,7,8-HxCDF—$2.46\times10^{-3}$;
1,2,3,7,8,9-HxCDF—$2.66\times10^{-3}$;
1,2,3,4,6,7,8-HpCDF—$4.38\times10^{-6}$;
1,2,3,4,7,8,9-HpCDF—$1.55\times10-4$; and
OCDF—$6.7\times10-7$.

The sum of the products of dioxin and furan congener concentrations (mg/kg) and these factors may not exceed $1\times10-6$.

*B. What Are the Conditions of the Exclusion?*

The proposed exclusion only applies to the 12,400 cubic yards of landfilled sludge described in the petition. Any amount exceeding this volume cannot be considered delisted under this exclusion. Furthermore, USG must dispose of this sludge in a Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial waste.

USG must also complete additional verification sampling in order to ensure that the landfilled sludge meets delisting requirements. The Docket Report on Degree of Characterization of Existing Landfilled Sludge at the American Metals Corporation Facility, Westlake, Ohio describes additional characterization of the landfilled sludge needed to provide a more adequate delineation of the spatial distribution of constituents of concern in the landfilled sludge. The verification sampling was evaluated based on the total number of samples taken thus far, their location, and the importance of the analytes based on risk. Composite samples comprising the vertical extent of the landfilled sludge at each individual boring location are to be collected from six different boring locations within the landfilled sludge areas. The samples are to be analyzed for TCLP metals including antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, nickel, selenium, silver, thallium, tin, vanadium, and zinc. Five of the borings are to be located within the larger of the two landfilled sludge deposits and placed in a manner that compliments the existing seven samples identified as WD–1 through WD–4 and LB1 through LB3. The remaining verification sample must be collected from a single boring placed within the smaller of the two landfilled sludge deposits.

If, anytime after disposal of the delisted waste, USG possesses or is otherwise made aware of any environmental or waste data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified in Section VI.A. is at a level

higher than the delisting level established in Section VI.A. or is at a level in groundwater that exceeds the point of exposure concentration established in Section VI.A., then USG must report such data, in writing, to the Regional Administrator within 10 days of first possessing or being made aware of that data.

Based on any information provided by USG and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.

*C. What Happens if USG Fails To Meet the Conditions of the Exclusion?*

If USG violates the terms and conditions established in the exclusion, the Agency may start procedures to withdraw the exclusion.

The EPA has the authority under RCRA and the Administrative Procedures Act, 5 U.S.C. 551 (1978) *et seq.* (APA), to reopen a delisting decision if we receive new information indicating that the conditions of this exclusion have been violated.

If the Regional Administrator determines that information reported by USG as described in Section VI.B., or information received from any other source, does require Agency action, the Regional Administrator will notify USG in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing USG with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. USG shall have 10 days from the date of the Regional Administrator's notice to present the information.

If after 10 days, USG presents no further information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise.

## VII. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions.

The proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thus enabling a facility to manage its waste as nonhazardous.

Because there is no additional impact from today's proposed rule, this proposal would not be a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under Section (6) of Executive Order 12866.

## VIII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (that is, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on small entities.

This rule, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, the Agency certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

## IX. Paperwork Reduction Act

Information collection and record-keeping requirements associated with this proposed rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

## X. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with federal mandates that may result in estimated costs to state, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

When such a statement is required for EPA rules, under section 205 of the UMRA, EPA must identify and consider alternatives, including the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law.

Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, EPA must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a federal mandate for regulatory purposes as one that imposes an enforceable duty upon state, local, or tribal governments or the private sector.

The EPA finds that today's delisting decision is deregulatory in nature and does not impose any enforceable duty on any state, local, or tribal governments or the private sector. In addition, the proposed delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

## XI. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments; the nature of their concerns; copies of written communications from the governments; and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of

regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

**XII. Executive Order 13045**

Executive Order 13045 is entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This order applies to any rule that EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

**XIII. Executive Order 13084**

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects that communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments.

If the mandate is unfunded, EPA must provide to 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 and other representatives of Indian tribal governments ''to meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

**XIV. National Technology Transfer and Advancement Act**

Under Section 12(d) of the National Technology Transfer and Advancement Act, the Agency is directed to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical.

Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, business practices, *etc.*) that are developed or adopted by voluntary consensus standard bodies. Where EPA does not use available and potentially applicable voluntary consensus standards, the Act requires that Agency to provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards, and thus the Agency has no need to consider the use of voluntary consensus standards in developing this proposed rule.

**List of Subjects in 40 CFR Part 261**

Environmental protection, Hazardous waste, Recycling, and Reporting and recordkeeping requirements.

**Authority:** Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: September 19, 2000.

**Joseph M. Boyle,**

*Acting Director, Waste, Pesticides and Toxics Division.*

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

## PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

**Authority:** 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of Appendix IX of Part 261 it is proposed to add the following waste stream in alphabetical order by facility to read as follows:

## Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

| Facility | Address | Waste description |
|---|---|---|
| * * | * * | * * * |
| American Metals Corporation ..... | Westlake, Ohio ..... | Wastewater treatment plant (WWTP) sludges from the chemical conversion coating (phosphating) of aluminum (EPA Hazardous Waste No. F019) and other solid wastes previously disposed in an on-site landfill. This is a one-time exclusion for 12,400 cubic yards of landfilled WWTP sludge. This exclusion was published on (insert publication date of the final rule).<br>1. Delisting Levels:<br>(A) The constituent concentrations measured in the TCLP extract may not exceed the following levels (mg/L): antimony—1.52; arsenic—0.691; barium—100; beryllium—3.07; cadmium—1; chromium—5.0; cobalt—166; copper—67,300; lead—5; mercury—0.2; nickel—209; selenium—1; silver—5; thallium—0.65; tin—1,660; vanadium—156; and zinc—2,070.<br>(B) The total constituent concentrations in any sample may not exceed the following levels (mg/kg): arsenic—9,280; mercury—94; and polychlorinated biphenyls—0.265.<br>(C) The sum of the products of dioxin and furan congener concentrations (mg/kg) and the factors defined in Section VI. A. of the preamble may not exceed $1 \times 10^{-6}$.<br>2. Verification Sampling—Composite samples comprising the vertical extent of the landfilled sludge at individual boring locations are to be collected from six different boring locations within the landfilled sludge areas. The samples are to be analyzed for TCLP metals including antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, nickel, selenium, silver, thallium, tin, vanadium, and zinc. Five of the borings are to be located within the larger of the two landfilled sludge deposits and placed in a manner that compliments the existing seven samples identified as WD–1 through WD–4 and LB1 through LB3. The remaining verification sample must be collected from a single boring placed within the smaller of the two landfilled sludge deposits. The results are to be compared to the delisting levels in Condition (1)(a). Sludge from which samples collected exceed delisting levels are not delisted. Additional sampling can be conducted with the approval of U.S. EPA Region 5 in order to isolate the sludge which exceeds the delisting levels from sludge that meets the delisting levels. |

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

| Facility | Address | Waste description |
|---|---|---|
| | | 3. Reopener Language—<br>(a) If, anytime after disposal of the delisted waste, USG possesses or is otherwise made aware of any data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified in Condition (1) is at a level higher than the delisting level established in Condition (1), or is at a level in the groundwater at a level exceeding the point of exposure groundwater levels established in Section VI.A. of the preamble, then USG must report such data, in writing, to the Regional Administrator within 10 days of first possessing or being made aware of that data.<br>(b) Based on the information described in paragraph (a) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.<br>(c) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify USG in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing USG with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. USG shall have 10 days from the date of the Regional Administrator's notice to present the information.<br>(d) If after 10 days USG presents no further information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise.<br>3. Notifications—USG must provide a one-time written notification to any State Regulatory Agency to which or through which the waste described above will be transported for disposal at least 60 days prior to the commencement of such activities. Failure to provide such a notification will result in a violation of the delisting petition and a possible revocation of the decision. |
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[FR Doc. 00–24790 Filed 9–26–00; 8:45 am]
BILLING CODE 6560–50–U

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### 49 CFR Part 571

**[Docket No. 00–7794]**

### Federal Motor Vehicle Safety Standards (FMVSS); Small Business Impacts of School Bus Safety

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of regulatory review; extension of comment period.

**SUMMARY:** This document grants a request to extend the comment period on an agency request for comments on the economic impact of its regulations on small entities. As required by Section 610 of the Regulatory Flexibility Act, we are attempting to identify rules that may have a significant economic impact on a substantial number of small entities. We also request comments on ways to make these regulations easier to read and understand. The focus of this notice is rules that specifically relate to school bus safety.

**DATES:** Extended comment closing date: Comments on the September 13, 2000 notice, 65 FR 55212, Docket No. 00–7794, must be received by the agency on or before close of business on November 13, 2000.

**ADDRESSES:** You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590. Alternatively, you may submit your comments electronically by e-mail at http://dms.dot.gov.

You may call the Docket at 202–366–9324, and visit it from 10 a.m. to 5 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Nita Kavalauskas, Office of Regulatory Analysis and Evaluation, Office of Plans and Policy, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366–2584. Facsimile (fax): (202) 366–2559.

**SUPPLEMENTARY INFORMATION:** On September 13, 2000, NHTSA published a notice announcing a review of Federal Motor Vehicle Safety Standards (FMVSS) relating to school bus safety. Section 610 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as amended by the Small Business Regulatory Enforcement Fairness Act of 1966 (Pub. L. 104–121), requires agencies to conduct periodic reviews of

final rules that have a significant economic impact on a substantial number of small business entities. The purpose of these reviews is to determine whether such rules should be continued without change, amended, or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of small entities. We will consider: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public; (3) the complexity of the rule: (4) the extent to which the rule overlaps, duplicates, or conflicts with other federal rules or with state or local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. We are seeking comments on whether any requirements in 49 CFR 571.131, 571.217, and 571.220 through 571.222 have a significant economic impact on a substantial number of small entities. In conjunction with our section 610 reviews, we will review §§ 57.131, 571.217, and 571.220 through 571.222 to determine if these regulations can be organized and/or rewritten to make them easier to read, understand, and use.

The request for comments specified a comment closing date of September 29, 2000. However, on September 13, 2000, we received a request for an extension of the comment closing date from the National Truck Equipment Association (NTEA) on behalf of its affiliate division, the Manufacturers Council of Small School Buses (MCSSB). NTEA stated that it wished to provide comments on our request, but was unable to gather information from small businesses and submit comments within the time frame. Therefore, NTEA requested an additional 60 days for submission of its comments.

The agency is interested in comments from NTEA, small businesses and other interested parties. Thus, in order to provide NTEA and other interested parties ample time and opportunity to express their views on the small business impacts of school bus safety, NHTSA believes that there is good cause for the extension of the comment period. NHTSA has determined that an appropriate comment period is the same amount of time it typically allows for comments to a notice of proposed rulemaking. However, the agency does not believe that an extension of 60 days past the original comment date is warranted. NHTSA has determined that it is appropriate to extend the comments period for 45 days and that such an extension is consistent with the public interest. Accordingly, NTEA's request to extend the comment period for an additional 60 days is denied, but the comment period is extended for a period of 45 days to November 13, 2000.

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority is at 49 CFR 1.50.

**William H. Walsh,**

*Associate Administrator for Plans and Policy.*

[FR Doc. 00–24666 Filed 9–26–00; 8:45 am]

BILLING CODE 4910–59–P

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**RIN 1018–AF41**

## Endangered and Threatened Wildlife and Plants; Reopening of Comment Period, Notice of Public Hearings, and Clarification of Special Rule on Proposed Threatened Status for Chiricahua Leopard Frog

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period, notice of public hearing, and clarification.

**SUMMARY:** We, the U.S. Fish and Wildlife Service give notice that the comment period is reopened and that public hearings are scheduled on the proposed rule to list the Chiricahua leopard frog as threatened with a special rule. The hearings and the reopening of the comment period will allow all interested parties to submit oral or written comments on the proposal. We also clarify the extent of lands to which a proposed special rule for the frog would apply.

**DATES:** We will hold the public hearings 7 p.m. to 9 p.m. on October 10, 2000, in Silver City, New Mexico; and October 11, 2000, in Bisbee, Arizona. The comment period for this proposal is now reopened until November 13, 2000. Comments must be received by the closing date. We will not consider any comments we receive after the closing date in the final decision on the proposal.

**ADDRESSES:** We will hold the public hearings at Light Hall Auditorium, Western New Mexico University, 1000 College Street, Silver City, New Mexico; and Bisbee High School Auditorium, School Terrace Road (south of Highway 92), Bisbee, Arizona. Send written comments to the Field Supervisor, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above Fish and Wildlife Service address.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey A. Humphrey, at the above address (602–640–2720).

**SUPPLEMENTARY INFORMATION:**

### Background

We published a proposed rule to list Chiricahua leopard frog *(Rana chiricahuensis)* as threatened pursuant to the Endangered Species Act of 1973, as amended (Act) in the **Federal Register** on June 14, 2000 (64 FR 37343). The Chiricahua leopard frog is now absent from many historical localities and numerous mountain ranges, valleys, and drainages within its former range. In areas where it is present, populations are often few, small and widely scattered. Known threats include habitat alteration, destruction, and fragmentation; predation by nonnative organisms; and disease. Problems associated with small population numbers and size, and adverse effects from water-borne contaminants may also threaten the species.

Concurrently with publication of the proposed rule to list the Chiricahua leopard frog as threatened, we published a proposed special rule under 4(d) of the Act to amend regulations at 50 CFR 17.43. The special rule stated that ''. . . incidental take of the Chiricahua leopard frog will not be considered a violation of section 9 of the Endangered Species Act of 1973, as amended (Act), if it results from livestock use of or maintenance activities at livestock tanks located on private or tribal lands.'' The intent of the special rule was to encourage continued conservation of Chiricahua leopard frog habitat in livestock tanks on all non-Federal lands, rather than limiting the conservation incentive to just private and tribal lands. Incidental take of Chiricahua leopard frogs during operations and maintenance of livestock tanks on Federal lands will be reviewed under the section 7 consultation process.

### Clarification of Special Rule

3. We propose to amend 50 CFR 17.43 by adding paragraphs to read as follows:

**§ 17.43 Special rules-amphibians.**

* * * * *

(b) *What species is covered by this special rule?* Chiricahua leopard frog *(Rana chiricahuensis).*

(1) *What activities are prohibited?* Except as noted in paragraph (b)(2) of this section, all prohibitions of § 17.31 will apply to the Chiricahua leopard frog.

(2) *What activities are allowed on non-Federal land?* Incidental take of the Chiricahua leopard frog will not be considered a violation of section 9 of the Endangered Species Act of 1973, as amended (Act), if it results from livestock use of, or maintenance activities at, livestock tanks located on any non-Federal lands. A livestock tank is defined as an existing or future impoundment in an ephemeral drainage or upland site constructed primarily as a watering site for livestock.

**Comments Solicited**

Pursuant to 50 CFR 424.16(c)(2), we may extend or reopen a comment period upon finding that there is good cause to do so. Full participation of the affected public in the species listing process, allowing us to consider the best scientific and commercial data available in making a final determination on the proposed action, is deemed as sufficient cause. Additionally, this reopened comment period will allow the public to consider and comment on the clarification of the special rule provided in this notice.

Section 4(b)(5)(E) of the Act, as amended (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to 11 such requests, we will hold two public hearings (see **DATES** and **ADDRESSES**).

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and submit it at the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments submitted at the hearings or mailed to the Fish and Wildlife Service.

The comment period on this proposal closed on September 12, 2000. In order to accommodate public hearings, we now reopen the public comment period. Written comments may now be submitted until October 27, 2000, to our office in the **ADDRESSES** section.

*Author*: The primary author of this notice is James Rorabaugh (see **ADDRESSES**).

**Authority:** The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531–1544).

Dated: September 20, 2000.

**Nancy M. Kaufman,**

*Regional Director, Region 2, Fish and Wildlife Service.*

[FR Doc. 00–24758 Filed 9–26–00; 8:45 am]

**BILLING CODE 4310–55–M**

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**RIN 1018–AF41**

## Endangered and Threatened Wildlife and Plants; Reopening of Comment Period, Notice of Public Hearings on Proposed Threatened Status for Chiricahua Leopard Frog, and Clarification of Special Rule

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period, notice of public hearing, and clarification.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service) give notice that the comment period is reopened and that public hearings are scheduled on the proposed rule to list the Chiricahua leopard frog as threatened with a special rule. The hearings and the reopening of the comment period will allow all interested parties to submit oral or written comments on the proposal. We also clarify the extent of lands to which a proposed special rule for the frog would apply.

**DATES:** The public hearings will be held from 7 p.m. to 9 p.m. on October 10, 2000, in Silver City, New Mexico; and October 11, 2000, in Bisbee, Arizona. The comment period for this proposal is now reopened until October 27, 2000. Comments must be received by the closing date. Any comments that are received after the closing date may not be considered in the final decision on the proposal.

**ADDRESSES:** The public hearings will be held at Light Hall Auditorium, Western New Mexico University, 1000 College Street, Silver City, New Mexico; and Bisbee High School Auditorium, School Terrace Road (south of Highway 92), Bisbee, Arizona. Written comments should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above Fish and Wildlife Service address.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey A. Humphrey, at the above address (602–640–2720).

**SUPPLEMENTARY INFORMATION:**

### Background

A proposed rule to list Chiricahua leopard frog (*Rana chiricahuensis*) as threatened pursuant to the Endangered Species Act of 1973, as amended (Act)was published in the **Federal Register** on June 14, 2000 (65 FR 37343). The Chiricahua leopard frog is now absent from many historical localities and numerous mountain ranges, valleys, and drainages within its former range. In areas where it is present, populations are often few, small, and widely scattered. Known threats include habitat alteration, destruction, and fragmentation; predation by nonnative organisms; and disease. Problems associated with small population numbers and size, and adverse effects from water-borne contaminants may also threaten the species.

Concurrently with publication of the proposed rule to list the Chiricahua leopard frog as threatened, we published a proposed special rule under 4(d) of the Act to amend regulations at 50 CFR 17.84. The special rule stated that ''incidental take of the Chiricahua leopard frog will not be considered a violation of section 9 of the Endangered Species Act of 1973, as amended (Act), if it results from livestock use of or maintenance activities at livestock tanks located on private or tribal lands.'' The intent of the special rule was to encourage continued conservation of Chiricahua leopard frog habitat in livestock tanks on all non-Federal lands, rather than limiting the conservation incentive to just private and tribal lands.

Incidental take of Chiricahua leopard frogs during operations and maintenance of livestock tanks on Federal lands will be reviewed under the section 7 consultation process.

### Clarification of Special Rule

3. We propose to amend 50 CFR 17.84 by adding paragraphs to read as follows:

**§ 17.84 Special rules-vertebrates**

* * * * *

(1) What species are covered by this special rule?

(i) Chiricahua leopard frog (*Rana chiricahuensis*).

(2) What activities are prohibited?

(i) Except as noted in paragraph (3) of this section, all prohibitions of § 17.31 will apply to the Chiricahua leopard frog.

(3) What activities are allowed on non-Federal land?

(i) Incidental take of the Chiricahua leopard frog will not be considered a violation of section 9 of the Endangered Species Act of 1973, as amended (Act), if it results from livestock use of, or maintenance activities at, livestock tanks located on any non-Federal lands. A livestock tank is defined as an existing or future impoundment in an ephemeral drainage or upland site constructed primarily as a watering site for livestock.

## Comments Solicited

Pursuant to 50 CFR 424.16(c)(2), we may extend or reopen a comment period upon finding that there is good cause to do so. Full participation of the affected public in the species listing process, allowing us to consider the best scientific and commercial data available in making a final determination on the proposed action, is deemed as sufficient cause. Additionally, this reopened comment period will allow the public to consider and comment on the clarification of the special rule provided in this notice.

Section 4(b)(5)(E) of the Act, as amended (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to 11 such requests, we will hold two public hearings (see **DATES** and **ADDRESSES**).

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it at the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearings or mailed to the Fish and Wildlife Service.

The current comment period on this proposal closes on September 12, 2000. In order to accommodate public hearings, the Service reopened the public comment period. Written comments may now be submitted until October 27, 2000, to our office in the **ADDRESSES** section.

## Author

The primary author of this notice is James Rorabaugh (see **ADDRESSES**).

## Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531–1544).

Dated: September 14, 2000.

**Nancy M. Kaufman,**

*Regional Director, Region 2, Fish and Wildlife Service.*

[FR Doc. 00–24757 Filed 9–26–00; 8:45 am]

**BILLING CODE 4310–55–P**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 600

**[I.D. 091800I]**

## Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Applications for Exempted Fishing Permits (EFPs)

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

**SUMMARY:** NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has made a preliminary determination to issue EFPs to conduct experimental fishing operations otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The New England Aquarium Conservation Department (NEACD) requested an EFP to conduct a Juvenile Lobster Trap Survey in the Gulf of Maine (Juvenile Lobster Trap Survey). This recruitment survey could, if geographically comprehensive, serve as an indicator for stock status and could provide stock size estimates for subsequent years. Regulations under Magnuson-Stevens Fishery Conservation and Management Act provisions require publication of this notification to provide interested parties the opportunity to comment on the proposed experimental fisheries.

**DATES:** Comments on this notice must be received by October 12, 2000.

**ADDRESSES:** Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on the EFP Proposal.'' Comments may also be sent via facisimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Bonnie Van Pelt, Fishery Management Specialist, 978-281-9244.

**SUPPLEMENTARY INFORMATION:** The Atlantic States Marine Fisheries Commission has identified the need for regional baseline information on the American lobster (Homarus americanus) resource as a priority item in its most recent list of research needs for the lobster fishery. Data on juvenile lobster abundance is critical for effective and pro-active management of this valuable species.

The framework of this survey was developed by the Canadian Department of Fisheries and Oceans Science Branch for its Gulf of St. Lawrence Fisheries Management Region. Its program has been implemented and can be readily adapted to the Gulf of Maine (GOM). Canadian response to this survey has been extremely supportive since this could lead to transboundary sampling projects in the future, where Canadian and U.S. fishermen would conduct a survey throughout the entire GOM.

Existing survey programs, whether they be fishery-dependent or independent, are limited and prevent resource managers from obtaining a holistic view of growth and recruitment throughout the dynamic GOM ecosystem. In addition, the data are housed at various institutions and entered in a variety of formats, impeding accessibility and/or transferability to resource managers or interest groups in the region.

These gaps in data collection were identified at the 1999 U.S./Canadian Lobster Summit III in Rockland, ME, where over 200 fishermen, scientists, and resource managers met to define a strategy to increase the understanding of lobster stock status through enhanced industry involvement. The forum participants agreed that there is a need to improve the current assessment and management process through collaboration between industry and scientists. The recommendations emerging from Lobster Summit III fell into five general categories: (1) Build trust between scientists and the fishing industry, (2) Increase collaboration between scientists and fishermen to improve data collection and the dissemination of information, (3) Expand the scope and breadth of the models used to assess the health of lobster stocks, (4) Identify specific data needs, and (5) Improve management decisions. Expanded industry participation in data collection was considered a cost-effective strategy to implement some of these recommendations.

The proposed Juvenile Lobster Trap Survey is a cooperative effort among the NEACD, Maine Department of Marine Resources, the Massachusetts Division

of Marine Fisheries, the New Hampshire Department of Fish and Game, NMFS, the Maine Lobstermen's Association, the DownEast Lobstermen's Association, the Massachusetts Lobstermen's Association, the South Shore Lobster Fishermen's Association, the Boston Harbor Lobstermen's Cooperative, and the Atlantic Offshore Lobstermen's Association to more regularly involve fishermen in the data collection process and to create a regional picture of the lobster resource with the ultimate goal of helping to improve lobster stock assessment models.

The Juvenile Lobster Trap Survey is a pilot project that will take place from the fall 2000 through the fall 2001 lobster fishing season. The number of participants coordinated by the NEACD will be limited to approximately 25 fishermen from Massachusetts and New Hampshire. The survey's co-principal investigators will monitor the quality of the data collection by making site visits and maintaining open communication among all of the participants. If successful, the collaboration will seek funding and EFPs to continue the survey on an annual basis to increase both fishermen's participation and the geographical scope of the survey.

Fishermen collecting data under this exemption will be subject to the following guidelines:

1. A minimum of two and a maximum of six experimental traps per participant will have disabled escape vents.

2. The test traps (both experimental and control) are included in the participant's normal set and will not exceed trap number limits.

3. The survey will be limited in scope by requiring participants to collect data only in their declared management areas.

4. The survey will be limited in duration, ranging from late summer 2000 to exactly 12 months from the start date.

5. The experimental traps are standard lobster traps with the escape vent blocked by the following methods: Standard lobster wire mesh attached by biodegradable hog rings, a wooden lath tied over the vents, or twine laced to obscure the vents. The use of these biodegradable materials ensures that, if the escape vent opening is also the escape panel, it will allow lobsters to get out of ghost traps.

6. Each test trap (including the experimental and control traps) will be marked with a unique tag depicting its scientific purpose.

7. Following data collection, all sublegal-sized and illegal (egg-bearing, v-notched) lobsters caught in any test trap will be released immediately.

8. All incidental catch will be handled carefully and immediately returned to sea to decrease mortality.

9. Participants shall not have prior lobster violations/convictions for short lobsters or for possession of berried (lobster-carrying eggs) or scrubbed (i.e., illegal removal of eggs) females.

Any infraction of these conditions or any violation of any marine resources laws would be grounds for the immediate revocation of the EFP.

At the end of each month, participating fishermen will send their data in a postage-paid, return-addressed envelope to the NEACD. Upon the first data mailing, fishermen will also fill out an information card providing a detailed description of their traps, including trap type, dimensions, twine type, hoop sizes, entry hoop diameter, and number of escape vents.

The data will be entered by university interns at the NEACD into a transferable, user-friendly database. A steering committee consisting of leading lobster stock assessment scientists, including NMFS' Northeast Fisheries Science Center scientists and fishermen from the United States and Canada, will work with the co-principal investigators to monitor how the data are stored, to decide on the format of the summary reports that will be made available to the public, and to evaluate the survey. The NEACD and the steering committee will be responsible only for housing the data, and not for data analysis. This survey is to supply baseline data to fishing associations and resource managers so that they can analyze the data.

This survey would target both legal and sub-legal sized lobsters. Bycatch of Jonah crab, red crab, rock crab, black sea bass and conger eel is anticipated. The proposal projects low incidence of bycatch and low mortality rates for each specified bycatch species.

EFPs would be issued to all Federal fishery permit holders who use the experimental traps, whether in state or Federal waters, and will exempt them from the requirement under § 697.21(c)(1)(i) and (ii) that all lobster traps must contain at least one escape vent with a minimum size of 1-15/16 inches (4.9 cm) by 5-3/4 inches (14.6 cm) or two circular vents that must be at least 2-7/16 inches (6.2 cm) in diameter.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2000.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 00–24855 Filed 9–26–00; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

**[I.D. 091800K]**

## Mid-Atlantic Fishery Management Council; Public Hearings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Public hearings, request for comments.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (ASMFC) will hold public hearings to allow for input on the public hearing draft of Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). This amendment will detail the fishing impacts to summer flounder, scup, and black sea bass essential fish habitat (EFH) to bring the FMP into compliance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act (SFA). This amendment will also provide the information and analyses necessary to implement a state system of conservation equivalency for the recreational fishery of summer flounder to achieve the annual recreational harvest limit.

**DATES:** Written comments will be accepted until October 30, 2000. The hearings will be held in October. For specific dates and times, see **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** Send comments to Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, or John Dunnigan, Executive Director, Atlantic States Marine Fisheries Commission, 1444 Eye Street, NW, Suite 304, Washington, DC 20005.

The hearings will be held in Massachusetts, Rhode Island, New York, New Jersey, Maryland, and North Carolina. For specific locations, see **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 302-674-2331, ext. 19, or John Dunnigan, Executive Director, Atlantic States Marine Fisheries Commission, 202-289-6400, ext. 304.

**SUPPLEMENTARY INFORMATION:**

## Background

Amendment 13 to the FMP, prepared by the Council in consultation with the ASMFC, is intended to manage the summer flounder fishery pursuant to the Magnuson-Stevens Act. The purpose of this amendment is to bring the disapproved EFH portions of Amendment 12 into compliance with the Magnuson-Stevens Act, as amended by the SFA, and to implement state conservation equivalency for the recreational summer flounder fishery. Although state conservation equivalency has been used for fishing years 1999 and 2000, it has been implemented only as an interim measure. The Council and ASMFC must amend the current FMP to use state conservation equivalency as a standard tool to regulate the summer flounder coastwide recreational harvest limit beginning in 2001. Six possible alternatives to achieving the coastwide recreational harvest limit include:

1. A system that allows the Council and ASMFC to decide on an annual basis whether to (a) allow states to develop state-specific conservation equivalent management measures that result in the same constraint on landings as the coastwide measures, or (b) specify coastwide measures to achieve the coastwide recreational harvest limit (Preferred Alternative).

2. A system in which three subregions of the coast develop region-specific measures to achieve the coastwide recreational harvest limit (Non-preferred Alternative 1).

3. A system where states in each subregion use subregional data to develop state-specific minimum size limits, possession limits, and closed seasons to achieve the coastwide recreational harvest limit (Non-preferred Alternative 2).

4. State-by-state allocation of the coastwide recreational harvest limit (Non-preferred Alternative 3).

5. Coastwide management measures to achieve the coastwide recreational harvest limit (No action, Non-preferred Alternative 4).

6. A system like the one currently in place under the interim rule where each state can choose either a coastwide measure or equivalent measures to achieve the coastwide recreational limit (Non-preferred Alternative 5).

The Council and ASMFC are requesting public input on all of the alternatives. These alternatives are discussed in further detail in the public hearing draft of Amendment 13.

## Dates, Times, and Locations of Hearings

1. Tuesday, October 10, 2000, 7-10 p.m.—Sanderling Inn Resort and Conference Center, 1461 Duck Road, Duck, NC; telephone 252-449-6664.

2. Wednesday, October 18, 2000, 7-10 p.m.—Carousel Hotel, 118th Street, Ocean City, MD; telephone 410-524-1000.

3. Thursday, October 19, 2000, 7-10 p.m.—Holiday Inn, Route 37-290 State Highway, Toms River, NJ; telephone 732-244-4000.

4. Thursday, October 26, 2000, 7:30-10:00 p.m.—NYSDEC Division of Marine Resources, 205 Belle Meade Road, E. Setauket, NY; telephone 631-444-0453.

There will be an additional two hearings (one in Massachusetts and one in Rhode Island) at a location and time yet to be determined by ASMFC. When this decision is made, NMFS will issue an additional notification in the **Federal Register.**

The hearings will be tape recorded, and the tapes will be filed as the official transcript of the hearings.

## Special Accommodations

The hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council, telephone 302-674-2331, ext. 18, at least 5 days prior to the hearing date.

Dated: September 22, 2000.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 00–24854 Filed 9–26–00; 8:45 am]

BILLING CODE 3510-22-S

# Notices

Federal Register

Vol. 65, No. 188

Wednesday, September 27, 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

### Agricultural Marketing Service

**[Docket No. CN–00–007]**

### Notice of Request for Extension and Revision of a Currently Approved Information Collection

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for Cotton Classing, Testing, and Standards.

**DATES:** Comments on this notice must be received by November 27, 2000, to be assured of consideration.

**ADDITIONAL INFORMATION OR COMMENTS:** Comments may be mailed to USDA, AMS, Cotton Programs, 1400 Independence Avenue, SW., Stop 0224, Room 2641–S, Washington DC 20250–0224. All comments received will be available for public inspection at this address during the hours 8 a.m. to 4 p.m. Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

*Title:* Cotton Classing, Testing, and Standards

*OMB Number:* 0581–0008.

*Expiration Date of Approval:* July 31, 2001.

*Type of Request:* Extension and revision of a currently approved information collection.

*Abstract:* Information solicited is used by the USDA to administer and supervise activities associated with the classification or grading of cotton, cotton linters, and cottonseed based on official USDA Standards. The information requires personal data, such as name, type of business, address, and description of classification services requested. These programs are conducted under the United States Cotton Standards Act (7 U.S.C. 51b), the Cotton Statistics and Estimates Act of 1927 (U.S.C. 473c), and the Agricultural Marketing Act of 1946 (7 U.S.C. 1622h).

The information collection requirements in this request are essential to carry out the intent of the Acts and to provide the cotton industry the type of information they need to make sound business decisions. The information collected is the minimum required. Information is requested from growers, cooperatives, merchants, manufacturers, and other government agencies.

The information collected is used only by authorized employees of the USDA, AMS. The Cotton Industry is the primary user of the compiled information and AMS and other government agencies are secondary users.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 0.07 (119/1697) hours per response.

*Respondents:* Cotton merchants, warehouses, and gins.

*Estimated Number of Respondents:* 797.

*Estimated Number of Responses per Respondent:* 2.13 (1697/797).

*Estimated Total Annual Burden on Respondents:* 119 Hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Darryl W. Earnest, Assistant Associate Deputy Administrator, Cotton Programs, AMS, USDA 1400 Independence Avenue, SW, Stop 0224, Room 2641–S, Washington, DC 20250. All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: September 21, 2000.

**Norma McDill,**

*Acting Deputy Administrator, Cotton Programs.*

[FR Doc. 00–24777 Filed 9–26–00; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Heath Inspection Service

**[Docket No. 00–091–1]**

### Secretary's Advisory Committee on Foreign Animal and Poultry Diseases; 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 renewing the Advisory Committee on Foreign Animal and Poultry Diseases 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 13, 2000.

**ADDRESSES:** Nominations should be addressed to the person listed under **FOR FURTHER INFORMATION CONTACT.**

**FOR FURTHER INFORMATION CONTACT:** Dr. Joe Annelli, Chief Staff Veterinarian, Emergency Programs, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231; (301) 734–8073.

**SUPPLEMENTARY INFORMATION:** The Secretary's Advisory Committe on Foreign Animal and Poultry Diseases (the Committee) advises the Secretary of Agriculture on actions necessary to keep foreign diseases of livestock and poultry from being introduced into the United States. In addition, the Committee advises on contingency planning and on maintaining a state of preparedness to deal with these diseases, if introduced.

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 December 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 21st day of September 2000.

**Chester A. Gipson,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00–24840 Filed 9–26–00; 8:45 am]

**BILLING CODE 3410–34–M**

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. 00–061–1]**

### International Sanitary and Phytosanitary Standard-Setting Activities

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice and solicitation of comments.

**SUMMARY:** In accordance with legislation implementing the results of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, we are informing the public of international standard-setting activities of the Office International des Epizooties, the Secretariat of the International Plant Protection Convention, and the North American Plant Protection Organization, and we are soliciting public comment on the standards to be considered.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 00–061–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 00–061–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Greifer, Director, Trade Support Team, International Services, APHIS, room 1132, South Building, 14th Street and Independence Avenue, SW., Washington, DC 20250 (202) 720–7677.

**SUPPLEMENTARY INFORMATION:**

The World Trade Organization (WTO) was established as the common international institutional framework for governing trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act (Pub. L. 103–465), which was signed into law by the President on December 8, 1994. The WTO Agreements, which established the WTO, entered into force with respect to the United States on January 1, 1995. The Uruguay Round Agreements Act amended title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*). Section 491 of the Trade Agreement Act of 1979, as amended (19 U.S.C. 2578), requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing an annual notice in the **Federal Register** that provides the following information: (1) The SPS standards under consideration or planned for consideration by the international standard-setting organization; and (2) for each SPS standard specified, a description of the consideration or planned consideration of that standard, a statement of whether the United States is participating or plans to participate in the consideration of that standard, the agenda for U.S. participation, if any, and the agency responsible for representing the United States with respect to that standard.

''International standard'' is defined in 19 U.S.C. 2578b as any standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission (Codex) regarding food safety; (2) developed under the auspices of the Office International des Epizooties (OIE) regarding animal health and zoonoses; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC) in cooperation with the North American Plant Protection Organization (NAPPO) regarding plant health; or (4) established by or developed under any other international organization agreed to by the member countries of the North American Free Trade Agreement (NAFTA) or the member countries of the WTO.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the Secretary of Agriculture as the official responsible for informing the public of the SPS standard-setting activities of Codex, OIE, IPPC, and NAPPO. This responsibility was delegated to the United States Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) for Codex activities and Animal and Plant Health Inspection Service (APHIS) for OIE, IPPC, and NAPPO activities.

FSIS is responsible for publishing an annual notice in the **Federal Register** to inform the public of SPS standard-setting activities for Codex. Codex was created in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization. It is the major international organization for encouraging international trade in food and protecting the health and economic interests of consumers.

APHIS is responsible for publishing notice of OIE, IPPC, and NAPPO activities related to international standards and representing the United States with respect to these standards.

Following are descriptions of the OIE, IPPC, and NAPPO organizations and the standard-setting agenda for each of these institutions. Our intent is to describe the agenda that each of these organizations will address at their annual general sessions, including standards that may be presented for adoption or consideration, as well as other initiatives that may be underway at the OIE, IPPC, and NAPPO.

**OIE Standard-Setting Activities**

The OIE was established in Paris, France, in 1924 with the signing of an

international agreement by 28 countries. It is currently composed of 155 member nations, each of which is represented by a delegate who, in most cases, is the chief veterinary officer of that country. The WTO has recognized the OIE as the international forum for setting animal health standards, reporting global animal situations and disease status, and presenting guidelines and recommendations on sanitary measures relating to animal health.

The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals through the sharing of scientific research among its members. The major functions of the OIE are to collect and disseminate information about distribution and control of animal diseases and to ensure that scientifically justified standards govern international trade in animals and animal products. The OIE aims to achieve this through the development and revision of international standards for diagnostic tests, vaccines, and the safe international trade of animals and animal products.

The OIE provides annual reports on the global distribution of animal diseases, recognizes disease-free status of member countries, categorizes animal diseases with respect to their international significance, publishes bulletins on global disease status and timely reviews of pertinent animal health issues, and provides animal disease control guidelines to member countries.

Positions, policies, and standards established by the OIE can be adopted by consensus or by vote of the delegates upon recommendations from various commissions and working groups within the OIE. These various commissions and working groups undertake the initial analysis and preparation of draft standards. Drafts are then circulated to member countries for consultation (review and comment). Draft standards are revised accordingly and then presented to the OIE General Session, which meets annually every May, for review and adoption. Adoption, as a general rule, is based on consensus of the OIE membership.

The next OIE General Session is scheduled for Paris, France, May 27–June 1, 2001. The Deputy Administrator for APHIS' Veterinary Services is the U.S. delegate to the OIE. The Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS's position on any standard up for adoption in the event that there is no consensus on whether to adopt that standard. The agenda for the General Session is expected to include the following items:

*Code Chapters up for Adoption or Consideration*

Revisions to the following chapters of the OIE Animal Health Code are expected to be presented for adoption at the next General Session.

- Scrapie: Revisions to the OIE Code, chapter 3.3.8.
- Classical swine fever: An ad hoc group will examine possible revisions to the OIE Code, chapter 2.1.13.
- Newcastle disease: An ad hoc group will be formed to examine possible revisions to the OIE Code, chapter 2.1.15.
- Diseases of bees: Revisions to the OIE Code, chapter 3.8.1–3.8.5.
- Bovine Spongiform Encephalopathy (BSE): Continued revisions to OIE Code, chapter 3.2.13.
- Bluetongue: Revisions to the OIE Code, chapter 2.1.9.
- Paratuberculosis: The OIE Code, chapter 3.1.6, will be further updated and reviewed.

These chapters are being drafted by working groups that are composed of technical experts nominated by the OIE Code Commission by virtue of their subject-area expertise. During the initial drafting phase, countries and, by extension, the public, do not have the opportunity to review and comment on the standards being developed. Countries have the opportunity to comment on standards when the OIE makes draft chapters available for country consultation, probably sometime in October or November 2000. After the country consultation phase, countries' comments are considered by the working groups and the Code Commission. If a country has concerns with a particular draft standard, the Commission may revise that standard accordingly and present the revision for adoption at the General Session in May. In the event that a country's concerns regarding a draft standard are not taken into account, that country may refuse to support the standard when it comes up for adoption at the General Session. However, each member country is obligated to make science-based decisions when considering standards up for adoption at the General Session.

The above draft standards will not be made available to the United States for country consultation until October or November, 2000. The U.S. positions on those standards will not be adopted until after the draft standards are made available to us. Additional information can be obtained at that time by contacting Dr. Michael David, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–3577; or e-mail: michael.j.david@usda.gov.

*Current Work Program*

If the Code Commission determines that a new standard or a revision of an existing standard is required, the Commission forms a working group of persons with expertise in the area of the standard being considered. It is the working group's responsibility to draft or revise the standards and report their progress to the General Session. At present, there is one group working on each of the standards mentioned above.

Two other ongoing working groups within the OIE, *Wildlife Diseases* and *Informatics and Epidemiology,* are charged with providing other working groups and commissions with technical information and advice related to wildlife and livestock diseases, including disease surveillance and risk analysis.

An ongoing ad-hoc group on anti-microbial resistence is charged with looking at issues such as the prudent use of antibiotics in livestock production, monitoring the quantities of antibiotics used in veterinary medicine, and the standardization of laboratory procedures and the harmonization of national systems for the surveillance of microbial resistance in animals and in foods of animal origin. The group is developing consensus documents on these issues that will be distributed to all member countries for consideration.

For current information on any of these working groups, (including meeting times and agendas) contact Dr. Michael David at the address listed above under the heading ''Code Chapters up for Adoption or Consideration.''

*Other OIE Topics*

Two other major topics will be addressed at the May 2001 General Session. However, additional standards for these topics are not expected to be developed and presented for adoption at the General Session:

- The importance of animal diseases in public health, animal health, and trade.
- The role of communication management in supporting veterinary services.

The information in this notice includes all the information currently available to us on OIE standards currently under development or consideration. Information on OIE standards is available on the OIE web page at http://www.oie.int. Further, a formal agenda for the next General Session will be available to member countries in January or February of 2001, and copies will be available to the public once the agenda is published. For

current information on meeting times, working groups, and/or meeting agendas, or for information on official U.S. participation in OIE activities, including U.S. positions on standards being considered, contact Dr. Michael David at the address listed above under the heading ''Code Chapters up for Adoption or Consideration.''

**IPPC Standard-Setting Activities**

The IPPC is a multilateral convention adopted in 1952 for the purpose of securing common and effective action to prevent the spread and introduction of pests of plants and plant products and to promote appropriate measures for their control. Under the IPPC, the understanding of plant protection has been, and continues to be, broad, encompassing the protection of both cultivated and noncultivated plants from direct or indirect injury by plant pests. Activities addressed by the IPPC include the development and establishment of international plant health standards, the harmonization of phytosanitary activities through emerging standards, the facilitation of the exchange of official and scientific information among countries, and the furnishing of technical assistance to developing countries that are signatories to the IPPC.

The IPPC is placed under the authority of the FAO, and the members of the Secretariat of the IPPC are appointed by the FAO. The IPPC is implemented by national plant protection organizations in cooperation with regional plant protection organizations, the Interim Commission on Phytosanitary Measures (ICPM), and the Secretariat of the IPPC. The United States plays a major role in all standard-setting activities under the IPPC and has representation on FAO's highest governing body, the FAO Conference.

The United States became a contracting party to the IPPC in 1972 and has been actively involved in furthering the work of the IPPC ever since. The IPPC was amended in 1979, and the amended version entered into force in 1991 after two-thirds of the contracting countries accepted the amendment. More recently, in 1997, contracting parties completed negotiations on further amendments that were approved by the FAO Conference and submitted to the parties for acceptance. This 1997 amendment updated phytosanitary concepts and formalized the standard-setting structure within the IPPC. The 1997 amended version of the IPPC will enter into force once two-thirds of the current contracting parties notify the Director General of FAO of their acceptance of the amendment.

The IPPC has been, and continues to be, administered at the national level by plant quarantine officials whose primary objective is to safeguard plant resources from injurious pests. In the United States, the national plant protection organization is APHIS' Plant Protection and Quarantine (PPQ) unit. The steps for developing a standard under the revised IPPC are described below.

Step 1

Proposals for a new international standard for phytosanitary measures (ISPM) or for the review or revision of an existing ISPM are submitted to the Secretariat in the form of a discussion paper accompanied by a topic or draft standard. Drafts can be submitted by individual countries, but are more commonly submitted by regional plant protection organizations (RPPO's). Alternately, the Secretariat can propose a new standard or amendments to existing standards.

Step 2

A summary of proposals is submitted by the Secretariat to the ICPM. The ICPM identifies the topics and priorities for standard setting from among the proposals submitted to the Secretariat and others that may be raised by the ICPM.

Step 3

Specifications for the standards identified as priorities by the ICPM are drafted by the Secretariat. The draft specifications are submitted to the Standards Committee for approval/amendment and are subsequently made available to members and RPPO's for comment (60 days). Comment is by written submission to the Secretariat. Taking into account the comments, the Standards Committee finalizes the specifications.

Step 4

The standard is drafted or revised by a working group designated by the Standards Committee and in accordance with the specifications. The resulting draft standard is submitted to the Standards Committee for review.

Step 5

Draft standards approved by the Standards Committee are distributed to members by the Secretariat and RPPO's for consultation (120 days). Comment is by written submission to the Secretariat. Where appropriate, the Standards Committee may establish open-ended discussion groups as fora for further comment. The Secretariat summarizes the comments and submits them to the Standards Committee.

Step 6

Taking into account the comments, the Secretariat, in cooperation with the Standards Committee, revises the draft standard. The Standards Committee submits the final version to the ICPM for adoption.

Step 7

The ISPM is established through formal adoption by the ICPM according to Rule X of the Rules of Procedure of the ICPM.

Step 8

The ISPM is reviewed by the specified date or such other date as may be agreed upon by the ICPM.

Each member country is represented on ICPM by a single delegate. Although experts and advisers may accompany the delegate to meetings of the ICPM, only the delegate or an authorized alternate may represent the United States in considering a standard up for approval. Parties involved in a vote by the ICPM are to make every effort to reach agreement on all matters by consensus. Only after all efforts to reach a consensus have been exhausted may a decision on a standard be passed by a vote of two-thirds of delegates present and voting.

Technical experts from the United States have participated directly in working groups and indirectly as reviewers of all IPPC draft standards. In addition, documents and positions developed by APHIS and NAPPO have served as the basis for many of the standards adopted to date. This notice describes each of the IPPC standards currently under consideration or up for adoption. Access to the full text of each standard will be available electronically on the APHIS Internet web page at http://aphis.usda.gov/ppq/standards. Interested individuals may review and provide comments on the standards found on this web page.

The next ICPM meeting is scheduled for April 2–6, 2001. The Deputy Administrator for APHIS' Plant Protection and Quarantine is the U.S. delegate to the ICPM. The Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS's position on any standard up for adoption in the event that there is no consensus on whether to adopt that standard. The provisional agenda for the meeting is as follows:

**Provisional Agenda for the Third Interim Commission on Phytosanitary Measures**

1. Opening of the session
2. Report by the chairperson
3. Adoption of the agenda
4. Standard setting priorities
5. Adoption of international standards [1]
6. Items arising from the second meeting of the ICPM
   6.1 Formation of a standards committee
   6.2 Dispute settlement procedures
   6.3 Information exchange
   6.4 Genetically modified organisms (GMO's), biosafety and invasive species
   6.5 Official control
7. Report from the technical consultation among RPPO's
   7.1 Recognition of RPPO's
8. Work program for harmonization
   8.1 Standard setting
   8.2 Information exchange
   8.3 Technical assistance
9. Strategic planning
10. Status of the IPPC
   10.1 Acceptance of the new revised text
   10.2 Interim standards
11. Other business
   11.1 Reporting of noncompliance with phytosanitary measures
12. Date and venue of the next meeting
13. Election of the bureau
14. Adoption of the report

The agenda is also expected to include reports from various working groups, as described below.

*Working Group on Notification and Noncompliance:* Under the Convention, members have an obligation to notify incidents involving noncompliance of imported shipments (*e.g.*, certification deficiencies or pest interceptions) to the member concerned. This working group, which met in December 1999, drafted a standard for such notifications among members.

*Working Group on Pest Listing:* The IPPC requires contracting parties to establish and update lists of regulated pests for phytosanitary certification purposes. Guidelines were developed for meeting these obligations at a working group meeting, by describing lists of regulated pests, their purpose, and their relationship to phytosanitary procedures. APHIS participated in the working group meeting, which met in January 2000.

*Working Group on Strategic Planning and Technical Assistance:* This working group, which met in early March 2000, began the process of drafting a strategic plan for review and comment by ICPM members. The working group's goal is to develop a strategic plan that will help clarify the ICPM's basic functions and ensure that the annual work program, Secretariat's activities, and financial investments are focused on achieving the IPPC's most important objectives. The working group is also charged with addressing the ICPM's role in technical assistance. This working group will meet again in October 2000 to finalize the strategic plan.

*Working Group on Official Control:* The purpose of this working group, which met in March 2000, was to arrive at a more exact definition of what constitutes ''officially controlled'' in the IPPC's definition of ''quarantine pest.'' Ambiguities in the current definition allow countries to impose phytosanitary measures on pests that may already exist within their territory, but are not under internal regulatory controls. This has raised concerns about the use of unjustified or discriminatory treatments or requirements on imports. The working group developed a clarified definition and set of guidelines to ensure a harmonized understanding and application of the concept of ''official control.''

*Working Group on Standards Committee:* This working group, which met the week of April 10, 2000, will develop recommendations on the future structure and composition for the Standards Committee. The Standards Committee is called the Interim Standards Committee until some basic structural changes are adopted by the ICPM. The working group considered a structure that is limited in size to ensure high productivity, emphasizes scientific expertise on the Committee rather than geographical representation, and allows for adequate participation of experts from developing countries.

*Working Group on Dispute Settlement:* This working group met the week of May 9, 2000, to finalize rules and procedures for utilizing dispute settlement described in the IPPC. These procedures, contained in Article XIII of the Convention, are not legally binding. However, members agree that such provisions, if available, may help reduce or avoid formal, legalistic, and costly disputes in the WTO.

*Interim Standards Committee:* The Interim Standards Committee, which met the week of May 15, 2000, to review and redraft, as appropriate, draft standards that will be considered for adoption in 2001. This Committee will meet again in November 2000 to possibly finalize these draft standards for submission to and adoption by the ICPM in April 2001. Among the drafts to be reviewed are standards on ''Guidelines for Notification of Interceptions and Noncompliance,'' ''Guidelines for the Preparation of Regulated Pest Lists,'' ''Guidelines on Official Control,'' ''Revised Pest Risk Analysis Standard,'' and ''Guidelines for the Preparation of Phytosanitary Certificates.'' The committee will also review revisions to the ''Glossary of Phytosanitary Terms.''

*Working Group on Wood Packing Material:* Consensus was reached at the ICPM meeting in October 1999 on prioritizing the development of a standard on wood packing material. This issue was considered of high importance to all members that have experienced a growing increase in pest interceptions associated with wood packing materials. The working group, which met the week of June 6, 2000, drafted a global standard based on the existing regional standard developed by NAPPO.

*Working Group on GMOs and Invasive Species:* This working group met the week of June 13, 2000, to identify the phytosanitary aspects of GMO's and to consider the necessity of developing international phytosanitary standards in this area. The working group was charged with: Developing a statement on the role of the IPPC in assessing the plant pest risk of GMO's and the relationship between invasive species and plant quarantine pests (pests of primary concern under the IPPC); identifying the roles and responsibilities of other relevant bodies and any potential overlaps with the role of the IPPC; considering the necessity of developing international standards under the IPPC; identifying the need for capacity building in developing countries to fulfill their identified role under the IPPC; and developing a draft communication strategy to promote and clarify the role of the IPPC in this area. These points were all addressed at the meeting.

*Working Group on Regulated Nonquarantine Pests:* The new revised Convention broadened the scope of regulated pests to include regulated nonquarantine pests that are associated with propagative materials. These pests are regulated due to their economic impact. The working group, which met the week of July 3, 2000, considered the development of a standard to guide the application of phytosanitary measures for this new category of pests.

*Working Group on Systems Approaches for Pest Management:* Given the eventual loss of methyl bromide as a quarantine tool, many countries are relying increasingly on new approaches for reducing pest risks

[1] Standards that may be up for adoption at the April 2001 general session are listed below under the heading ''*Interim Standards Committee*''.

and meeting foreign import requirements. Systems approaches have emerged as an increasingly popular way to certify commodities for export. A working group, which met the week of July 24, 2000, considered the development of a standard to harmonize the approach used by countries in establishing systems approaches for export purposes.

*Working Group on Pest Reporting:* Under the IPPC, members have an obligation to report pest outbreaks or incidents that may be of potential danger to other members. This working group, which met the week of September 12, 2000, is expected to develop a standard format for such reporting between members.

*Status of Newly Revised Text of IPPC*

The newly revised Convention (amended in 1997) will come into force once two-thirds of the contracting parties deposit their formal letters of acceptance with the Director General of FAO. With regard to U.S. action on this matter, on March 23, 2000, the President formally transmitted the Revised Text of the Convention to the Senate recommending review and consent of this amended Convention. Formal U.S. acceptance of the revised Convention (*i.e.*, official U.S. letter of acceptance deposited with FAO) will occur once the Senate completes its review and consent procedure.

*IPPC Standards Up for Adoption in 2001*

It is anticipated that five Standards will be considered by the ICPM for adoption at its April 2001 meeting. The United States, represented by APHIS, will participate in the consideration of these standards. They include:

1. *Revised Pest Risk Analysis Standard:* This standard, adopted in 1995, provides guidelines for conducting pest risk analyses (PRA) for quarantine pests. The newly revised Convention clarifies a number of terms and concepts related to PRA. Consequently, the existing PRA standard was updated to reflect these changes.

2. *Guidelines for the Preparation of Phytosanitary Certificates:* This standard will guide members in the preparation of phytosanitary certificates. These certificates, based on a standardized format, accompany plant commodities and attest that a given shipment has been inspected and is found to be free of quarantine pests and in compliance with the importing member's phytosanitary requirements.

3. *Guidelines for the Preparation of Pest Lists:* Under the IPPC, members are required to establish and keep up-to-date lists of regulated pests within their territory. The purpose is to keep other members informed of which pests are subject to phytosanitary requirements, thereby facilitating the phytosanitary certification of exports. This standard will guide members in the development and use of pest lists.

4. *Guidelines for Defining ''Official Control'':* Under the IPPC, the definition of a quarantine pest is a ''pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being *officially controlled*.'' The term ''officially controlled'' has been part of the IPPC definition of ''quarantine pest'' for many years, but never defined. As a result, members have had different interpretations for the term, especially as it relates to pests occurring within their territory. Ambiguities in the meaning of ''official control'' have allowed countries to impose phytosanitary measures on pests that may already exist within their territory and are not under internal regulatory controls. This has raised concerns of unjustified and/or discriminatory treatments or requirements imposed on imports. This standard will provide guidelines to ensure a harmonized understanding and application of the concept of ''official control.''

5. *Guidelines for Reporting Interception and Noncompliance:* Under the Convention, members are obligated to notify exporting members of incidents of noncompliance of imported shipments (*e.g.*, phytosanitary certification deficiencies, pest interceptions) associated with their export shipments. These guidelines will clarify the procedures by which members inform each other of pest interceptions, certification issues, or other irregularities related to imported commodities or shipments.

At this time, it appears likely that only the above standards will be presented for adoption at the next ICPM meeting in April 2001. The United States intends to support adoption of the draft standards at the ICPM meeting.

APHIS posts draft standards on its web page (http://www.aphis.usda.gov/ppq/standards) as they become available to us. The web page also provides information on when comments on standards are due. Additional information on IPPC standards is available on the FAO web page at *http://www.ippc.int.* For information on official U.S. participation in IPPC activities, including U.S. positions on standards being considered, contact Narcy Klag, Coordinator for International Phytosanitary Standards, PPQ, APHIS, USDA, 4700 River Road, Unit 140, Riverdale, MD 20737; e-mail: narcy.g.klag@usda.gov.

**NAPPO Standard-Setting Activities**

NAPPO, a regional plant protection organization created in 1976 under the IPPC, coordinates the efforts among Canada, the United States, and Mexico to protect their plant resources from the entry, establishment, and spread of harmful plant pests, while facilitating intra-and inter-regional trade.

NAPPO conducts its business through panels and annual meetings held among the three member countries. The NAPPO Executive Committee charges individual panels with the responsibility for drawing up proposals for NAPPO positions, policies, and standards. These panels are made up of representatives from each member country who have scientific expertise related to the policy or standard being considered.

Proposals drawn up by the individual panels are circulated for review to government and industry officials in Canada, Mexico, and the United States, who may suggest revisions. In the United States, draft standards are circulated to industry, States, and various government agencies for consideration and comment. The draft standards are posted on the Internet at: http://www.aphis.usda.gov/ppq/standards. Interested persons may submit comments via this web page. Once revisions are made, the proposal is sent to the NAPPO working group and the NAPPO standards panel for technical reviews and then to the Executive Committee for final approval, which is granted by consensus.

The annual NAPPO meeting is scheduled for October 17–18, 2000, in San Diego, CA. The Executive Committee meeting will take place on October 15, and a special session will be held on October 16, where industry groups can bring issues to the attention of the Executive Committee. The Deputy Administrator for APHIS' Plant Protection and Quarantine is the U.S. member of the Executive Committee. The Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS's position on any standard up for adoption in the event that there is no consensus on whether to adopt that standard. The agenda for the meeting will include the following items related to standard setting:

**Standards up for Adoption or Consideration:**

• *Guidelines for Preclearance Programs:* This standard revises the current standard to include, among other things, procedures for phasing out preclearance programs. The United States intends to support adoption of the draft standard at the NAPPO meeting in October.

**Updates on NAPPO Panel Activities**

Working panels will report their progress to the Executive Committee. Information on panel assignments, updates on activities, and updates on meeting times and locations can be obtained from the NAPPO home page at http://www.nappo.org or by contacting Narcy Klag, Coordinator for International Phytosanitary Standards, PPQ, APHIS, USDA, 4700 River Road, Unit 140, Riverdale, MD 20737; e-mail: narcy.g.klag@usda.gov.

The following is a summary of current panel charges as they relate to the ongoing development of standards:

*Accreditation Panel (Laboratory Accreditation)*

• Develop a form for commodity-specific panels to use to develop an inventory of laboratory tests, analyses, and identification done in support of plant health regulatory activities.

*Accreditation Panel (Inspector Accreditation)*

• Work towards implementing the conditions of this standard by April 1, 2001. Written progress report to be given to the Executive Committee at its meeting on October 15, 2000.

*Biological Control Panel*

• Finalize the standard, ''Guidelines for Petition for Import and Release of Nonnative Entomophagous Agents for the Biological Control of Pests.'' This has gone through the country consultation phase, and comments are now being reviewed and incorporated where appropriate. A procedure to conduct post-release monitoring for biological control agents is also being developed.

*Biotechnology Panel*

• Develop a NAPPO standard for the review of products of biotechnology that focuses on the assessment of the potential to present a plant pest risk.

*Citrus Panel*

• Continue development of a NAPPO citrus standard.

*Forestry Panel*

• Track the implementation of the standard on wood packing material within the three countries so that implementation takes places at or near the same time.

*Fruit Fly Panel*

• Complete the standard on ''Verification and Maintenance of Fruit Fly-Free Areas.''

*Fruit Tree Panel*

• Develop standardized diagnostic tests to be used when certifying fruit tree nursery stock.

*Grain Panel*

• Develop standardized diagnostic tests to be used when certifying grain shipments.

*Grapevine Panel*

• Develop standardized diagnostic tests to be used when certifying grapevine shipments.

*Pest Risk Analysis Panel*

• Act as focal point to advise on the revisions to the international standard for PRA. Collaborate with the Potato Panel in the development of a PRA to support implementation of the NAPPO standard, ''Requirements for the Importation of Potatoes into a NAPPO Member Country.''

*Seeds Panel*

• Prepare a proposal to the IPPC to endorse the seed testing methods of the International Seed Testing Association (ISTA).

*Standards Panel*

• Provide updates on standards in the NAPPO newsletter.
• Review standards presented to the Executive Committee prior to country consultation.
• Incorporate comments received from country consultation if appropriate.
• Coordinate responses to the North American members on the IPPC Standards Committee on draft international standards.

The information in this notice includes all the information available to us on NAPPO standards currently under development or consideration. For updates on meeting times and for information on the working panels that becomes available following publication of this notice, check the NAPPO web page at http://www.nappo.org or contact Narcy Klag, Coordinator for International Phytosanitary Standards, PPQ, APHIS, USDA, 4700 River Road, Unit 140, Riverdale, MD 20737; e-mail: narcy.g.klag@usda.gov. For information on official U.S. participation in NAPPO activities, including U.S. positions on standards being considered, contact Mr. Narcy Klag at the above address.

Done in Washington, DC, this 21st day of September 2000.

**Chester A. Gipson,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00–24841 Filed 9–26–00; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request;

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* Bureau of Export Administration (BXA).

*Title:* Defense Priorities and Allocation System.

*Agency Form Number:* N/A.

*OMB Approval Number:* 0694–0053.

*Type of Request:* Renewal of an existing collection of information.

*Burden:* 14,477 hours.

*Average Time Per Response:* 14 seconds per response.

*Number of Respondents:* 707,000 respondents.

*Needs and Uses:* The record keeping requirement is necessary for administration and enforcement of delegated authority under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, *et seq.*) and the Selective Service Act of 1948 (50 U.S.C. App. 468). Any person who receives a priority rated order under the implementing DPAS regulation (15 CFR 700) must retain records for at least 3 years.

*Affected Public:* Individuals, businesses or other for-profit institutions.

*Respondent's Obligation:* Mandatory.

*OMB Desk Officer:* David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Forms Clearance Officer, Office of the Chief Information Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, D.C. 20230, or via Internet at MClayton@doc.gov.

Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: September 22, 2000.

**Madeleine Clayton,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 00–24847 Filed 9–26–00; 8:45 a.m.]

**BILLING CODE 3510–JT–P**

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## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Docket 54–2000]**

### Foreign-Trade Zone 8—Toledo, Ohio Area Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Toledo-Lucas County Port Authority, grantee of Foreign-Trade Zone 8, requesting authority to expand its zone in the Toledo, Ohio area, within the Toledo/Sandusky Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on September 19, 2000.

FTZ 8 was approved on October 11, 1960 (Board Order 51, 25 FR 9909, 10/15/60) and expanded on January 22, 1973 (Board Order 92, 38 FR 3015, 1/31/73); January 11, 1985 (Board Order 277, 50 FR 2702,1/18/85); August 19, 1991 (Board Order 532, 56 FR 42026, 8/26/91); and June 12, 2000 (Board Order 1102, 65 FR 37960, 6/19/00). The general-purpose zone currently consists of 3 sites (497 acres) in the Toledo area: *Site 1* (150 acres)—within the Port of Toledo complex at the Overseas Cargo Center, Toledo; *Site 2* (337 acres)—at the Toledo Express Airport, in Swanton, Ohio, some 5 miles west of Toledo; and, *Site 3* (10 acres)—at the First Choice Packaging warehouse facility, 1501 West State Street, Fremont.

The applicant is now requesting authority to expand the general-purpose zone to include an additional site: *Proposed Site 4* (471 acres)—Cedar Point Development Park and adjacent areas, east of Lallendorf Road, south of Cedar Point Road and west of Wynn Road, Oregon. The site is owned primarily by the City of Oregon, the Oregon on the Bay Economic Development Foundation and several private owners. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 27, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to December 11, 2000).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations: U.S. Department of Commerce, Export Assistance Center, 300 Madison Avenue, Suite 270, Toledo, OH 43604; Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: September 20, 2000.

**Dennis Puccinelli,**

*Executive Secretary.*

[FR Doc. 00–24849 Filed 9–26–00; 8:45 am]

**BILLING CODE 3510–DS–U**

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–428–814, A–428–815]**

### Amended Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled and Corrosion Resistant Carbon Steel Flat Products From Germany

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Amendment to final determinations of antidumping duty investigations in accordance with decision upon remand.

**SUMMARY:** We are amending the ''all others'' cash deposit rate to 21.66% ad valorem for certain cold-rolled carbon steel flat products from Germany and 10.02% ad valorem for corrosion resistant carbon steel flat products from Germany.

**EFFECTIVE DATE:** September 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Thirumalai, Office 1, Group 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–4087.

**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions in effect as of December 31, 1994. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to 19 CFR part 353 (April 1997).

**Background**

On April 27, 1995, the United States Court of International Trade (CIT) remanded to the Department the amended final determinations in the antidumping duty investigations of certain cold-rolled and corrosion resistant carbon steel flat products from Germany. *See Thyssen Stahl AG* v. *United States,* 886 F. Supp. 23 (CIT 1995) (see also Notice of Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Flat Products From Germany, 58 FR 37136 (July 9, 1993), as amended, 58 FR 44170 (August 19, 1993)). In its remand, the CIT instructed the Department to recalculate the dumping margins for Thyssen Stahl AG (Thyssen) by 1) disallowing the adjustment for currency hedging gains on U.S. sales, and 2) multiplying the rate of the German value-added tax (VAT) by the U.S. price and then increasing that price by the resultant amount (while not subtracting the VAT from the home market price). On June 27, 1995, the Department filed its results of redetermination pursuant to the CIT's order.

Following the Court of Appeals for the Federal Circuit's (CAFC's) decision with respect to the VAT methodology in *Federal Mogul Corp.* v. *United States,* 63 F.3d 1572 (Fed.Cir. 1995) (*Federal Mogul*), the Department requested a second remand in these cases to conform the VAT methodology in the above-referenced investigations to that resulting from *Federal Mogul.* The CIT granted the Department's request for a second remand in Slip Op. 95–183 (November 17, 1995). Pursuant to *Federal Mogul,* the Department changed its treatment of home market consumption taxes by adding to U.S. price the absolute amount of such taxes incurred on the comparison home market sales. On January 22, 1996, the Department filed its revised final remand results.

On May 12, 1997, the CIT affirmed the final revised remand determinations in *Thyssen Stahl AG* v. *United States* Slip Op. 97–55 (May 12, 1997). That decision was appealed. On July 27, 1998, the CAFC affirmed the decision of the CIT in *Thyssen Stahl AG* v. *United States,* Slip Op. 97–1509 (July 27, 1998).

In light of the final and conclusive court decision in this action, we are amending the ''all others'' cash deposit rate from 19.03% to 21.66% ad valorem for cold-rolled and from 4.18% to 10.02% ad valorem for corrosion resistant carbon steel flat products from Germany. We are not amending the cash deposit rates for Thyssen because they have been superseded by subsequent administrative reviews for this company.

**Amended Final Determination**

As there is now a final and conclusive court decision in this action, we are amending the amended final determinations on certain cold-rolled and corrosion resistant carbon steel flat products from Germany, pursuant to section 516A(e) of the Act. As a result of these remand redeterminations, the recalculated final weighted-average margins are as follows:

| Manufacturer/producer/exporter | Margin percentage |
|---|---|
| Cold-Rolled: | |
| Klockner Stahl GmbH | 23.54 |
| Thyssen Stahl AG | 20.64 |
| All Others | 21.66 |
| Corrosion Resistant: | |
| Thyssen Stahl AG | 10.02 |
| All Others | 10.02 |

**Cash Deposit Instructions**

The ''all others'' cash deposit rates of 21.66% ad valorem for cold-rolled and 10.02% ad valorem for corrosion resistant carbon steel flat products from Germany will be effective upon publication of this notice of amended final determinations on all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date.

These amended final determinations and notice are in accordance with sections 736(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.20(a)(4) (1994).

Dated: September 20, 2000.

**Troy H. Cribb,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–24851 Filed 9–26–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–823–805]**

### Final Results of Full Sunset Review: Silicomanganese From Ukraine

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final results of full sunset review: silicomanganese from Ukraine.

**SUMMARY:** On May 30, 2000, the Department of Commerce (''the Department'') published a notice of preliminary results of the full sunset review of the suspended antidumping investigation on silicomanganese from Ukraine (65 FR 34440) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). We provided interested parties an opportunity to comment on our preliminary results. We did not receive comments from either domestic or respondent interested parties. As a result of this review, the Department finds that termination of the suspended antidumping investigation would be likely to lead to continuation or recurrence of dumping at levels indicated in the *Final Results of Review* section of this notice.

**EFFECTIVE DATE:** September 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Martha V. Douthit, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

**Statute and Regulations**

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department regulations are to 19 CFR Part 351 (1999). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

**Background**

On May 30, 2000, the Department of Commerce (''the Department'') published in the **Federal Register** a notice of preliminary results of the full sunset review of the suspended antidumping investigation on silicomanganese from Ukraine, pursuant to section 751(c) of the Act. In our preliminary results, we found that termination of the suspended antidumping investigation would be likely to lead to continuation or recurrence of dumping, and we preliminarily determined the following dumping margin likely to prevail if the suspended antidumping investigation were terminated:

| Manufacturers/Exporters | Margin (percent) |
|---|---|
| Country-wide | 163.00 |

We did not receive a case brief on behalf of either domestic or respondent interested parties within the deadline specified in 19 CFR 351.309(c)(1)(i).

**Scope of Review**

The merchandise covered by this sunset review is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon, and iron, and normally containing much smaller proportions of minor elements, such as carbon, phosphorous, and sulfur. Silicomanganese generally contains by weight not less than four percent iron, more than 30 percent manganese, more than eight percent silicon, and not more than three percent phosphorous. All compositions, forms, and sizes of silicomanganese are included within the scope of this review, including silicomanganese slag, fines, and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. This sunset review covers all silicomanganese, regardless of its tariff classification. Most silicomanganese is currently classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Some silicomanganese may also currently be classifiable under HTSUS subheading 7202.99.5040. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the subject merchandise remains dispositive.

**Analysis of Comments Received**

The Department did not receive case briefs from either domestic or respondent interested parties. Therefore, we have not made any changes to our

preliminary results of May 30, 2000 (65 FR 34440).

**Final Results of Review**

As a result of this review, the Department finds that termination of the suspended antidumping investigation on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of dumping at the level listed below:

| Manufacturers/Exporters | Margin (percent) |
|---|---|
| Country-wide ..... | 163.00 |

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: September 21, 2000.

**Troy H. Cribb,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00–24848 Filed 9–26–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC.

*Docket Number:* 00–021. *Applicant:* University of Florida, Materials Science and Engineering, Post Office Box 116400, Gainesville, FL 32611–6400. *Instrument:* Electron Microscope, Model JEM–2010F. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument is intended to be used to study the microstructure of metals, metal alloys, ceramics, high-temperature superconductors, semiconductors, polymers, clays, dental implants and soot emissions while conducting the following representative experiments:

1. Structure-property relationships in semiconducting materials.
2. Interface phenomena in oxides.
3. Analysis of interfaces in advanced polymers and photonic devices.
4. The structure of high-temperature materials.
5. Mechanical properties of dental implants.
6. Polymer-protein and polymer-cell interactions.
7. Nanoscale properties of porous silicon.
8. Structure and chemistry of oxide minerals.
9. Structure-property relationships in opto-electronic materials.
10. Strength/hardness enhancement in superlattices.

In addition, the instrument will be used on a one-to-one basis for training of faculty, staff and graduate students. Application accepted by Commissioner of Customs: June 9, 2000.

*Docket Number:* 00–027. *Applicant:* Emory University, Department of Biology, 2006 Rollins Research Center, 1510 Clifton Road, Atlanta, GA 30322. *Instrument:* Slice Physiology Setup. *Manufacturer:* Luigs and Neumann, Germany. *Intended Use:* The instrument is intended to be used to do electrophysiological studies using rat brain slices. The experiments consist of preparing slices of rat brain, putting them under the microscope and inserting microeletrodes into single nerve cells. Once the microelectrode is inserted, a fluorescent dye will be injected into the cell body to visualize fine dendritic processes. The microscope will then be moved to focus on one of the visualized fine processes, and a second electrode can be inserted into the same cell. The main objective of this research is to understand neuronal activity and information processing in the mammalian brain. In particular, nerve cells in brain structures involved in a motor control will be studied. In addition, the instrument will be used for educational purposes in the course Bio. 498 Guided Research for Senior Undergraduate Students. Application accepted by Commissioner of Customs: September 5, 2000.

*Docket Number:* 00–028. *Applicant:* Ernest Orlando Lawrence Berkeley National Laboratory, One Cyclotron Road, Berkeley, CA 94720. *Instrument:* Electron Microscope, Model JEM–3010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument is intended to be used for studies of the microstructure and microstructural evolution of metals, metal alloys, ceramics, electronic and opto-electronic materials and nanocomposites. The experiments will include:

1. In-situ microscopy—real time evolutions of structure/property/processing relationships.
2. Real time high-resolution electron microscopy.
3. Dislocation and defect studies in materials.
4. Identification of phases and crystal structure by electron diffraction and convergent beam electron diffraction.

In addition, the instrument will be used for significant one-to-one educational use between the staff and users on how to exploit transmission electron microscopy to solve materials problems. Application accepted by Commissioner of Customs: September 5, 2000.

**Frank W. Creel,**

*Director, Statutory Import Programs Staff.*

[FR Doc. 00–24850 Filed 9–26–00; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 092100D]**

### Mid-Atlantic 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 Mid-Atlantic Fishery Management Council (MAFMC) and its Comprehensive Management Committee, Executive Committee, Law Enforcement Committee, Demersal Committee, Squid-Mackerel-Butterfish Committee, and Habitat Committee will hold a public meeting.

**DATES:** The meetings will be held on Tuesday, October 10, 2000, to Thursday, October 12, 2000.

**ADDRESSES:** This meeting will be held at the Sanderling Inn Resort & Conference Center, 1461 Duck Road, Duck, NC; telephone: 252-449-6664.

*Council address:* Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302-674-2331.

**FOR FURTHER INFORMATION CONTACT:** Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302-674-2331, ext. 19.

**SUPPLEMENTARY INFORMATION:**

**Tuesday, October 10, 2000**

*From 9 a.m. to 11 a.m.*—the Comprehensive Management Committee will meet.

*From 11 a.m. to noon*—the Executive Committee will meet.

*From 1 p.m. to 3 p.m.*—the Law Enforcement Committee with the Advisory Panel will meet.

*From 2 p.m. to 5 p.m.*—the Demersal Committee will meet concurrently.

*From 7 p.m. to 9 p.m.*—there will be a public hearing for Draft Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP).

**Wednesday, October 11, 2000**

*From 8 a.m. to 11 a.m.*—the Squid-Mackerel-Butterfish Committee will meet.

*From 9 a.m. to 11 a.m.*—the Habitat Committee will meet concurrently.

*11 a.m.*—the Council will convene at 11:00 a.m. and depart for the U.S.Coast Guard Air Station at Elizabeth City, NC, for an overview of law enforcement operations for the remainder of the day.

**Thursday, October 12, 2000**

*8 a.m.*—the Council will convene and is scheduled to adjourn at 1 p.m.

Agenda items for this meeting are: Review and approve generic framework measure to authorize quota set aside for non Individual Transferable Quota MAFMC species, review and discuss quota set aside request for proposals; review state proposals for MAFMC funding, review annual work plan developed at Committee Chairmen's meeting; review and evaluate Fishery Achievement Award nominations, review status of law enforcement (state/Federal) capabilities, develop committee strategy to review and comment on enforceability of Council's FMPs and related management measures, review Magnuson-Stevens Act National Standard 10, i.e., safety concerns inherent in FMPs and related management measures; review Summer Flounder Working Group's recommendations and develop committee's position on proposed action, review Summer Flounder Workshop results and determine a recommended course of action; convene public hearing for Draft Amendment 13 to the Summer Flounder, Scup, Black Sea Bass FMP; finalize management measures for Amendment 9 to the Squid-Mackerel-Butterfish Plan, review proposed 2001 specifications for Atlantic mackerel, review and develop recommendations regarding Lithuanian Total Allowable Level of Foreign Fishing application, comment on action taken by Monitoring Committee regarding fall 2000 quota allocation; review NMFS Northeast Regional Office's essential fish habitat General Concurrence with Philadelphia Army Corps of Engineers, address issues regarding New York harbor spoil disposal; hear organization and committee reports.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final actions to address such emergencies.

**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 MAFMC (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 22, 2000.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 00–24853 Filed 9–26–00; 8:45 am]

**BILLING CODE 3510-22-S**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits and Increase of Guaranteed Access Levels for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

September 21, 2000.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** September 28, 2000.

**FOR FURTHER INFORMATION CONTACT:** Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 338/638 is being increased for the recrediting of special shift, reducing the limit for Categories 339/639 to account for the special shift being recredited.

Upon the request of the Government of the Dominican Republic, the U.S. Government has agreed to increase the current Guaranteed Access Levels for textile products in Categories 339/639 and 347/348/647/648.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 50495, published on September 17, 1999.

**Richard B. Steinkamp,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

September 21, 2000.

Commissioner of Customs,

*Department of the Treasury, Washington, DC*

*20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 13, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on September 28, 2000, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

| Category | Adjusted twelve-month limit [1] |
|---|---|
| 338/638 | 1,333,592 dozen. |
| 339/639 | 1,191,907 dozen. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

Also effective on September 28, 2000, you are directed to increase the Guaranteed Access Levels for the categories listed below for the period beginning on January 1, 2000 and extending through December 31, 2000.

| Category | Guaranteed access level |
|---|---|
| 339/639 | 5,150,000 dozen. |
| 347/348/647/648 | 10,550,000 dozen. |

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 00–24830 Filed 9–26–00; 8:45 am]

BILLING CODE 3510–DR–F

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in India

September 21, 2000.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** September 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 70220, published on December 16, 1999.

**Richard B. Steinkamp,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

September 21, 2000.

Commissioner of Customs,

*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 10, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on September 27, 2000, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

| Category | Adjusted twelve-month limit [1] |
|---|---|
| Levels in Group I | |
| 219 | 79,493,376 square meters. |
| 313 | 49,845,550 square meters. |
| 314 | 9,879,531 square meters. |
| 317 | 45,194,716 square meters. |
| 326 | 13,026,312 square meters. |
| 363 | 57,260,894 numbers. |
| 369–D [2] | 1,825,625 kilograms. |
| 369–S [3] | 770,885 kilograms. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

[2] Category 369–D: only HTS numbers 6302.60.0010,–6302.91.0005 and 6302.91.0045.

[3] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 00–24828 Filed 9–26–00; 8:45 am]

BILLING CODE 3510–DR–F

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

September 21, 2000.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** September 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing, special shift, carryover and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the

CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 54870, published on October 8, 1999.

**Richard B. Steinkamp,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

**September 21, 2000.**

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 4, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man–made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on September 27, 2000, you are directed to adjust the limits for the categories listed below, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

| Category | Adjusted twelve-month limit [1] |
|---|---|
| Levels in Group I | |
| 219 | 11,081,418 square meters. |
| 225 | 8,570,999 square meters. |
| 300/301 | 5,071,743 kilograms. |
| 313–O [2] | 18,147,516 square meters. |
| 314–O [3] | 71,010,756 square meters. |
| 315–O [4] | 37,458,436 square meters. |
| 317–O [5]/326–O [6]/617 | 25,727,098 square meters of which not more than 5,028,777 square meters shall be in Category 326–O. |
| 331/631 | 3,291,781 dozen pairs. |
| 334/335 | 299,293 dozen. |
| 336/636 | 850,411 dozen. |
| 338/339 | 1,706,547 dozen. |
| 340/640 | 1,951,268 dozen. |
| 341 | 1,269,409 dozen. |
| 342/642 | 484,081 dozen. |
| 345 | 546,563 dozen. |
| 347/348 | 2,311,822 dozen. |
| 350/650 | 186,830 dozen. |
| 351/651 | 713,820 dozen. |
| 359–C/659–C [7] | 1,638,708 kilograms. |
| 359–S/659–S [8] | 1,604,665 kilograms. |
| 360 | 1,652,207 numbers. |
| 361 | 1,725,688 numbers. |
| 369–S [9] | 953,142 kilograms. |
| 433 | 13,133 dozen. |
| 443 | 97,429 numbers. |
| 445/446 | 65,287 dozen. |
| 447 | 20,365 dozen. |
| 448 | 23,996 dozen. |
| 604–A [10] | 909,346 kilograms. |
| 611–O [11] | 4,202,583 square meters. |
| 613/614/615 | 28,247,818 square meters. |
| 618–O [12] | 2,618,666 square meters. |
| 619/620 | 12,021,705 square meters. |
| 625/626/627/628/629–O [13]. | 31,681,429 square meters. |
| 634/635 | 386,013 dozen. |
| 638/639 | 1,920,085 dozen. |
| 641 | 3,166,399 dozen. |
| 643 | 431,423 numbers. |
| 644 | 610,633 numbers. |
| 645/646 | 1,065,583 dozen. |
| 647/648 | 4,019,306 dozen. |
| 847 | 557,768 dozen. |
| Group II | |
| 201, 218, 220, 222–224, 226, 227, 237, 239pt. [14], 332, 333, 352, 359–O [15], 362, 363, 369–O [16], 400, 410, 414, 431, 434, 435, 436, 438, 440, 442, 444, 459pt. [17], 464, 469pt. [18], 603, 604–O [19], 606, 607, 621, 622, 624, 633, 649, 652, 659–O [20], 666, 669–O [21], 670–O [22], 831, 833–836, 838, 840, 842–846, 850–852, 858 and 859pt. [23], as a group. | 127,728,391 square meters equivalent. |
| Subgroup in Group II | |
| 400, 410, 414, 431, 434, 435, 436, 438, 440, 442, 444, 459pt., 464 and 469pt., as a group. | 3,439,030 square meters equivalent. |
| In Group II subgroup | |
| 435 | 53,989 dozen. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

[2] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[3] Category 314–O: all HTS numbers except 5209.51.6015.

[4] Category 315–O: all HTS numbers except 5208.52.4055.

[5] Category 317–O: all HTS numbers except 5208.59.2085.

[6] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[7] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[8] Category 359–S: only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020; Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[9] Category 369–S: only HTS number 6307.10.2005.

[10] Category 604–A: only HTS number 5509.32.0000.

[11] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085.

[12] Category 618–O: all HTS numbers except 5408.24.9010 and 5408.24.9040.

[13] Category 625/626/627/628; Category 629–O: all HTS numbers except 5408.34.9085 and 5516.24.0085.

[14] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[15] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C); 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020 (Category 359–S) and 6406.99.1550 (Category 359pt.).

[16] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700 (Category 369pt.).

[17] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[18] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[19] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[20] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010, 6211.12.1020 (Category 659–S); 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[21] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040 (Category 669pt.).

[22] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[23] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc.00–24827 Filed 9–26–00; 8:45 am]

BILLING CODE 3510–DR–F

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

September 21, 2000.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** September 28, 2000.

**FOR FURTHER INFORMATION CONTACT:** Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits are being adjusted for swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 68335, published on December 7, 1999.

**Richard B. Steinkamp,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

**September 21, 2000.**

Commissioner of Customs,

*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 1, 1999, as amended on June 30, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on September 28, 2000, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

| Category | Adjusted twelve-month limit [1] |
|---|---|
| Specific limits | |
| 237 | 459,692 dozen. |
| 331/631 | 3,641,981 dozen pairs. |
| 334/634 | 379,809 dozen. |
| 335/635 | 506,108 dozen. |
| 338 | 6,593,997 dozen. |
| 339 | 1,977,252 dozen. |
| 347/348 | 1,279,039 dozen. |
| 351/651 | 437,066 dozen. |
| 359–C/659–C [2] | 1,968,808 kilograms. |
| 613/614 | 32,875,131 square meters |
| 615 | 31,713,291 square meters. |
| 625/626/627/628/629 | 97,157,201 square meters of which not more than 50,591,063 square meters shall be in Category 625; not more than 50,591,063 square meters shall be in Category 626; not more than 50,591,063 square meters shall be in Category 627; not more than 10,467,117 square meters shall be in Category 628; and not more than 50,591,063 square meters shall be in Category 629. |
| 638/639 | 438,638 dozen. |
| 647/648 | 942,657 dozen. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 00–24826 Filed 9–26–00; 8:45 am]

BILLING CODE 3510–DR–F

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Denial of Participation in the Special Access Program

September 21, 2000.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs suspending participation in the Special Access Program.

**EFFECTIVE DATE:** September 25, 2000.

**FOR FURTHER INFORMATION CONTACT:** Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Committee for the Implementation of Textile Agreements (CITA) has determined that Stone Manufacturing, Inc. has violated the requirements for participation in the Special Access Program, and has suspended Stone Manufacturing, Inc. from participation in the Program for the period September 25, 2000 through September 24, 2002.

Through the letter to the Commissioner of Customs published below, CITA directs the Commissioner to prohibit entry of products under the Special Access Program by or on behalf of Stone Manufacturing Inc. during the period September 25, 2000 through

September 24, 2002, and to prohibit entry by or on behalf of Stone Manufacturing, Inc. under the Program of products manufactured from fabric exported from the United States during that period.

Requirements for participation in the Special Access Program are available in **Federal Register** notice 63 FR 16474, published on April 3, 1998.

**Richard B. Steinkamp,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

September 21, 2000.

*Commissioner of Customs,*
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has suspended Stone Manufacturing, Inc. from participation in the Special Access Program for the period September 25, 2000 through September 24, 2002. You are therefore directed to prohibit entry of products under the Special Access Program by or on behalf of Stone Manufacturing, Inc. during the period September 25, 2000 through September 24, 2002. You are further directed to prohibit entry of products under the Special Access Program by or on behalf of Stone Manufacturing, Inc. manufactured from fabric exported from the United States during the period September 25, 2000 through September 24, 2002.

Sincerely,
Richard B. Steinkamp,
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc.00–24829 Filed 9–26–00; 8:45 am]

BILLING CODE 3510–DR–F

## COMMODITY FUTURES TRADING COMMISSION

## Chicago Board of Trade's Proposal To Adopt Block Trading Procedures

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed new Chicago Board of Trade Regulation 331.05 to establish block trading procedures and request for comment.

**SUMMARY:** The Chicago Board of Trade (''CBOT'' or ''Exchange''), has submitted to the Commodity Futures Trading Commission (''Commission'') proposed new Regulation 331.05 that would establish block trading procedures at the Exchange. Under these procedures, eligible participants would be allowed to negotiate and arrange futures transactions of a minimum size bilaterally away from the centralized, competitive market. Once the specific terms of the block transaction have been agreed to, the counterparties would report the relevant details of the transaction to the Exchange for clearing and settlement. CBOT is seeking to allow block trading in those contract which the Exchange initially launches for trading on or after Decembe4r 31, 1999. CBOT's proposal would establish block trading procedures which in large part resemble block trading procedures which the Commission has approved for the Cantor Financial Futures Exchange and Chicago Mercantile Exchange.

Acting pursuant to the authority delegated by Commission Regulation 140.96(b), the Division of Trading and Markets (''Division'') has determined to publish CBOT's proposal for public comment. The Division believes that publication of the proposal is in the public interest and will assist the Commission in considering the views of interested persons.

**DATES:** Comments must be received on or before October 12, 2000.

**ADDRESSES:** Comments should be submitted to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Comments also may be sent by facsimile to (202) 418–5221 or by electronic mail to secretary@cftc.gov. Reference should be made to the ''Chicago Board of Trade's Proposal to Adopt Block Trading Procedures.''

**FOR FURTHER INFORMATION CONTACT:** Nicholas C. Milano, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155, 21 Street, NW., Washington, DC 20581. Telephone: (202) 418–5361.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On June 4, 1999, the Commodity Futures Trading Commission issued an Advisory on Alternate Execution, or Block Trading, Procedures for the Futures Industry.[1] Through this Advisory, the Commission announced its intention to consider market proposals to adopt alternative execution, or block trading, procedures for large size or other types of orders on a case-by-case basis under a flexible approach to the requirements of the Act and the Commission's regulations. Under this approach, each contract market retains the discretion to permit alternative execution procedures and has the ability to develop procedures that reflect the particular characteristics and needs of its individual markets and market participants. Since that advisory, the Commission has approved block trading procedures at two contract markets—the Cantor Financial Futures Exchange on February 11, 2000 and the Chicago Mercantile Exchange on May 19, 2000.

By letter dated August 31, 2000, CBOT submitted proposed Regulation 331.05 to the Commission pursuant to section 5a(a)(12)(A) of the Act and Commission Regulation 1.41(c).[2] Proposed Regulation 331.05 would establish block trading procedures at the Exchange whereby qualified market participants would be allowed to negotiate and arrange futures transactions of a minimum size bilaterally away from the centralized, competitive market. Once the specific terms of the block transaction had been agreed to, the counterparties would report the relevant details of the transaction to the Exchange for clearing and settlement. Thus, under the proposed procedures, certain futures transactions could be executed noncompetitively rather than through the Exchange's open outcry trading platform or its CBOT/Eurex electronic trading system.

### II. Description of CBOT's Proposed Block Trading Procedures

#### *A. Eligible Contracts and Market Participants*

Under the proposed procedures, CBOT would limit the eligibility for block trading to those contracts that the Exchange initially launches for trading on or after December 31, 1999.[3] CBOT's proposal would restrict block trading to those market participants that qualified as an ''eligible participant'' as that term is defined by Commission Regulation 36.1(c)(2). In connection with block trade transactions entered into by a commodity trading advisor (''CTA'') on behalf of its customers, and provided

[1] 64 FR 31195 (June 10, 1999); 64 FR 34851 (corrections) (June 29, 1999). The Commission first raised the subject of alternative execution, or block trading, procedures in its Concept Release on the Regulation of Noncompetitive Transaction Executed on or Subject to the Rules of a Contract Market. 63 FR 3708 (January 26, 1998). Through the Concept Release, the Commission wished to explore whether certain alternative execution procedures for large size or other types of orders could be developed to satisfy the needs of market participants while furthering the policies and purposes of the Commodity Exchange Act (''Act'') and the Commission's Regulations.

[2] *See* Letter from Mr. Paul J. Draths, Vice President and Secretary, Chicago Board of Trade to Ms. Jean A. Webb, Secretary, Commodity Futures Trading Commission, dated August 31, 2000.

[3] CBOT's proposal does not include the implementation of block trading or minimum size requirements for any particular contract. The Exchange represented that an initial contract designation has yet to be determined and, as such, would be submitted separately to the Commission.

that certain registration and financial conditions are satisfied, the CTA (and not its underlying customers) would be responsible for meeting the eligibility requirements described above. Accordingly, a CTA would be able to enter into such transactions on behalf of a customer without its customer having to qualify as an ''eligible participant'' under Commission Regulation 36.1 or without specifically authorizing the use of the block trading procedures.[4]

*B. Size and Price Requirements*

Under proposed Regulation 331.05, each buy or sell order underlying a block trade must satisfy the applicable minimum size requirements as to be determined by the CBOT Board of Directors, case-by-case, for each particular contract eligible for block trading.[5] The Exchange's proposed procedures require that the price of a block trade be ''fair and reasonable'' in light of: (1) The size of such block trade; (2) the price and size of other trades in the same contract at the relevant time; and (3) the price and size of trades in other relevant markets, including without limitation the underlying cash market or other related futures markets, at the relevant time. Moreover, the price at which a block trade was executed would not affect conditional orders and would not be used to establish settlement prices.

*C. Transparency*

Each block trade executed in accordance with CBOT's proposed block trading procedures must be cleared through clearing members of the Exchange. Information identifying the relevant contract, contract month, price, quantity, time of execution and counterparty clearing member for each block trade must be reported to the Exchange within five minutes immediately following its execution. For each block trade transaction, the Exchange would publish information that would identify the trade as such and would identify the relevant contract, contract month, price, and quantity.[6] CBOT would disseminate such information immediately after the block trade had been reported to the Exchange.

**III. Request for Comment**

The Commission requests comment from interested persons concerning any aspect of CBOT's proposed block trading procedures.

Copies of CBOT's proposed new Regulation 331.05 and related materials are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 418–5100.

Issued in Washington, DC, on September 20, 2000.

**Alan L. Seifert,**

*Deputy Director.*

[FR Doc. 00–24825 Filed 9–26–00; 8:45 am]

BILLING CODE 6351–01–M

[4] The CTA must be registered under Act (including without limitation any investment advisor registered as such with the Securities and Exchange Commission (''SEC'') that is exempt from regulation under the Act or the Commission's regulations) and have total assets under management exceeding $50 million.

[5] Generally, under CBOT's proposed block trading procedures, orders from different accounts could not be aggregated to satisfy the minimum size requirement. However, a CTA who was permitted to execute block trades on behalf of customers under CBOT Regulation 331.05 would be permitted to aggregate orders from different accounts to satisfy the minimum size requirement.

[6] In addition, each member and clearing member that was a party to a block trade must record the following information on its order ticket: that the trade was a block trade; the contract (including the delivery or expiry month) to which the block trade relates; the number of contracts traded; the execution price and time; identity of the counterparty; and, if applicable, details regarding the customer for which the block trade was executed.

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11:00 a.m., Friday, October 6, 2000.

**PLACE:** 1155 21st, NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 00–24871 Filed 9–22–00; 4:45 pm]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11:00 a.m., Friday, October 13, 2000.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 00–24872 Filed 9–33–00; 4:45 pm]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11 a.m., Friday, October 20, 2000.

**PLACE:** 1155 21st, NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 00–24873 Filed 9–22–00; 4:45 pm]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11:00 a.m., Friday, October 27, 2000.

**PLACE:** 1155 21st, NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 00–24874 Filed 9–22–00; 4:45 pm]

BILLING CODE 6351–01–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Proposed Collection; Comment Request

**AGENCY:** Defense Finance and Accounting Service

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Finance and Accounting Service announces the proposed public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by November 27, 2000.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to the Headquarters, Defense Finance and Accounting Service, DFAS–HQ/FMM, ATTN: Mr. Clyde Saunders 1931 Jefferson Davis Hwy., Arlington, VA 22240–5291.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Mr. Clyde Saunders, (703) 607–5038.

*Title, Associated Form, and OMB Number:* Dependency Statements; Parent (DD Form 137–3), Child Born Out of Wedlock (DD Form 137–4), Incapacitated Child Over Age 21 (DD Form 137–5), Full Time Student 21–22 Years of Age (DD Form 137–6, and Ward of a Court (DD Form 137–7); OMB Number 0730–007.

*Needs and Uses:* This information collection is used to certify dependency or obtain information to determine entitlement to basic allowance for housing (BAH) with dependent rate, travel allowance, or Uniformed Services Identification and Privilege Card. Information regarding a parent, a child born out-of-wedlock, an incapacitated child over age 21, a student age 21–22, or a ward of a court is provided by the military member or by another individual who may be a member of the public. Pursuant to 37 U.S.C. 401, 403, 406, and 10 U.S.C. 1072 and 1076, the member must provide at least one-half of the claimed child's monthly expenses. DoDFMR 7000.14, Vol. 7A, defines dependency and directs that dependency be proven. Dependency claim examiners use the information from these forms to determine the degree of benefits. The requirement to provide the information decreases the possibility of monetary allowances being approved on behalf of ineligible dependents.

*Affected Public:* Individuals or households.

*Annual Burden Hours:* 24,300 hours.

*Number of Respondents:* 19,440.

*Responses Per Respondent:* 1.

*Average Burden Per Response:* 1.25 hours.

*Frequency:* On occasion.

**SUPPLEMENTARY INFORMATION:**

**Summary of Information Collection**

When military members apply for benefits, they must complete the form which corresponds to the particular dependent situation (a parent, a child born out-of-wedlock, an incapacitated child over age 21, a student age 21–22, or a ward of a court). While members usually complete these forms, they can also be completed by others considered members of the public. Dependency claim examiners use the information from these forms to determine the degree of benefits. Without this collection of information, proof of an entitlement to a benefit would not exist. The requirement to complete these forms helps alleviate the opportunity for fraud, waste, and abuse of dependent benefits.

Dated: September 21, 2000.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 00–24710 Filed 9–26–00; 8:45 am]

BILLING CODE 5001–10–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Title, Form, and OMB Number:* Application for the Review of Discharge or Dismissal from the Armed Forces of the United States; DD Form 293; OMB Number 0704–0004.

*Type of Request:* Revision.

*Number of Respondents:* 8,000.

*Responses per Respondent:* 1.

*Annual Responses:* 8,000.

*Average Burden Per Response:* 45 minutes.

*Annual Burden Hours:* 6,000.

*Needs and Uses:* Former members of the Armed Forces who received an administrative discharge have the right to appeal the characterization or reason for separation. Title 10 of the U.S.C., Section 1553, and DoD Directive 1332.28 established a Board of Review consisting of five members to review appeals of former members of the Armed Forces. The DD Form 293, ''Application for Review of Discharge or Dismissal from the Armed Forces of the United States,'' provides the respondent a vehicle to present to the Board their reasons/justifications for a discharge upgrade as well as providing the Services the basic data needed to process the appeal.

*Affected Public:* Individuals or Households.

*Frequency:* On Occasion.

*Respondent's Obligation:* Required to Obtain or Retain Benefits.

*OMB Desk Officer:* Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 00–24709 Filed 9–26–00; 8:45 am]

BILLING CODE 5601–10–M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Air Force

**ACTION:** Notice to delete records systems.

**SUMMARY:** The Department of the Air Force proposes to delete two systems of records notices from its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** The action will be effective on October 27, 2000 unless comments are received that would result in a contrary determination.

**ADDRESSES:** Send comments to the Air Force Access Programs Manager, Headquarters, Air Force Communications and Information Center/ITC, 1250 Air Force Pentagon, Washington, DC 20330–1250.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Anne Rollins at (703) 588–6187.

**SUPPLEMENTARY INFORMATION:** The Department of the Air Force's records systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed deletions are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system.

Dated: September 20, 2000.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**F036 AFCA B**

**SYSTEM NAME:**

Individual Academic Training Records (June 11, 1997, 62 FR 31793).

*Reason:* These records have been destroyed therefore, the system of records notice is being deleted.

**F036 AFCA D**

**SYSTEM NAME:**

Training Progress (June 11, 1997, 62 FR 31793).

*Reason:* These records have been destroyed, therefore, the system of records notice is being deleted.

[FR Doc. 00–24712 Filed 9–26–00; 8:45 am]

BILLING CODE 5001–10–M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Availability of Patents for Exclusive, Partially Exclusive or Nonexclusive Licenses

**AGENCY:** U.S. Army Soldier and Biological Chemical Command, U.S. Army, DoD.

**ACTION:** Notice.

**SUMMARY:** The Department of the Army announces the general availability of exclusive, partially exclusive, or nonexclusive licenses under the following patents that are listed in the **SUPPLEMENTARY INFORMATION** paragraph. Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760, Phone; (508) 233–4928 or E-mail: Robert.Rosenkrans@natick.army.mil .

**SUPPLEMENTARY INFORMATION:** The following Patent Numbers, Titles and Issue Dates are provided:

*Patent Number:* 5,857,540.
*Title:* Harness for Human Wear.
*Issue Date:* January 12, 1999.

*Patent Number:* 5,868,219.
*Title:* Rappel Rope Storage and Development System.
*Issue Date:* February 9, 1999.

*Patent Number:* 5,884,418.
*Title:* Process and System for Impregnating Garments With Insect Repellent.
*Issue Date:* March 23, 1999.

*Patent Number:* 5,893,536.
*Title:* Parafoil Assembly.
*Issue Date:* April 13, 1999.

*Patent Number:* 5,930,909.
*Title:* System for Impregnating Garment With Insect Repellent.
*Issue Date:* August 3, 1999.

*Patent Number:* 5,981,240.
*Title:* Enzyme-Catalyzed Synthesis of Macromolecules in Organic Solvents.
*Issue Date:* November 9, 1999.

*Patent Number:* 5,993,541.
*Title:* Process for Nucleation of Ceramics and Product Thereof.
*Issue Date:* November 30, 1999.

*Patent Number:* 5,994,498.
*Title:* Method of Forming Water-Soluble, Electrically Conductive and Optically Active Polymers.
*Issue Date:* November 30, 1999.

*Patent Number:* 6,018,018.
*Title:* Enzymatic Template Polymerization.
*Issue Date:* January 25, 2000.

*Patent Number:* 6,022,500.
*Title:* Polymer Encapsulation and Polymer Microsphere Composites.
*Issue Date:* February 8, 2000.

*Patent Number:* 6,063,916.
*Title:* Transesterification of Insoluble Polysaccharides.
*Issue Date:* May 16, 2000.

*Patent Number:* 6,079,761.
*Title:* Retractable Grappling Hook.
*Issue Date:* June 27, 2000.

*Patent Number:* 6,095,282
*Title:* Rappel Tool For Descent of a Load and Rappel Tool and Stirrup Assembly for Ascent Along A Rappel Rope.
*Issue Date:* August 1, 2000.

*Patent Number:* 6,096,859.
*Title:* Process to Control the Molecular Weight and Polydispersity of Substituted Polyphenols And Polyaromatic Amines By Enzymatic Synthesis in Organic Solvents, Microemulsions And Biphasic Systems.
*Issue Date:* August 1, 2000.

*Patent Number:* 6,108,813.
*Title:* Ballistic Resistant Upper Arm Armor Piece.
*Issue Date:* August 29, 2000.

**Gregory D. Showalter,**

*Army Federal Register Liaison Officer.*

[FR Doc. 00–24833 Filed 9–26–00; 8:45 am]

BILLING CODE 3710–08–P

## DEPARTMENT OF DEFENSE

### Department of the Army

### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice to Amend Systems of Records.

**SUMMARY:** The Department of the Army is amending two systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on October 27, 2000 unless comments are received which result in a contrary determination.

**ADDRESSES:** Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, Stop 5603, Ft. Belvoir, VA 22060-5603.

**FOR FURTHER INFORMATION CONTACT:** Ms. Janice Thornton at (703) 806-4390 or DSN 656-4390 or Ms. Christie King at (703) 806-3711 or DSN 656-3711.

**SUPPLEMENTARY INFORMATION:** The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not

within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 20, 2000.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**A0040-66b DASG**

*System name:*

Health Care and Medical Treatment Record System *(November 15, 1999, 64 FR 61856).*

*Changes:*

* * * * *

*Retention and disposal:*

Delete last paragraph.

* * * * *

**A0040-66b DASG**

**SYSTEM NAME:**

Health Care and Medical Treatment Record System.

**SYSTEM LOCATION:**

Army Medical Department facilities and activities. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Military members of the Armed Forces (both active and inactive); family members; civilian employees of the Department of Defense; members of the U.S. Coast Guard, Public Health Service, and Coast and Geodetic Survey; cadets and midshipmen of the military academies; employees of the American National Red Cross; and other categories of individuals who receive medical treatment at Army Medical Department facilities/activities.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, sponsor's Social Security Number, medical records (of a permanent nature) used to document health; psychological and mental hygiene consultation and evaluation; medical/dental care and treatment for any health or medical condition provided an eligible individual on an inpatient and/or outpatient status to include but not limited to: health; clinical (inpatient); outpatient; dental; consultation; and procurement and separation x-ray record files; and Human Immunodeficiency Virus (HIV) blood sampling results to identify Acquired Immune Deficiency Syndrome (AIDS).

Subsidiary medical records (of a temporary nature) are also maintained to support records relating to treatment/observation of individuals. Such records include but are not limited to: social work case files, preventive medicine HIV patients files, inquiries/complaints about medical treatment or services rendered by the medical treatment facility, and patient treatment x-ray and index files.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 1071-1085; 50 U.S.C. Supplement IV, Appendix 454, as amended; 42 U.S.C. 11131-11152; E.O. 9397 (SSN); DoD Instruction 6015.23, Delivery of Healthcare at Military Treatment Facilities (MTfs); DoD Directive 6040.37, Confidentially of Medical Quality Assurance (QA) Records; DoD 6010.8-R, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Army Regulation 40-66, Medical Record Administration and Health Documentation.

**PURPOSE(S):**

To provide health care and medical treatment of individuals; to establish tuberculosis/tumor/cancer/Human Immunodeficiency Virus (HIV) registries; for research studies; compilation of statistical data and management reports; to implement preventive medicine, dentistry, and communicable disease control programs; to adjudicate claims and determining benefits; to evaluate care rendered; determine professional certification and hospital accreditation; and determine suitability of persons for service or assignment.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

*In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:*

Information may be disclosed to the Department of Veterans Affairs to adjudicate veterans' claims and provide medical care to Army members.

National Research Council, National Academy of Sciences, National Institutes of Health, Armed Forces Institute of Pathology, and similar institutions for authorized health research in the interest of the Federal Government and the public. When not essential for longitudinal studies, patient identification data shall be eliminated from records used for research studies. Facilities/activities releasing such records shall maintain a list of all such research organizations and an accounting disclosure of records released thereto.

To local and state government and agencies for compliance with local laws and regulations governing control of communicable diseases, preventive medicine and safety, child abuse, and other public health and welfare programs.

Third party payers per 10 U.S.C. 1095 as amended by Pub. L. 99-272, and guidance provided to the DoD health services by DoD Instruction 6015.23, for the purpose of collecting reasonable inpatient/outpatient hospital care costs incurred on behalf of retirees or dependents.

To former DoD health care providers, who have been identified as being the subjects of potential reports to the National Practitioner Data Bank as a result of a payment having been made on their behalf by the U.S. Government in response to a malpractice claim or litigation, for purposes of providing the provider an opportunity, consistent with the requirements of DoD Instruction 6025.15 and Army Regulation 40-68, to provide any pertinent information and to comment on expert opinions, relating to the claim for which payment has been made.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

*NOTE: Records of identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-2. This statute takes precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The DoD 'Blanket Routine Uses' do not apply to these types of records.*

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders; visible card files; microfiche; cassettes; magnetic tapes/discs; computer printouts; x-ray film preservers.

**RETRIEVABILITY:**

By patient or sponsor's surname or BY sponsor's Social Security Number.

**SAFEGUARDS:**

Records are maintained in buildings which employ security guards and are accessed only by authorized personnel having an official need-to-know. Automated segments are protected by controlled system passwords governing access to data.

**RETENTION AND DISPOSAL:**

Military health/dental and procurement/separation x-ray records are permanent. Clinical (inpatient), outpatient, dental and consultation record files for military members are destroyed after 50-75 years; records pertaining to U.S. Military Academy cadets are withdrawn and retired to the Surgeon, U.S. Military Academy, West Point, NY 10996-1797. Records on civilians and foreign nationals are destroyed after 25 years; except for civilian dental records which are destroyed after 5 years. Records on American Red Cross personnel are withdrawn and forwarded to the American National Red Cross.

All records (except the Military Health/Dental records) which are active while individual is on active duty, then retired with individual's Military Personnel Records Jacket and the procurement/separation x-ray records which are forwarded to the National Personnel Records Center on an accumulation basis) are retained in an active file while treatment is provided and subsequently held for a period of 1 to 5 years following treatment before being retired to the National Personnel Records Center. Subsidiary medical records, of a temporary nature, are normally not retained long beyond termination of treatment; however, supporting documents determined to have significant documentation value to patient care and treatment are incorporated into the appropriate permanent record file.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, U.S. Army Medical Command, ATTN: MCHO-CL-P, Suite 13, 2050 Worth Road, Fort Sam Houston, TX 78234-6010.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the medical facility where treatment was provided. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

Red Cross employees may write to the Medical Officer, American National Red Cross, 1730 E Street, NW, Washington, DC 20006.

For verification purposes, the individual should provide the full name, Social Security Number of sponsor, and current address and telephone number. Inquiry should include name of the hospital, year of treatment and any details which will assist in locating the records.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system should address written inquiries to the medical facility where treatment was provided. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

Red Cross employees may write to the Medical Officer, American National Red Cross, 1730 E Street, NW, Washington, DC 20006.

For verification purposes, the individual should provide the full name, Social Security Number of sponsor, and current address and telephone number. Inquiry should include name of the hospital, year of treatment and any details which will assist in locating the records.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340-21; 32 CFR part 505; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Subject individual, personal interviews and history statements from the individuals; abstracts or copies of pertinent medical records; examination records of intelligence, personality, achievement, and aptitude; reports from attending and previous physicians and other medical personnel regarding results of physical, dental, and mental examinations, treatment, evaluation, consultation, laboratory, x-ray and special studies and research conducted to provide health care and medical treatment; and similar or related documents.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## A0351a TRADOC

**SYSTEM NAME:**

Army School Student Files *(December 23, 1997, 62 FR 67055).*

**CHANGES:**

* * * * *

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army; Army Regulation 351-1, Individual Military Education and Training; and E.O. 9397 (SSN).'

* * * * *

**SAFEGUARDS:**

Delete second paragraph and replace with 'Access is restricted to authorized personnel only with secure sign on and password capability.'

**RETENTION AND DISPOSAL:**

Delete entry and replace with 'Individual and class academic records are destroyed after 40 years, cut-off annually. Records of extension courses are maintained for 3 years in current file area, 2 years in the records holding area prior to retirement to the National Records Center, 9700 Page Street, St. Louis, MO 63132. Collateral individual training records are destroyed after 1 year. Officer candidate school applicant records, destroy after 1 year. Officer candidate relief records destroy after 5 years. Officer candidate inquiry and eligibility records and Judge Advocate General's School records destroy after 2 years. U.S. Army Reserve School records, destroy after 3 years. Disenrollment from officer candidate school records maintain in current file area for 5 years after disenrollment then destroy.'

* * * * *

## A0351a TRADOC

**SYSTEM NAME:**

Army School Student Files.

**SYSTEM LOCATION:**

All Army schools, colleges, and training centers.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Students who attend formal and/or non-resident courses of instruction at Army schools, colleges and training centers.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Individual academic records consisting of courses attended, length of each, extent of completion and results; aptitudes and personal qualities, including corporate fitness results; grade and rating attained; and related information; collateral individual training records comprising information posted to the basic individual academic training record or other long term records; faculty board files pertaining to the class standing/rating/classification/proficiency of students; class academic records maintained by training

instructors indicating attendance and progress of class member instructors indicating attendance and progress of class members.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C. 3013, Secretary of the Army; Army Regulation 351-1, Individual Military Education and Training; and E.O. 9397 (SSN).

**PURPOSE(S):**

To determine eligibility of students for attendance, monitor progress, record completion of academic requirements, and document courses which may be prerequisites for attendance/participation in other courses of instruction.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

*In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:*

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.**

**STORAGE:**

Paper records in file folders, cards, computer magnetic tapes/disks; printouts.

**RETRIEVABILITY:**

By individual's name, Social Security Number/military service number.

**SAFEGUARDS:**

Information is stored in locked cabinets or rooms, accessed only by authorized individuals having official need thereof.

Access is restricted to authorized personnel only with secure sign on and password capability.

**RETENTION AND DISPOSAL:**

Individual and class academic records are destroyed after 40 years, cut-off annually. Records of extension courses are maintained for 3 years in current file area, 2 years in the records holding area prior to retirement to the National Records Center, 9700 Page Street, St. Louis, MO 63132. Collateral individual training records are destroyed after 1 year. Officer candidate school applicant records, destroy after 1 year. Officer candidate relief records destroy after 5 years. Officer candidate inquiry and eligibility records and Judge Advocate General's School records destroy after 2 years. U.S. Army Reserve School records, destroy after 3 years. Disenrollment from officer candidate school records maintain in current file area for 5 years after disenrollment then destroy.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, U.S. Army Combined Arms Center, Privacy Act Officer, Fort Leavenworth, KS 66027-2309.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Academic Record Office of the Army school, college, or training center attended.

Individual should provide full name, student number, course title and class number, or description of type training received and dates of attendance/enrollment.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Academic Record Office of the Army School, college, or training center attended.

Individual should provide full name, student number, course title and class number, or description of type training received and dates of attendance/enrollment.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for accessing records, contesting contents; and appealing initial agency determinations are contained in Army Regulation 340-21; 32 CFR part 505; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

From the staff and faculty of appropriate school, college, or training center responsible for the instruction.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 00–24713 Filed 9–26–00; 8:45 am]

BILLING CODE 5001–10–F

## DEPARTMENT OF DEFENSE

### Defense Contract Audit Agency

### Privacy Act of 1974; Systems of Records

**AGENCY:** Defense Contract Audit Agency

**ACTION:** Notice to Delete a Record System

**SUMMARY:** The Defense Contract Audit Agency is deleteing a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** The actions will be effective on October 27, 2000 unless comments are received that would result in a contrary determination.

**ADDRESSES:** Send comments to Defense Contract Audit Agency, Information and Privacy Advisor, CMR, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060–6219.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dave Henshall at (703) 767-1005.

**SUPPLEMENTARY INFORMATION:** The Defense Contract Audit Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed action is not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system.

**RDCAA 160.5**

**SYSTEM NAME:**

Travel Orders *(August 3, 2000, 65 FR 48221).*

Reason: These records are now being maintained under the government-wide Privacy Act system of records notice GSA/Govt-4, Contracted Travel Services Program.

Dated: September 20, 2000.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 00–24714 Filed 9–26–00; 8:45 am]

BILLING CODE 5001–10–F

## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

### Inland Waterways Users Board

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of open meeting.

**SUMMARY:** In accordance with 10(a)(2) of the Federal Advisory Committee At, Public Law (92–463) announcement is made of the next meeting of the Inland Waterways Users Board. The meeting will be held on November 3, 2000, in Pittsburgh, Pennsylvania, Doubletree Hotel—Pittsburgh at Liberty Center, 1000 Penn Avenue, adjacent to the convention center (Tel. (412) 281–3700). Registration will begin at 9 am and the

meeting is scheduled to adjourn at 4 pm. The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

**FOR FURTHER INFORMATION CONTACT:** Mr. Norman T. Edwards, Headquarters, U.S. Army Corps of Engineers, CECW–PD, Washington, DC 20314–1000.

**SUPPLEMENTARY INFORMATION:** None.

**Gregory D. Showalter,**

*Army Federal Register Liaison Officer.*

[FR Doc. 00–24834 Filed 9–26–00; 8:45 am]

**BILLING CODE 3710–92–M**

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Meeting of the Board of Visitors to the U.S. Naval Academy

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice.

**SUMMARY:** The U.S. Naval Academy Board of Visitors will meet to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The executive session of this meeting will be closed to the public.

**DATES:** The meeting will be held on Monday, October 2, 2000 from 9:00 a.m. to 12:00 p.m. The closed Executive Session will be from 11:15 a.m. to 12:00 p.m.

**ADDRESSES:** The meeting will be held in Room SDG–11 of the Senate Dirksen Office Building, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Thomas E. Osborn, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, (410) 293–1503.

**SUPPLEMENTARY INFORMATION:** This meeting was originally scheduled for September 15, 2000, (65 FR 55007) and was postponed to October 2, 2000. This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The executive session of the meeting will consist of discussions of information which pertain to the conduct of various midshipmen at the Naval Academy and internal Board of Visitors matters. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the special committee meeting shall be partially closed to the public because they will be concerned with matters as outlined in section 552(b)(2), (5), (6), and (7) of title 5, U.S.C. Due to unavoidable delay in administrative processing, the normal 15 calendar days notice could not be provided.

Dated: September 22, 2000.

**J.L. Roth,**

*Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 00–24896 Filed 9–25–00; 1:03 pm]

**BILLING CODE 3810–FF–P**

## DEPARTMENT OF ENERGY

### Office of Science; Office of Science Financial Assistance Program Notice 00–21: Bioremediation and Its Societal Implications and Concerns (BASIC) Research Program

**AGENCY:** U.S. Department of Energy (DOE).

**ACTION:** Notice inviting grant applications.

**SUMMARY:** The Office of Biological and Environmental Research (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE) hereby announces its interest in receiving applications for research grants in Bioremediation and its Societal Implications and Concerns (BASIC). BASIC is a key element of the Natural and Accelerated Bioremediation Research (NABIR) program that provides the fundamental science underlying bioremediation of radionuclides and metals in subsurface environments at DOE sites. Research is encouraged that identifies critical societal, cultural, legal, policy, regulatory or other issues that could enhance or complicate the development and utilization of bioremediation methods or approaches. Educational activities that enhance the dialogue among scientists, regulators and community members about plausible implementation of bioremediation of radionuclides and metals are also being sought. Partnerships between social scientists and physical/biological scientists in the development of BASIC projects are strongly encouraged.

**DATES:** Researchers are strongly encouraged to submit a pre-application for programmatic review. Early submission of pre-applications is encouraged, to allow time for review for programmatic relevance. The deadline for receipt of pre-applications is November 6, 2000. A brief pre-application should consist of one or two pages of narrative describing the research objectives and methods.

The deadline for receipt of formal applications is 4:30 p.m., E.S.T., December 21, 2000 to be accepted for merit review and to permit timely consideration for award in Fiscal Year 2001 or in early Fiscal Year 2002. An original and seven copies of the application must be submitted; however, applicants are requested not to submit applications using more than one delivery or mail service.

**ADDRESSES:** If submitting a pre-application, it should reference Program Notice 00–21, and may be sent by e-mail to: daniel.drell@science.doe.gov. Hard copies can be sent to Daniel Drell, Ph.D., Life Sciences Division, SC–72/GTN, Office of Biological and Environmental Research, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290.

Formal applications referencing Program Notice 00–21 on the cover page must be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 00–21. This address must also be used when submitting applications by U.S. Postal Service Express Mail or any other commercial overnight delivery service, or when hand-carried by the applicant.

**FOR FURTHER INFORMATION CONTACT:** Dr. Daniel Drell, Life Sciences Division, SC–72, Office of Biological and Environmental Research, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone: (301) 903–4742, e-mail: daniel.drell@science.doe.gov, fax: (301) 903–8521. The full text of Program Notice 00–21 is available via the World Wide Web at the following address: http://www.sc.doe.gov/production/grants/grants.html.

**SUPPLEMENTARY INFORMATION:** Approximately 50 years of U.S. production of nuclear weapons have left a legacy of radioactive, chemical and other hazardous waste at DOE sites. Much of this legacy consists of mixtures of these waste components. Cleanup or stabilization of contaminated sites using conventional technologies such as

landfilling, vitrification or incineration carries a very high price tag, estimated to be in excess of $100 billion. This high cost has sparked interest in the development of innovative and potentially cost-saving technologies such as bioremediation. Bioremediation of metals and radionuclides involves the use of microorganisms to remove these contaminants from the aqueous phase by precipitation or complexation, thus reducing the risk to humans and the environment. Such approaches may involve stabilizing the radionuclides and metals by immobilizing them in place, and long-term stewardship to ensure that they are not re-mobilized over time.

The Natural and Accelerated Bioremediation Research (NABIR) Program provides the fundamental science to serve as the basis for development of cost-effective bioremediation of radionuclides and metals in subsurface environments at DOE sites. NABIR research encompasses both intrinsic bioremediation by naturally occurring microbial communities, as well as accelerated bioremediation through the use of nutrient amendments or addition of microorganisms. At present, the program is exploring the use of naturally occurring microorganisms as amendments; however, genetically engineered microorganisms may also be considered in the future. The program consists of seven interrelated scientific research elements (Biogeochemical Dynamics, Biotransformation, Community Dynamics and Microbial Ecology, Assessment, Biomolecular Science and Engineering, Bacterial Transport, and Systems Integration/Data Management). A Field Research Center (FRC) for NABIR research has recently been established in Bear Creek Valley near the Y–12 site at the Oak Ridge National Laboratory in Oak Ridge, Tennessee. The FRC provides an area containing both contaminated and uncontaminated subsurface environments for performing field-scale, hypothesis-driven research and for collecting field samples for laboratory based studies. Additional information about NABIR and the Field Research Center may be found on the NABIR homepage: http://www.lbl.gov/NABIR or on the FRC homepage: http://www.esd.ornl.gov/BCV-FieldSite.

The NABIR program also includes an element addressing educational, legal and societal issues of bioremediation called Bioremediation and its Societal Implications and Concerns (BASIC) which is the subject of this solicitation. The BASIC element is directed at defining and understanding the societal implications of implementing in situ bioremediation approaches for metals and radionuclides. Stabilization of radionuclides and metals in place through biologically mediated immobilization is a bioremediation approach under investigation by NABIR researchers. Such an approach, however, necessitates long term stewardship to ensure the contaminants remain immobilized. Communities and other stakeholders may have concerns regarding this potential bioremediation strategy. The introduction of non-native microorganisms or the manipulation of the environment to change its microbial composition or chemical characteristics may raise concerns among those who live or work nearby. Even the reintroduction of native microorganisms into their natural environment can raise concerns. Although it might be many years before genetically engineered microorganisms may be considered for limited release to clean up DOE sites, it is wise to begin now to consider some of the issues involved. It is a fundamental principle of the NABIR program that stakeholders associated with affected communities must be involved in any discussions about the possible use of novel approaches and/or processes to remediate a contaminated site and that identifying issues of potential concern to stakeholders should be done well in advance of any possible deployment decisions.

DOE seeks applications for research to investigate societal issues and to inform stakeholders and the general public on bioremediation issues related to NABIR. Applications should address effective ways to:

(1) *Define the societal, legal, ethical, cultural and regulatory concerns associated with plausible application of in situ bioremediation of radionuclides and metals.* Concerns to be addressed might include: (1) Introduction of chemical additives to the subsurface to enhance immobilization of radionuclides or metals and to reduce risk; (2) introduction of naturally occurring but non-indigenous microorganisms to enhance bioremediation; (3) introduction of genetically engineered microorganisms to stabilize radionuclides and metals at contaminated sites; and (4) public attitudes toward long term stewardship for sites where radionuclides and metals are left in place in an immobile, biologically unavailable form, following bioremediation. Research and conferences are encouraged that identify critical regulatory, policy, societal, legal and other issues that could enhance or complicate the development and plausible implementation of NABIR bioremediation approaches or methods. Partnerships between social scientists and physical/biological scientists in the development of BASIC projects are strongly encouraged.

(2) *Develop and promote greater understanding of the science and societal implications of bioremediation.* DOE solicits applications for the preparation and dissemination of educational materials, in any appropriate medium, that will enhance understanding of the scientific as well as the societal aspects of bioremediation among the general public or specified groups. Educational efforts that target specific groups should include a detailed description of the relationship between NABIR and that group or community in addition to assessment measures for determining the effectiveness of the educational effort. DOE also encourages applications for the support of conferences focusing on the legal and societal implications of NABIR.

Applicants should demonstrate their knowledge of any relevant literature and should include detailed plans for the gathering and analysis of factual information and its societal implications. Applicants are encouraged to make use of NABIR relevant activities or field sites, such as the DOE Field Research Center at the Oak Ridge National Laboratory, where bioremediation experiments are planned or underway. All research applications should address the issue of efficient dissemination of results to the widest appropriate audience; free availability via the World Wide Web is strongly encouraged, where appropriate. Examples of possible BASIC research topics include, but are not limited to:

*Cultural risks and concerns about bioremediation*—Applications are sought to identify and explore cultural concerns relating to bioremediation and its possible implementation. Of particular interest is understanding the potential impacts of bioremediation. Would bioremediation be viewed in a positive or negative way in light of its impact on, and potential future uses of, the land? If so, what are the cultural bases for these views? What are the cultural positions or attitudes on the potential need for long term stewardship of sites, where contaminants are stabilized, and what are its impacts? What variation can be described in attitudes towards the risks that might be associated with the use of bioremediation?

*Legal issues*—Research should address the potential legal issues surrounding the use of naturally occurring or genetically engineered

microorganisms for in situ bioremediation of radionuclides and metals. Such issues might include intellectual property rights, community consent for the use of bioremediation strategies, and adjudication scenarios involving controversies over the use of bioremediation. Potential legal issues involving the need for long term stewardship of sites where contaminants have been stabilized are of special interest. Also, while risk assessments are not a subject of this solicitation, legal perspectives on the implications of potential bioremediation strategies compared to other strategies could be explored.

*Education of stakeholders and the general public on bioremediation*—Educational activities that promote interactions and communications between NABIR scientists and involved stakeholders, as well as enhance the knowledge base of scientists, regulators and community members are strongly encouraged. Of particular interest are communities adjacent to DOE sites. Relevant activities could include (1) the development, deployment and implementation of educational curriculum units on bioremediation and its implications; (2) the development of educational materials using diverse media; or (3) the sponsoring of educational forums bringing together bioremediation scientists, stakeholders, and members of other interested communities (*e.g.*, judges, regulators, etc.). Applications in response to this element of this solicitation should include discussion of dissemination plans as well as ways to assess the impact of the proposed educational activities on the targeted group following completion of the grant period.

**Program Funding**

It is anticipated that up to $500,000 per year will be available for multiple awards to be made in late FY 2001 and early FY 2002 in the categories described above, contingent on availability of appropriated funds. Applications may request project support up to three years, with out-year support contingent on availability of funds, progress of the research and programmatic needs. Annual budgets for projects in the BASIC Program are expected to range from $50,000 to $200,000 total costs. DOE may encourage collaboration among prospective investigators to promote joint applications or joint research projects by using information obtained through the preliminary applications or through other forms of communication.

**Merit Review**

Applications will be subjected to formal merit review (peer review) and will be evaluated against the following evaluation criteria, which are listed in descending order of importance codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project;
2. Appropriateness of the Proposed Method or Approach;
3. Competency of Applicant's personnel and Adequacy of Proposed Resources;
4. Reasonableness and Appropriateness of the Proposed Budget.

Also, as part of the evaluation, program policy factors become a selection priority. External peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers will often be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

**Submission Information**

Information about the development, submission of applications, eligibility, limitations, evaluation, the selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Science Financial Assistance Program.

Electronic access to SC's Financial Assistance Application Guide is possible via the World Wide Web at: http://www.sc.doe.gov/production/grants/grants.html. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made. In addition, for this notice, the research description must be 20 pages or less, exclusive of attachments, and must contain an abstract or summary of the proposed research (to include the work to be undertaken or the hypotheses being tested, the proposed approach(s) and method(s), and the names of all investigators and their affiliations). Attachments should include short curriculum vitae for all key personnel, a QA/QC plan, a listing of all current and pending federal support and letters of intent when collaborations are part of the proposed research. Curriculum vitae should be submitted in a form similar to that of NIH or NSF (two to three pages), see for example: http://www.nsf.gov:80/bfa/cpo/gpg/fkit.htm#forms-9.

Additional information on the NABIR Program is available on the World Wide Web at: http://www.lbl.gov/NABIR/. For researchers who do not have access to the world wide web, please contact Karen Carlson, Environmental Sciences Division, SC–74, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, phone: (301) 903–3338, fax: (301) 903–8519, E-mail: karen.carlson@science.doe.gov, for hard copies of background material mentioned in this solicitation.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC on September 19, 2000.

**John Rodney Clark,**

*Associate Director of Science for Resource Management.*

[FR Doc. 00–24811 Filed 9–26–00; 8:45 am]

BILLING CODE 6450–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–548–000]**

### Gulf States Transmission Corporation; Notice of Tariff Filing

September 21, 2000.

Take notice that on September 15, 2000, Gulf States Transmission Corporation (Gulf States), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1 the revised tariff sheets listed in Appendix A to the filing, with an effective date of October 1, 2000.

Gulf States states that this filing is made in compliance with the Commission's mandate under Order No. 637 that pipelines file to remove any tariff provisions that are inconsistent with the temporary removal of the maximum rate ceiling for short term capacity releases.

Any person desiring to be heard 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).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24770 Filed 9–26–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–547–000]**

### High Island Offshore System, L.L.C.; Notice of Tariff Filing

September 21, 2000.

Take notice that on September 15, 2000, High Island Offshore System, L.L.C. (HIOS), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the revised tariff sheets listed in Appendix A to the filing, with an effective date of October 1, 2000.

HIOS states that this filing is made in compliance with the Commission's mandate under Order No. 637 that pipelines file to remove any tariff provisions that are inconsistent with the temporary removal of the maximum rate ceiling for short term capacity releases.

Any person desiring to be heard 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).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24766 Filed 9–26–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–550–000]**

### Stingray Pipeline Company, L.L.C.; Notice of Tariff Filing

September 21, 2000.

Take notice that on September 15, 200, Stingray Pipeline Company, L.L.C. (Stingray), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the revised tariff sheets listed in Appendix A to the filing, to become effective on October 1, 2000.

Stingray states that this filing is made in compliance with the Commission's mandate under Order No. 637 that pipelines file to remove any tariff provisions that are inconsistent with the temporary removal of the maximum rate ceiling for short term capacity releases.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 of 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 in the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24768 Filed 9–26–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. GT00–37–000]**

### Tennessee Gas Pipeline Company; Notice of Tariff Filing

September 21, 2000.

Take notice that on September 15, 2000, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Original Sheet No. 413A. Tennessee requests that the Commission approve the tariff sheet to be effective November 1, 2000.

Tennessee states that Sheet No. 413A reflects a non-conforming agreement between Piedmont Natural Gas Company and Tennessee for transportation and storage services under Rate Schedules FT–A and FS, respectively, beginning November 1, 2000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 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).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24771 Filed 9–26–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP97–255–011]**

### TransColorado Gas Transmission Company; Notice of Tariff Filing

September 21, 2000.

Take notice that on September 15, 2000, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of September 13, 2000:

Tenth Revised Sheet No. 21
Sixth Revised Sheet No. 22

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000. TransColorado states that the tendered tariff sheets revised TransColorado's Tariff to implement new negotiated-rate

firm transportation service agreements between Questar Energy Trading and Enserco Energy, Inc.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and New Mexico Public Utilities Commission.

Any person desiring to be heard 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).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24774 Filed 9–26–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–549–000]**

### U–T Offshore System, L.L.C.; Notice of Tariff Filing

September 21, 2000.

Take notice that on September 15, 2000, U–T Offshore System, L.L.C. (UTOS), tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the revised tariff sheets listed in Appendix A to the filing, with an effective date of October 1, 2000.

UTOS states that this filing is made in compliance with the Commission's mandate under Order No. 637 that pipelines file to remove any tariff provisions that are inconsistent with the temporary removal of the maximum rate ceiling for short term capacity releases.

Any person desiring to be heard 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).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24769 Filed 9–26–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–541–000]**

### Venice Gathering System, L.L.C.; Notice of Tariff Filing

September 21, 2000.

Take notice that on September 13, 2000, Venice Gathering System, L.L.C. (Venice) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of March 27, 2000:

First Revised Sheet No. 117
First Revised Sheet No. 118
First Revised Sheet No. 120
First Revised Sheet No. 125
First Revised Sheet No. 132
First Revised Sheet No. 133
First Revised Sheet No. 134
First Revised Sheet No. 144
First Revised Sheet No. 152

Venice states that copies of the filing have been served on all current customers of Venice.

Any person desiring to be heard 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).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24773 Filed 9–26–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–546–000]**

### WestGas InterState, Inc.; Notice of Tariff Filing

September 21, 2000.

Take notice that on September 15, 2000, WestGas InterState, Inc. (WGI), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of March 27, 2000:

First Revised Sheet No. 65
Second Revised Sheet No. 66
First Revised Sheet No. 68
Second Revised Sheet No. 71
Second Revised Sheet No. 75
First Revised Sheet No. 76
First Revised Sheet No. 81

WGI states that copies of this filing have been served on WGI's jurisdictional customers and public bodies.

Any person desiring to be heard 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).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24767 Filed 9–26–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–545–000]**

### WestGas InterState, Inc.; Notice of Tariff Filing

September 21, 2000.

Take notice that on September 15, 2000, WestGas InterState, Inc. (WGI), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following pro forma tariff sheets:

Pro Forma Sheet No. 87
Pro Forma Sheet No. 88
Pro Forma Sheet No. 89

WGI states that these pro forma tariff sheets reflect the changes to its tariff that are required to comply with the Commission's Order Nos. 637, 637–A and 637–B. WGI has made changes to its General Terms and Conditions to provide for segmentation of capacity. As further explained in the filing, WGI believes its current tariff provisions governing scheduling equality and flexible point rights comply with the requirements of Order No. 637. WGI requests waiver of the requirements relating to alternate point allocations, operational flow orders, imbalance services and penalties on the grounds that they are either not operationally feasible for WGI or are unnecessary in order to comply with Order No. 637.

WGI states that copies of this filing have been served on WGI's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before October 16, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24772 Filed 9–26–00; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL00–112–000, et al.]**

### Bangor Hydro-Electric Company, et al.; Electric Rate and Corporate Regulation Filings

September 20, 2000.

Take notice that the following filings have been made with the Commission:

**1. Bangor Hydro-Electric Company, Complainant v. ISO New England, Inc., Respondent.**

[Docket No. EL00–112–000]

Take notice that on September 19, 2000, Bangor Hydro-Electric Company (Bangor Hydro), tendered for filing a complaint in which Bangor Hydro petitions the Commission for an order directing ISO New England, Inc. (ISO–NE) to restate the $6,000/MWh Energy Clearing Price for hours 14 through 17 and $2,870/MWh Energy Clearing Price for hour 13 on May 8, 2000 to reflect the seller's actual marginal costs instead of the $6,000/MWh and $2,870/MWh bids used to calculate the Energy Clearing Price for these hours.

*Comment date:* October 10, 2000, in accordance with Standard Paragraph E at the end of this notice. Answers to the compliant shall also be filed on or before October 10, 2000.

**2. New York State Electric & Gas Corporation**

[Docket No. ER97–2353–004]

Take notice that on September 15, 2000, New York State Electric & Gas Corporation (NYSEG), tendered for filing revisions to its Open Access Transmission Tariff and revisions to certain other rate schedules to comply with the order issued by the Federal Energy Regulatory Commission (FERC) in the above-captioned dockets on August 17, 2000.

Copies of the filing have been served on all parties listed on the official service list maintained by the Secretary of FERC.

*Comment date:* October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**3. Duke Energy South Bay LLC**

[Docket Nos. ER98–496–012, ER98–2160–010]

Take notice that on September 15, 2000, Duke Energy South Bay, LLC tendered for filing a revised compliance report regarding refunds as required by the Commission's Order issued August 1, 2000 approving the Final Offer of Settlement filed in the above-captioned proceeding on March 31, 2000.

*Comment date:* October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**4. ISO New England Inc.**

[Docket No. ER00–749–003]

Take notice that on September 14, 2000, ISO New England Inc. tendered for filing with the Commission information regarding Market Rule 15 corrective actions for the period from March 22, 2000 through September 2, 2000 in the above-referenced proceeding for informational purposes only. This filing is available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

*Comment date:* October 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**5. New York Independent System Operator, Inc.**

[Docket No. ER00–3215–001]

Take notice that on September 15, 2000, the New York Independent System Operator, Inc. (NYISO) filed a Revision to Procedures Governing Auctions of Transmission Congestion Contracts and proposed tariff changes related thereto.

The NYISO has requested an effective date of August 20, 2000 for the proposed tariff changes, and has requested waiver of the Commission's notice requirements.

A copy of this filing was served upon all parties who have executed Service Agreements under the ISO OATT, the parties in Docket No. ER00–3215, and the regulatory commissions in New York, New Jersey, and Pennsylvania.

*Comment date:* October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**6. FirstEnergy Operating Companies**

[Docket No. ER00–3239–001]

Take notice that on September 15, 2000, Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company and Toledo Edison Company (collectively, the FirstEnergy Operating Companies)

tendered for filing revisions to a Generating Interconnection and Operating Agreement with Mid-Atlantic Energy Development Company (Mid-Atlantic) (the Interconnection Agreement). The FirstEnergy Operating Companies state that the revision is designed to clarify the obligation of Mid-Atlantic to pay for Generator Imbalance Service.

*Comment date:* October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**7. PPL Electric Utilities Corporation**

[Docket No. ER00–3265–001]

Take notice that on September 14, 2000, PPL Electric Utilities Corporation (PPL) tendered for filing an amended Interconnection Agreement between PPL and International Paper Corporation.

*Comment date:* October 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**8. New England Power Pool**

[Docket No. ER00–3682–000]

Take notice that on September 15, 2000, the New England Power Pool (NEPOOL) Participants Committee submitted changes to Market Rules 1, 2, 3, 5, 14, 20 and related Appendices which allow for the automation of the real-time Dispatch function through the implementation of electronic Dispatch instructions within the NEPOOL Control Area.

A December 5, 2000 effective date has been requested.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

*Comment date:* October 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**9. Cinergy Services, Inc.**

[Docket No. ER00–3687–000]

Take notice that on September 15, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and Cargill-Alliant, LLC (Cargill). The Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

*Comment date:* October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**10. American Electric Power Service Corporation**

[Docket No. ER00–3688–000]

Take notice that on September 15, 2000, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Interconnection and Operation Agreement between Appalachian Power Company and Wolf Hills Energy, LLC. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of August 2, 2000.

A copy of the filing was served upon the Public Service Commission of Virginia.

*Comment date:* October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**11. Illinois Power Company**

[Docket No. ER00–3689–000]

Take notice that on September 15, 2000, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Public Service Company of Colorado will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 15, 2000.

*Comment date:* October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**12. PacifiCorp**

[Docket No. ER00–3690–000]

Take notice that on September 15, 2000, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a Notice of Filing Mutual, and a Netting/Closeout Agreement (Netting Agreement) between PacifiCorp and the City of Anaheim, California (Anaheim).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

*Comment date:* October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**13. Citizens Power Sales, LLC**

[Docket No. ER00–3692–000]

Take notice that on September 13, 2000, Citizens Power Sales, LLC tendered for filing Notice of Succession effective September 1, 2000 regarding FERC Rate Schedule No. 1, filed in Docket No. ER94–1685–000.

*Comment date:* October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

**14. Puget Sound Energy, Inc. [Docket No. ER00–3693–000]**

Take notice that on September 15, 2000, Puget Sound Energy, Inc., tendered for filing a Netting Agreement with Portland General Electric Company (PGE).

A copy of the filing was served upon PGE.

*Comment date:* October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**15. PPL Montana, LLC**

[Docket No. ER00–3694–000]

Take notice that on September 15, 2000, PPL Montana, LLC (PPL Montana), tendered for filing a Service Agreement dated August 22, 2000 with Utah Municipal Power Agency (UMPA) under PPL Montana's Market-Based Rate Tariff, FERC Electric Tariff, Original Volume No. 1. The Service Agreement adds UMPA as an eligible customer under the Tariff.

PPL Montana requests an effective date of August 22, 2000 for the Service Agreement.

PPL Montana states that UMPA has been served with a copy of this filing.

*Comment date:* October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**16. Commonwealth Chesapeake Company, L.L.C.**

[Docket No. ER00–3703–000]

Take notice that on September 14, 2000, Commonwealth Chesapeake Company, L.L.C., tendered for filing a service agreement designated as Original Service Agreement No. 1 under FERC Electric Tariff, Second Revised Volume No. 1.

*Comment date:* October 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**17. Avista Corp.**

[Docket No. ER00–3704–000]

Take notice that on September 15, 2000, Avista Corp., tendered for filing with the Federal Energy Regulatory Commission pursuant to Section 35.13 of the Commission's Regulations, 18 CFR 35.13, a consent to an assignment by Montana Power Trading & Marketing Company of its rights and obligations under Avista Corp.'s Service Agreement No. 162, filed in Docket No. ER98–4282–000, to Montana Power Company.

Following the assignment, Avista Corp., will sell capacity and energy under the service agreement to Montana Power Company pursuant to Avista Corp.'s FERC Electric Tariff Volume No. 9.

*Comment date:* October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**18. El Paso Electric Company, El Paso Electric Generating Company, El Paso Transmission and Distribution Company,**

[Docket No. ES00–46–001]

Take notice that on September 15, 2000, El Paso Electric Company, El Paso Electric Generating Company, and El Paso Transmission and Distribution Company submitted an amendment to their application. Attached as Exhibit E to the application was an Intercompany Agreement, which allocated responsibility for the repayment of First Mortgage Bonds. The Applicants amend their filing to substitute a revised copy of the Intercompany Agreement.

*Comment date:* October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

**19. American Electric Power Service Corporation on behalf of: Appalachian Power Company, et al., FirstEnergy Corp. on behalf of: The Cleveland Electric Illuminating Company, Ohio Edison Company, et al., Pennsylvania Power Company, The Toledo Edison Company, Virginia Electric and Power Company**

[Docket Nos. ER99–3144–004 and EC99–80–004 (not consolidated)]

Take notice that on September 15, 2000, the Alliance Companies American Electric Power Service Corporation (on behalf of Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company and Wheeling Power Company), Consumers Energy Company, The Detroit Edison Company, FirstEnergy Corp. (on behalf of The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company and The Toledo Edison Company) and Virginia Electric and Power Company submitted a transmittal letter and three volume set of documents in compliance with the Federal Energy Regulatory Commission's (Commission) December 20, 1999 Order on Proposed Disposition and Related Rate Filings (December 20, 1999 Order) and the Commission's May 18, 2000 Order on Compliance Filing and Requests for Rehearing and Clarification (May 18, 2000 Order) in the above-referenced proceedings.

The filing includes revisions to the Applicants' proposal to create the Alliance RTO in the form of Alliance Transco. Alliance Transco will be formed as a limited liability company (LLC) that will be controlled and managed by its managing member, an independent entity with no affiliation with a market participant. The filing also includes a proposed rate design methodology that eliminates multiple transmission access charges, as directed by the Commission, and a proposed Alliance RTO Open Access Transmission Tariff (OATT) reflecting terms and conditions in compliance with the December 20, 1999 Order and the May 18, 2000 Order.

*Comment date:* October 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

**20. Sithe Edgar LLC et al.**

[Docket No. ER00–3691–000]

Take notice that on September 14, 2000, Sithe Edgar LLC, Sithe New Boston LLC, Sithe Framingham LLC, Sithe West Medway LLC, Sithe Wyman LLC, Sithe Mystic LLC, AG-Energy, L.P., Power City Partners, L.P., Seneca Power Partners, L.P., Sterling Power Partners, L.P., Sithe Power Marketing, L.P. and Sithe Power Marketing, Inc. (together, the Sithe Jurisdictional Affiliates), tendered for filing a Notification of Change in Status and Petition for Acceptance of Pro Forma Revised Rate Schedules and Supplements, by which the Sithe Jurisdictional Affiliates provide notice that upon the closing of the sale of 49.9 percent of the outstanding stock of Sithe Energies, Inc. to Exelon (Fossil) Holdings, L.L.C. the Sithe Jurisdictional Affiliates will be affiliated with an electric utility with a franchised service territory. Due to the affiliation post-transaction with a traditional electric utility, the Sithe Jurisdictional Affiliates are submitting for filing pro forma revised FERC Electric Rate Schedules Nos. 1 and 2 and Codes of Conduct.

*Comment date:* October 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24720 Filed 9–26–00; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP00–141–000]**

### Northwest Pipeline Corporation; Notice of Availability of the Environmental Assessment for the Proposed White River Replacement Project

September 21, 2000.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Northwest Pipeline Corporation (Northwest) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The purpose of the proposed project is to ensure the long-term safety and integrity of its dual pipelines where they cross the meandering White River in King County, Washington, by replacing certain sections at a deeper depth and building a permanent north bank stabilization structure.

The EA assesses the potential environmental effects of the construction, operation, and abandonment of two parallel gas pipelines including:

- Construct and operate 1,800 feet each of 26-inch-diameter and 30-inch-diameter pipelines;
- Remove 1,700 feet each of the existing 26-inch-diameter and 30-inch-diameter pipelines;
- Remove from the White River channel a 665-foot length of 26-inch-diameter pipeline which was previously abandoned in-place;

• Construct a bioengineered permanent stabilization structure on the north bank;

• Construct permanent habitat enhancement structures near the south bank.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch 888 First Street, N.E., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

• Send two copies of your comments to: Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;

• Label one copy of the comments for the attention of the Gas Group 2, PJ11.2;

• Reference Docket No. CP00–141–000; and

• Mail your comments so that they will be received in Washington, DC on or before October 23, 2000.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs, at (202) 208–0004 or on the FERC Internet website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS help line can be reached at (202) 208–2222.

Similarly, the ''CIPS'' links on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS help line can be reached at (202) 208–2474.

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24765 Filed 9–26–00; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP99–580–002]**

### Southern LNG Inc.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Sendout Modification Project and Request for Comments on Environmental Issues

September 21, 2000.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Sendout Modification Project involving construction and operation of facilities by Southern LNG Inc. (Southern LNG) on Elba Island in Chatham County, Georgia. [1] The project involves limited modifications to the sendout system at Southern LNG's existing, certificated liquefied natural gas (LNG) marine import terminal (Elba Island Terminal). This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

**Background**

In 1972, in Docket No. CP71–264, the Federal Power Commission (FERC's predecessor) authorized Southern Energy Company (Southern LNG's predecessor), to construct and operate the Elba Island Terminal. Southern LNG initiated construction in 1973. The terminal encompasses about 140 acres on the 840-acre Elba Island in an estuary of the Savannah River. Elba Island lies approximately 8 miles upstream of the river's discharge into the Atlantic Ocean and approximately 5 miles downstream from Savannah, Georgia. The existing authorized facilities at the Elba Island Terminal include the following:

• LNG unloading facilities, including marine berth, pier, and arms for unloading LNG from vessels;

• LNG storage facilities, including three double-wall storage tanks, each with the capacity of 400,000 barrels (four billion cubic feet vaporized equivalent);

• LNG sendout facilities, including pumps and vaporizers with a maximum capacity of 540 million cubic feet per day (MMcfd);

• Boil-off compressors;

• Pressure relief, vent, and disposal systems;

• Spill containment facilities, including a 400,000-barrel capacity main spill containment for each LNG storage tank; and

• Fire water system sourced from a fresh-water pond and river water.

Southern LNG commenced operation in July, 1978. Between 1978 to 1980, the Elba Island Terminal was used to import LNG purchased from El Paso Algeria Corporation and delivered by cryogenic tankers. In April, 1980, Southern LNG was unable to continue importation of LNG due to economic considerations. After LNG shipments were discontinued, Southern LNG retained an inventory of LNG through April, 1982.

Since 1982, the Elba Island Terminal has been maintained in a limited state of readiness to ensure that the plant could be safely and reliably reactivated. An ongoing preventative maintenance program has been in place since that time and needed repairs, replacements, enhancements and additions have been identified for implementing during the recommissioning process.

On July 13, 1999, Southern LNG filed an application with the Commission in Docket No. CP99–580–000, to recommission the Elba Island Terminal for the purpose of providing open-access service to shippers desiring to contract for receipt, storage, and vaporization of LNG and delivery of vaporized LNG at the existing point of interconnect with the interstate pipeline of Southern Natural. The project involved returning Southern LNG's existing, certificated Elba Island Terminal to active service. Southern LNG stated that the storage and vaporization facilities would not be significantly altered, replaced or relocated, and that the storage and throughput capacity of the facilities would remain the same as originally placed in service in 1978.

In addition, in Docket No. CP99–579–000, Southern LNG requested Section 3

[1] Southern LNG's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

authorization under Subpart B of Part 153 of the Commission's regulations for siting of natural gas import facilities. This application was directly related to Southern LNG's proposal described above in Docket No. CP99–580–000.

On August 9, 1999, we[2] issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Elba Island Terminal Recommissioning Project and Request for Comments on Environmental Issues.* On January 10, 2000, we issued a *Notice of Availability of the Environmental Assessment for the Proposed Elba Island Terminal Recommissioning Project.* On March 16, 2000, the Commission issued an *Order Issuing Certificate, Section 3 Authorization, and Denying Request for Rehearing* (Order).

**Summary of the Proposed Project**

Southern LNG proposes to amend the authorizations issued in the Commission's March 16, 2000 Order. Southern LNG proposes limited modifications to the sendout system at the Elba Island Terminal. The sendout modifications would increase the peak vaporization from 540 MMcfd to 675 MMcfd and allow control of the heating value of vaporized LNG. The sendout modifications are required to enhance the flexibility and reliability of firm service by enabling the terminal to import LNG from various foreign production areas. These LNG supplies may have varying heating values, which may exceed the maximum in Southern LNG's tariff of 1,075 British thermal units per standard cubic foot (Btu/scf). The location of the project facilities is shown in appendix 1.[3]

The Sendout Modifications Project would include the following:

- Replacement of the existing five 108 MMcfd Ryan Industries LNG submerged combustion vaporizers with five 135 MMcfd state-of-the-art submerged combustion water bath heaters;
- Install an additional secondary LNG pump to supply additional LNG for the increased capacity of the vaporizers; and
- Install nitrogen or air injection facilities to control heating value of vaporized LNG. Injection of 2 percent nitrogen or 3.8 percent air into the sendout stream would allow receipt of LNG with a heating value of 1,090 or 1,117 Btu/scf, respectively.

[2] "We," "us," and "our" refer to the environmental staff of the Office of Energy Projects.

[3] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

**Land Requirements for Construction**

No additional land would be required by Southern LNG's proposal. All work would occur within previously disturbed and currently maintained areas. None of the proposed facilities would result in substantial changes to the appearance or previous function of the existing facilities.

**The EA Process**

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Endangered and threatened species
- Land use
- Cultural resources
- Air Quality and noise
- Public safety

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

**Public Participation**

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas Group I, PJ–11.1;
- Reference Docket No. CP99–580–002; and
- Mail your comments so that they will be received in Washington, DC on or before October 23, 2000.

**Becoming an Intervenor**

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor". Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs at 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

**David P. Boergers,**

*Secretary.*

[FR Doc. 00–24764 Filed 9–26–00; 8:45 am]

**BILLING CODE 6717–01–M**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6877–8]**

## Agency Information Collection Activities: Submission for OMB Review; Comment Request, Standards of Performance for New Stationary Sources (NSPS) Smelters Including: Brass and Bronze; Copper Smelters; Zinc Smelters; Lead Smelters; Aluminum; Ferroalloy

**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: Standards of Performance for New Stationary Sources (NSPS) Smelters including Secondary Brass and Bronze Production Plants, Part 60, Subpart M; Primary Copper Smelter, Subpart P; Primary Zinc Smelters, Subpart Q; Primary Lead Smelters, Subpart R; Primary Aluminum Reduction Plants, Subpart S; Ferroalloy Production Facilities, Subpart Z; OMB No. 2060–0110; EPA No. 1604.06; expiration date is November 30, 2000. This ICR is a consolidation of four previously separate ICRs. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before October 27, 2000.

**ADDRESSES:** Send comments, referencing EPA ICR No.1604.06 and OMB Control No. 2060–0110, 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.1604.06. For technical questions about the ICR, please contact: Deborah Thomas (2223–A).

**SUPPLEMENTARY INFORMATION:**

*Title:* New Source Performance Standards for Smelters (40 CFR part 60), including: Brass and Bronze, Subpart M; Copper, Subpart P; Zinc, Subpart Q; Lead, Subpart R; Aluminum, Subpart S; Ferroalloy, Subpart Z; OMB Control No. 2060–0110; EPA ICR No.1604.06, expiration 11/30/2000. This is a request for an extension of 2 currently approved collections and a reinstatement of 2 lapsed collections.

*Abstract:* New Source Performance Standards for Secondary Brass and Bronze Production Plants, Primary Copper, Lead, and Zinc Smelters, Aluminum Reduction, and Ferroalloy Production Plants were developed to ensure that air emissions from these facilities do not cause ambient concentrations of particulate matter and certain gases to exceed levels that may reasonably be anticipated to endanger public health and the environment. Owners or operators of all affected facilities subject to NSPS must notify EPA of construction, modification, anticipated and actual startup dates, the initial performance test and results, demonstration of a continuous monitoring system (except for brass and bronze facilities), and any physical or operational change that may increase the emission rate. In addition, primary copper, lead, and zinc smelters and ferroalloy plants are required to semiannually report excess emissions and aluminum reduction plants must report excess emissions in each monthly or annual performance test. Ferroalloy plants must also report on any product change. Facilities must maintain records of performance test results, startups, shutdowns, and malfunctions. Primary smelters, aluminum reduction and ferroalloy production plants have additional daily or monthly recordkeeping requirements for certain operating parameters. In order to ensure compliance with the standards, adequate recordkeeping and reporting is necessary. This information enables the Agency to: (1) Identify the sources subject to the standard; (2) ensure initial compliance with emission limits; and (3) verify continuous compliance with the standard. Reporting and recordkeeping requirements on the part of the respondent are mandatory under section 114 of the Clean Air Act as amended and 40 CFR part 60. All reports are sent to the delegated State or Local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. All information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 39999, September 8, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 23, 1979).

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 October 29,1999 (64 FR 58398); no comments were received.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average two 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:* Operators of Smelters and Ferralloy Production Facilities

*Estimated Number of Respondents:* 27.

*Average Frequency of Response:* 3/yr/respondent.

*Estimated Total Annual Hour Burden:* 5,351 hours.

*Estimated Total Annualized Capital and O&M Cost Burden:* $231,900.

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. 1604.06 and OMB No. 2060–0110 in any correspondence.

Dated: September 20, 2000.

**Oscar Morales,**

*Director, Collection Strategies Division.*

[FR Doc. 00–24786 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6877–7]**

## Protection of Stratospheric Ozone: Notice of Revocation for Certifying Programs for Technicians

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of revocation.

**SUMMARY:** Through this action, EPA is announcing the revocation of five programs previously approved to provide the technician certification exam in accordance with the regulations promulgated at 40 CFR 82.161.

Two of these programs—ACI-Environmental Safety Training Institute located in New York, New York and Progressive Training Solutions (formerly Thunder-Light, Inc.) located in Punta Gorda, Florida—were issued letters of revocation that included an explanation of EPA's decision. These two programs have not complied with the recordkeeping and reporting requirements established for all technician certification programs pursuant to section 608 of the Clean Air Act Amendments (the Act). In accordance with those requirements, codified at appendix D of 40 CFR part 82, subpart F, all approved certifying programs for technicians must submit an activity report to EPA on a biannual basis (by every January 30 and June 30). EPA sent an information collection request, issued pursuant to section 114(a) of the Act, dated March 16, 2000, in which EPA requested that the programs submit the required activity report. That information request indicated that failure to respond could result in revocation. Subsequent attempts by EPA to contact these programs were unsuccessful.

In addition, three programs previously approved to provide the technician certification exam in accordance with the regulations promulgated at 40 CFR 82.161, have voluntarily withdrawn. These three programs—Association of Energy Engineers located in Atlanta, Georgia; Gables Residential located in Boca Raton, Florida; and the National Association of Plumbing-Heating-Cooling Contractors located in Falls Church, Virginia; have also received written notification that their certification has been revoked.

As of November 30, 1999, December 30, 1999, and August 31, 2000, the National Association of Plumbing-Heating-Cooling Contractors, the Association of Energy Engineers, and Gables Residential, respectively, are no longer authorized to certify technicians or issue valid certification credentials. However, technicians certified by these programs during the period that the programs operated an EPA-approved program will remain certified in accordance with 40 CFR 82.161(a).

**EFFECTIVE DATES:** ACI-Environmental Safety Training Institute, Progressive Training Solutions (formerly Thunder-Light, Inc.), and Gables Residential had their approval as certifying programs for technicians revoked, effective August 31, 2000. The National Association of Plumbing-Heating-Cooling Contractors and the Association of Energy Engineers had their approval as certifying programs for technicians revoked, effective November 30, 1999 and December 30, 1999, respectively.

**ADDRESSES:** Information relevant to this notice is contained in Air Docket A–92–01; Central Docket Section, South Conference Room 4; U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, DC 20460; telephone (202) 260–7548. The docket may be inspected between 8:00 a.m. and 5:30 p.m. weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying.

**FOR FURTHER INFORMATION CONTACT:** Julius Banks; Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J); 1200 Pennsylvania Avenue, NW; Washington, DC 20460; (202) 564–9870. The Stratospheric Ozone Information Hotline, (800) 296–1996, can also be contacted for further information.

Dated: September 13, 2000.

**Edward Callahan,**

*Acting Director, Office Of Atmospheric Programs.*

[FR Doc. 00–24677 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–U

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–100161; FRL–6746–3]**

## Tetrahedron, Inc. and TERA; Transfer of Data

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces that pesticide-related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be tranferred to Tetrahedron, Inc. and its subcontractor, TERA, in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Tetrahedron, Inc. and its subcontractor, TERA, have been awarded a contract to perform work for OPP, and access to this information will enable Tetrahedron, Inc. and subcontractor, TERA, to fulfill the obligations of the contract.

**DATES:** Tetrahedron, Inc. and its subcontractor, TERA, will be given access to this information on or before October 2, 2000.

**FOR FURTHER INFORMATION CONTACT:** By mail: Erik R. Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7248; e-mail address: johnson.erik@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action applies to the public in general. As such, 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?*

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/.

## II. Contractor Requirements

Under Contract No. 68–W0–0067, Tetrahedron, Inc. and its subcontractor, TERA, will perform technical support services on environmental studies to include engineering analysis, data management, data validation, and statistical analysis for the assessment products of the individual divisions of OPP. These products are used by the Director of OPP in making decisions.

The OPP has determined that access by Tetrahedron, Inc. and its subcontractor, TERA, to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Tetrahedron, Inc. and its subcontractor, TERA, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Tetrahedron, Inc. and its subcontractor, TERA, are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Tetrahedron, Inc. and its subcontractor, TERA, until the requirements in this document have been fully satisfied. Records of information provided to Tetrahedron, Inc. and its subcontractor, TERA, will be maintained by EPA Project Officers for this contract. All information supplied to Tetrahedron, Inc. and its subcontractor, TERA, by EPA for use in connection with this contract will be returned to EPA when Tetrahedron, Inc. and its subcontractor, TERA, have completed their work.

## List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: September 11, 2000.

**Richard D. Schmitt,**

*Acting Director, Information Resources and Services Division, Office of Pesticide Programs.*

[FR Doc. 00–24207 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–S

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## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–00680; FRL–6747–2]**

## EPA-USDA Committee To Advise on Reassessment and Transition (CARAT); Notice of Public Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Public Meeting.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA)-U.S. Department of Agriculture (USDA) Committee to Advise on Reassessment and Transition (CARAT) will hold a public meeting on October 11-12, 2000. An agenda is under development and will be available by October 6, 2000 on our website at www.epa.gov/pesticides/carat/. Topics to be discussed will include pest management strategic planning and transition activities.

**DATES:** The meeting will be held on October 11, 2000, from 9 a.m. to 5 p.m. and from 9 a.m. to 3 p.m. on October 12, 2000.

**ADDRESSES:** The meeting will be held at the Radisson Hotel Old Town, 901 North Fairfax Street, Alexandria, VA 22314; telephone number (703) 683–6000.

**FOR FURTHER INFORMATION CONTACT:** Margie Fehrenbach or Terria Northern, (7501-C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–4775 or (703) 305–7093; fax number: (703) 308–4776; e-mail address: Fehrenbach.Margie@epa.gov or Northern.Terria@epa.gov .

**SUPPLEMENTARY INFORMATION:**

## I. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are concerned about implementation of the Food Quality Protection Act (Public Law 104–170). Passed in 1996, this new law strengthens the nation's system for regulating pesticides on food. CARAT is preceded by the Tolerance Reassessment Advisory Committee which was established in 1998 in response to Vice President Gore's request for EPA and USDA to work together to ensure smooth implementation of FQPA. 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.**

## II. 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 CARAT, go directly to the Home Page for EPA's Office of Pesticide Programs at http://www.epa.gov/pesticides/carat.

2. *In person*. The Agency has established an administrative record for this meeting under docket control number OPP–00657. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to the Committee to Advise on Reassessment and Transition (CARAT). This administrative record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the administrative record, which includes printed, paper versions of any electronic comments

that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

## III. How Can I Participate in this Meeting?

CARAT meetings are open to the public under section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92–463. Outside statements by observers are welcome. Oral statements will be limited to 3–5 minutes, and it is preferred that only one person per organization present the statement. Any person who wishes to file a written statement may do so before or after a CARAT meeting. These statements wil become part of the permanent record and will be provided to CARAT members. The permanent record will be available for public inspection at the address in Section II.2 ''In person'' above.

## IV. Background

CARAT was established in accordance with the Federal Advisory Committee Act as as a subcommittee under the auspices of the EPA National Advisory Council for Environmental Policy and Technology (NACEPT. The purpose of CARAT is to provide advice and counsel to the Administrator of EPA and the Secretary of Agriculture regarding strategic approaches for pest management planning and tolerance reassessment for pesticides as required by the Food Quality Protection Act of 1996 (FQPA). CARAT is preceded by the Tolerance Reassessment Advisory Committee and is guided by the principles set forth by the Vice President for EPA and the U.S. Department of Agriculture (USDA) to work together to ensure smooth implementation of FPQA through use of sound science, consultation with stakeholders, increased transparency, and reasonable transition for agriculture. CARAT is co-chaired by EPA Deputy Administrator Michael McCabe and USDA Deputy Secretary Richard Rominger. CARAT is composed of experts that include farmers, environmental/public interest groups, public health officials, pediatric experts, pesticide trade associations and manufacturers, food processors and distributors, academicians, and tribal, State and local governments.

## List of Subjects

Environmental protection, Agriculture, Chemicals, Foods, Pesticides, and Pests.

Dated: September 20, 2000.

**Susan H. Wayland**

*Acting Administrator for Prevention, Pesticides, and Toxic Substances.*

[FR Doc. 00–24783 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–S

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## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–00678A; FRL–6748–8]**

## FIFRA Scientific Advisory Panel, Notice of Public Meeting; Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; correction.

**SUMMARY:** This document corrects the location of the October 18, 19, and 20, 2000, open meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Food Quality Protection Act (FQPA) Scientific Advisory Panel (SAP) in which the FIFRA SAP is reviewing a set of issues being considered by the Agency pertaining to the *Bt* plant pesticides risk and benefit assessments.

**ADDRESSES:** The meeting will be held at the Crystal City Marriott Hotel, 1999 Jefferson Davis Hwy., Arlington, VA. The telephone number for the Crystal City Marriott Hotel is (703) 413–5500.

**FOR FURTHER INFORMATION CONTACT:** Paul Lewis, Designated Federal Officer (DFO), Office of Science Coordination and Policy (7101C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5369; fax number: (703) 605–0656; e-mail address: lewis.paul@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 those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the Food Quality Protection Act (FQPA). 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/.

A meeting agenda is currently available; copies of EPA primary background documents for this meeting will be available by late September. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, from the FIFRA SAP Internet Home Page at http://www.epa.gov/scipoly/sap.

2. *In person.* The Agency has established an official record for this meeting under docket control number OPP–00678A. The official record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to the *Bt* plant pesticides risk and benefit assessments, 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

The original notice announcing the FIFRA SAP meeting for October 18, 19, and 20, 2000 (FR Doc. 00–22818) was published in the **Federal Register** of September 6, 2000 (65 FR 54001) (FRL–

6743–3). Through an administrative error, the document contains the wrong address for this meeting.

**List of Subjects**

Environmental protection.

Dated: September 19, 2000.

**Martha Shimkin,**

*Acting Director, Office of Science Coordination and Policy.*

[FR Doc. 00–24678 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–34224; FRL–6559–7]**

## Certain Chemicals; Completion of Comment Period for Reregistration Eligiblity Decision Documents

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice, pursuant to section 4(g)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), concludes the comment period for the Reregistration Eligibility Decision (RED) documents for several pesticide chemical cases.

**FOR FURTHER INFORMATION CONTACT:** Technical questions on the RED documents should be directed to the appropriate Chemical Review Mangers listed in the table under **SUPPLEMENTARY INFORMATION.**

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Notice Apply to Me*

This notice is directed to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the appropriate chemical review manager listed in the table in Unit II. of this document.

*B. How Can I Get Additional Information, Including Copies of this Document and the REDs?*

You may obtain copies of this document from the EPA Internet Home Page at http://www.epa.gov/. 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/.

Copies of these RED documents are available from EPA's National Service Center for Environmental Publications (NSCEP), PO Box 42419, Cincinnati, OH 45242–2419, telephone number 1–800–490–9198. To obtain copies you must provide the EPA publication number that has been assigned to the RED, as listed in the table in Unit II. of this document.

Copies of the REDs also are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, ATTN: Order Desk; telephone number 1–800–553–6847. To obtain copies you must provide the EPA publication number that has been assigned to the RED, as listed in the table in Unit II. of this document.

These REDs and RED fact sheets are available electronically from the EPA web site at www.epa.gov/REDs/. For related information, see the EPA Office of Pesticide Programs' home page, http://www.epa.gov/pesticides.

### II. Background

During fiscal year 1999, EPA completed reregistration eligibility decisions for 14 pesticides, and issued Reregistration Eligibility Decision (RED) documents for the pesticide active ingredients listed below. The Agency published a Notice in the **Federal Register** on December 3, 1999 (64 FR 67902) (FRL–6395–6), announcing the availability of RED documents for six of these pesticides (Captan, S-Ethyl dipropylthiocarbamate (EPTC), Folpet, Niclosamide and 3-trifluoromethyl-4-nitrophenol (TFM or Lamprecide), and Pebulate). These REDs were issued as final documents with a 60-day comment period, which closed on February 1, 2000. In these REDs, EPA provided its regulatory position on the current registered uses of these pesticides and set forth certain requirements for product reregistration eligibility.

The Agency also published separate **Federal Register** notices announcing the availability of REDs for Sulfotepp (a voluntary cancellation) on December 22, 1999 (64 FR 71754) (FRL–6391–2), and triphenyltin hydroxide (TPTH) on December 1, 1999 (64 FR 67265) (FRL–6395–3), the latter for 90 days of public comment. EPA will announce in the **Federal Register** the cancellation of Sulfotepp when it becomes effective in September 2002.

No comments were submitted for the following RED documents:

Folpet
Pebulate

Comments were submitted for the following REDs but did not significantly affect EPA's regulatory position:

EPTC
Niclosamide
TFM
TPTH
Sulfotepp

These comments and the Agency's responses are included in the dockets for these pesticides.

Comments were submitted for the following REDs that changed EPA's regulatory position:

(none so far)

Comments were submitted and are still under review for the following REDs:

Captan

The EPA publication numbers for the REDs subject to this notice are presented below.

| Chemical Name | Chemical Review Manager/Phone No./ E-mail address | Case Number | RED Signature Date | EPA Publication Number |
|---|---|---|---|---|
| Captan | Kylie Rothwell; 703–308–8055; Rothwell.Kylie@epa.gov | 0120 | 9/99 | EPA–738–R–99–015 |
| EPTC | Jamil Mixon; 703–308–8032; Mixon.Jamil@epa.gov | 0064 | 9/99 | EPA–738–R–99–006 |
| Folpet | Christina Scheltema; 703–308–2201; Scheltema.Christina@epa.gov | 0630 | 9/99 | EPA–738–R–99–011 |
| Niclosamide | Laura Parsons; 703–308–5776; Parsons.Laura@epa.gov | 2455 | 9/99 | EPA–738–R–99–007 |
| TFM | Laura Parsons; 703–308–5776; Parsons.Laura@epa.gov | 3082 | 9/99 | EPA–738–R–99–007 |
| TPTH | Phil Budig; 703–308–8029; Budig.Phil@epa.gov | 0099 | 9/99 | EPA–738–R–99–010 |

| Chemical Name | Chemical Review Manager/Phone No./ E-mail address | Case Number | RED Signature Date | EPA Publication Number |
|---|---|---|---|---|
| Pebulate | Patricia Moe; 703–308–8011; Moe.Patricia@epa.gov | 2500 | 9/99 | EPA–738–R–99–005 |
| Sulfotepp | Roberta Farrell; 703–308–8065; Farrell.Roberta@epa.gov | 0338 | 9/99 | EPA–738–R–99–012 |

**List of Subjects**

Environmental protection.

Dated: September 12, 2000.

**Lois A. Rossi,**

*Director, Special Review and Reregistration Division, Office of Pesticide Programs.*

[FR Doc. 00–24208 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–F

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–64052; FRL 6747–4]**

## Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

**DATES:** Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on March 26, 20001 unless indicated otherwise.

**FOR FURTHER INFORMATION CONTACT:** By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail address: Rm. 266A, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; e-mail: hollins.james@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does This Action Apply to Me?*

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT SECTION.**

*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** listing at http://www.epa.gov/fedrgstr/.

2. *In person.* Contact James A. Hollins at 1921 Jefferson Davis Highway, Crystal Mall 2, Rm. 224, Arlington, VA. Telephone number (703) 305–5761. Available from 7:30 a.m. to 4:45 p.m., Monday through Friday, excluding legal holidays.

### II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in five pesticide registrations. These registrations are listed in the following Table 1 by registration number, product name, active ingredient, and specific uses deleted:

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

| EPA Reg. No. | Product Name | Active Ingredient | Delete From Label |
|---|---|---|---|
| *000862–00029 | Sunspray Ultra-N | Aliphatic Petroleum Hydrocarbons | Use on cranberries and pothos |
| 002724–00450 | Zoecon 9001 EW | Propetamphos | Termite gallery application |
| 011556–00011 | Co-Ral Technical | Coumaphos | Use on sheep, goats |
| 011556–00020 | Co-Ral 25% Dust Base | Coumaphos | Use on sheep, goats |
| 068292–00002 | WEEDAXE Herbicide | Dimethylamine 2,4 dichlorophenoxyacetate | Use on grape vineyards |

* = 30–day comment period

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before March 26, 2001 unless indicated otherwise, to discuss withdrawal of the application for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

| EPA Company No. | Company Name and Address |
|---|---|
| 000862 | Sun Company, Inc., P.O. Box 1135, Marcus Hook, PA 19061. |
| 002724 | Wellmark International, 1000 Tower Lane, Bensenville, IL 60106. |
| 011556 | Bayer Corporation, P.O. Box 390, Shawnee Mission, KS 66201. |
| 068292 | EDM Corporation, P.O. Box 8552, Porterville, CA 93258. |

## III. What is the Agency Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the**Federal Register.** Thereafter, the Administrator may approve such a request.

## IV. How and to Whom Do I Submit Withdrawal Requests?

1. *By mail:* Registrants who choose to withdraw a request for use deletion must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked March 26, 2001.

2. *In Person or by courier:* Deliver your withdrawal request to: Document Processing Desk (DPD), Information Services Branch, Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 266A, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA. The DPD is open from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The DPD telephone number is (703) 305–5263.

3. *Electronically.* You may submit your withdrawal request electronically by e-mail to: hollins.james@gov. 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.

## V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

## List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Dated: September 18, 2000.

**Richard D. Schmitt,**

*Acting Associate Director, Information Resources Services Division,Office of Pesticide Programs.*

[FR Doc. 00–24779 Filed 9–26–00; 8:45 a.m.]

BILLING CODE 6560–50–S

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## ENVIRONMENTAL PROTECTION AGENCY

**[PF–976; FRL–6744–6]**

## Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

**DATES:** Comments, identified by docket control number PF–976, must be received on or before October 27, 2000.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–976 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: James Tompkins, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5697; e-mail address: tompkins.jim@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<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>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 PF–976. The official record consists of the

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

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–976 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, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–976. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI That I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

### List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 19, 2000.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

### Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represent the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

### American Cyanamid Company

*0F6186*

EPA has received a pesticide petition (0F6186) from American Cyanamid Company, P.O. Box 400, Princeton, NJ. 08543–0400 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-ethyl-3-pyridine-carboxylic acid) as its free acid or its ammonium salt (calculated as the acid), and its metabolite 2-[4,5-dihydro-4-methyl-4-(1- methylethyl-5- oxo-1*H*-imidazol-2-yl]-5-(1-hydroxyethyl)-3-pyridinecarboxylic acid both free and conjugated in or on the raw agricultural commodities(RAC) rice grain at 0.5 parts per million (ppm) and rice straw at 0.3 ppm and in or on crayfish at 0.1 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

*A. Residue Chemistry*

1. *Plant metabolism*. The qualitative nature of the residues of imazethapyr in rice is adequately understood. Based on studies conducted on soybean, edible forage legumes, and corn, parent imazethapyr, and common metabolites CL 288511 and CL 182704 are the only residues of concern for tolerance setting purposes.

2. *Analytical method*. Practical analytical methods for detecting and measuring imazethapyr residues of concern in rice, its processed commodities, and crayfish are submitted to EPA with this petition. The analytical method for rice commodities, grain, and straw is based on capillary electrophoresis with limits of quantitation (LOQ) of 0.05 ppm. Measurement of imazethapyr residues in polished rice, hull, and bran are accomplished by liquid chromatography/atmospheric pressure ionization-electrospray (API/ES) mass spectrometry (LC/MS). The validated LOQ of the method is 0.025 ppm. A CZE-methodology is also submitted for the determination of imazethapyr in crayfish with limits of quantitation of 50 parts per billion (ppb). These independently validated methods are appropriate for the enforcement purposes of this petition.

3. *Magnitude of residues*. A total of nineteen field trials were conducted with imazethapyr and its metabolites on rice in 1997 and 1998 at several different use rates and timing intervals to represent the use patterns which would result in the highest residue. In these trials, residues of parent compound AC 263499 in grain and straw were less than the limit of quantitation (0.05 ppm). The hydroxy metabolite, CL 288511 was detected in grain samples at a maximum value of 0.085 ppm. All straw samples analyzed for CL 288511 residues were less than the limit of quantitation (0.05 ppm). The glucose conjugate, CL 182704 was detected at a maximum value of 0.11 ppm in grain. All straw samples analyzed for CL 182704 residues were less than the limit of quantitation (0.05 ppm). The RAC samples were also processed into polished rice, hull, and bran. Results from these studies support the proposed tolerances of 0.5 ppm for rice grain and 0.3 ppm for rice straw. Based on the chemical nature of imazethapyr, results from a fish bioaccumulation study and further studies conducted on a surrogate chemical, imazapyr (CL 243997), there is no reasonable expectation of finite residues of imazethapyr in crayfish. However, the registrant is proposing a tolerance in or on crayfish at 0.1 ppm.

*B. Toxicological Profile*

A complete, valid and reliable data base of mammalian and genetic toxicology studies support the proposed tolerances for imazethapyr. This data base was previously reviewed by the EPA in support of the tolerance petition and registration of imazethapyr on soybeans, legume vegetables, corn, alfalfa, and peanuts.

1. *Acute toxicity*. Imazethapyr technical is considered to be nontoxic (toxicity category IV) to the rat by the oral route of exposure. In an acute oral toxicity study in rats, the $LD_{50}$ value of imazethapyr technical was greater than 5,000 milligrams/kilograms (mg/kg) bwt for males and females. The results from an acute dermal toxicity study in rabbits indicate that imazethapyr is slightly toxic (toxicity category III) to rabbits by the dermal route of exposure. The dermal $LD_{50}$ value of imazethapyr technical was greater than 2,000 mg/kg bwt for both male and female rabbits. Imazethapyr technical is considered to be non-toxic (toxicity category IV) to the rat by the respiratory route of exposure. The 4–hour $LC_{50}$ value was greater than 3.27 mg/L (analytical) and greater than 4.21 mg/L (gravimetric) for both males and females. Imazethapyr technical was shown to be non-irritating to rabbit skin (toxicity category IV) and mildly irritating to the rabbit eye (toxicity category III). Based on the results of a dermal sensitization study (Buehler), imazethapyr technical is not considered a sensitizer in guinea pigs.

2. *Genotoxicty*. Imazethapyr technical was tested in a battery of four *in vitro* and one *in vivo* genotoxicity assays measuring several different endpoints of potential genotoxicity. Collective results from these studies indicate that imazethapyr does not pose a mutagenic or genotoxic risk.

3. *Reproductive and developmental toxicity*. The developmental toxicity study in Sprague Dawley rats conducted with imazethapyr technical showed no evidence of developmental toxicity or teratogenic effects in fetuses. Thus, imazethapyr is neither a developmental toxicant nor a teratogen in the rat. The no observed adverse effect level (NOAEL) for maternal toxicity was 375 mg/kg bwt/day, based on clinical signs of toxicity in the dams (e.g. excessive salivation) at 1,125 mg/kg bwt/day. Imazethapyr technical did not exhibit developmental toxicity or teratogenic effects at maternal dosages up to and including 1,125 mg/kg bwt/day, the highest dose tested (HDT). Results from a developmental toxicity study in New Zealand white rabbits with imazethapyr technical also indicated no evidence of developmental toxicity or teratogenicity. Thus, imazethapyr technical is neither a developmental toxicant nor a teratogen in the rabbit. The NOAEL for maternal toxicity was 300 mg/kg bwt/day, based on decreased food consumption and bwt gain, abortion, gastric ulceration, and death at 1,000 mg/kg bwt/day, the next HDT. The NOAEL for developmental toxicity and teratogenic effects was determined to be >1,000 mg/kg bwt/day based on no developmental toxicity or fetal malformations associated with the administration of all doses. The results from the 2–generation reproduction toxicity study in rats with imazethapyr technical support a NOAEL for reproductive toxicity of 10,000 ppm (equivalent to 800 mg/kg bwt/day). The NOAEL for non-reproductive parameters (i.e. decreased weanling bwts) is 5,000 ppm.

4. *Subchronic toxicity*. A short-term (21–day) dermal toxicity study in rabbits was conducted with imazethapyr technical. No dermal irritation or abnormal clinical signs were observed at dose levels up to and including 1,000 mg/kg bwt/day ( HDT), supporting a NOAEL for dermal irritation and systemic toxicity of 1,000 mg/kg bwt/day. In a subchronic (13–week) dietary toxicity study in rats with imazethapyr technical, no signs of systemic toxicity were noted, supporting a NOAEL of 10,000 ppm the highest concentration tested (HCT) (equivalent to 820 mg/kg bwt/day). In a subchronic (13–week) dietary toxicity study in dogs with imazethapyr technical, no signs of systemic toxicity were noted, supporting a NOAEL of 10,000 ppm (equivalent to 250 mg/kg bwt/day), the HCT.

5. *Chronic toxicity*. A 1–year dietary toxicity study was conducted with imazethapyr technical in Beagle dogs at dietary concentrations of 0, 1,000, 5,000, and 10,000 ppm. In this study, the NOAEL for systemic toxicity was 1,000 ppm (equivalent to 25 mg/kg bwt/day), based on slight anemia, i.e., decreased red cell parameters observed at 5,000 and 10,000 ppm concentrations. No treatment-related histopathological lesions were observed at any dietary concentration, including the HCT (10,000 ppm).

In a 2–year chronic dietary oncogenicity and toxicity study in rats conducted with imazethapyr technical, the NOAEL for oncogenicity, and chronic systemic toxicity was 10,000 ppm (equivalent to 500 mg/kg bwt/day), the HCT. An 1–month chronic dietary oncogenicity and toxicity study in mice with imazethapyr technical support, a

NOAEL for oncogenicity of 10,000 ppm, the HCT (equivalent to 1,500 mg/kg bwt/day), and a NOAEL for chronic systemic toxicity of 5,000 ppm (equivalent to 750 mg/kg bwt/day), based on decreased bwt gain in both sexes). The EPA has classified imazethapyr as a Group E carcinogen (evidence of non-carcinogenicity for humans) based on the absence of treatment-related tumors in acceptable carcinogenicity studies in both rats, and mice.

6. *Animal metabolism*. The rat, goat, and hen metabolism studies indicate that the qualitative nature of the residues of imazethapyr in animals is adequately understood. In 3 rat metabolism studies conducted with radio-labeled imazethapyr technical the major route of elimination of the herbicide was through rapid excretion in urine and to a much lesser extent in feces. In the first study, almost 100% of the administered material was recovered in excreta within 96 hours (89–95% in urine, 6–11% in feces). The major residue in urine and feces was parent compound. Approximately 2% of the dose was metabolized and excreted as the α-hydroxyethyl derivative of imazethapyr. In the second study, the test material was rapidly and completely eliminated unchanged in the urine within 72 hours of dosing. After 24 hours, 92.1% of radio-activity was excreted in the urine with 4.67% in the feces. There was no significant bioaccumulation of radio-activity in the tissues from this rat metabolism study (< 0.01 ppm after 24 hours). In the third study, 4 groups treated with radio-labeled imazethapyr readily excreted >95% of the test material in the urine and feces within 48 hours. A high percentage (97–99%) of the test material was excreted in the urine as unchanged parent, the remainder as the α-hydroxyethyl derivative of imazethapyr. For all 3 studies, the major route of elimination of the herbicide in rats was through rapid excretion of unchanged parent compound in urine. It is clear that imazethapyr and its related residues do not accumulate in tissues and organs.

In the goat metabolism study, parent $^{14}$C-imazethapyr was dosed to lactating goats at 0.25 ppm and 1.25 ppm. Results showed $^{14}$C-residues of <0.01 ppm in milk, and <0.05 ppm in leg muscle, loin muscle, blood, fat, liver, and kidney. Laying hens dosed at 0.5 ppm and 2.5 ppm with $^{14}$C-imazethapyr showed $^{14}$C-residues of <0.05 ppm in eggs and all tissues (blood, muscle, skin/fat, liver, and kidney).

Additional animal metabolism studies have been conducted with CL 288511 (main metabolite in treated crops fed to livestock) in both laying hens and lactating goats. These studies have been repeated to support subsequent use extensions on crops used as livestock feed items which would theoretically result in a higher dosing of imazethapyr-derived residues to livestock ( i.e., corn, alfalfa). In these studies, lactating goats dosed at 42 ppm of $^{14}$C-CL 288511 showed $^{14}$C-residues of <0.01 ppm in milk, leg muscle, loin muscle, and omental fat. $^{14}$C-residues in blood were mostly <0.01 ppm but reached 0.01 ppm on 2 of the treatment days. $^{14}$C-residue levels in the liver, and kidney were 0.02 and 0.09 ppm, respectively. Laying hens dosed at 10.2 ppm of $^{14}$C-imazethapyr showed $^{14}$C-residues of <0.01 ppm in eggs and all tissues (blood, muscle, skin/fat, liver, and kidney). $^{14}$C-imazethapyr or $^{14}$C-CL 288511 ingested by either laying hens or lactating goats was excreted within 48 hours of dosing. These studies indicate that parent imazethapyr and CL 288511-related residues do not accumulate in milk or edible tissues of the ruminant.

7. *Metabolite toxicology*. Metabolism studies in soybean, peanut, corn, and alfalfa indicate that the only significant metabolites are the α-hydroxyethyl derivative of imazethapyr, CL 288511 and its glucose conjugate CL 182704. The α-hydroxyethyl metabolite has also been identified in minor quantities in the previously submitted rat metabolism studies and in goat and hen metabolism studies. No additional toxicologically significant metabolites were detected in any of the plant or animal metabolism studies.

8. *Endocrine disruption*. Collective organ weight data and histopathological findings from the 2–generation rat reproductive study, as well as from the subchronic and chronic toxicity studies in 3 different animal species demonstrate no apparent estrogenic effects or treatment-related effects of imazethapyr on the endocrine system.

*C. Aggregate Exposure*

1. *Dietary exposure*. The potential dietary exposure to imazethapyr has been calculated from the proposed tolerance for use on rice and previously established tolerances for peanuts, legume vegetables, soybeans, alfalfa, endive, lettuce, and corn. This very conservative chronic dietary exposure estimate used the proposed tolerance of 0.5 ppm for rice, and tolerance values of 0.1 ppm for peanuts, 0.1 ppm for legume vegetables, 0.1 ppm for soybeans, 3.0 ppm for alfalfa, 0.1 ppm for endive (escarole), 0.1 ppm for lettuce, and 0.1 ppm for corn. In addition, these estimates assume that 100% of these crops contain imazethapyr residues.

i. *Food*. Potential exposure to residues of imazethapyr in food will be restricted to intake of rice, peanuts, legume vegetables, soybeans, alfalfa (sprouts), endive, lettuce, and corn. Using the assumptions discussed above, the theoretical maximum residue concentration (TMRC) values of imazethapyr were calculated for the U.S. general population and subgroups. Based on the tolerances given above, the TMRC values for each group are:

- 0.000419 mg/kg bwt/day for the general U.S. population.
- 0.001104 mg/kg bwt/day for all infants (<1–year).
- 0.001298 mg/kg bwt/day for non-nursing infants.
- 0.000870 mg/kg bwt/day for children 1 to 6 years of age.
- 0.000610 mg/kg bwt/day for children 7 to 12 years of age.

The TMRC values indicate that non-nursing infants are the most highly exposed population subgroup.

ii. *Drinking water*. As a screening-level assessment for aggregate exposure, the U.S. EPA evaluates a drinking water level of comparison (DWLOC), which is the maximum concentration of a chemical in drinking water that would be acceptable in light of total aggregate exposure to that chemical. In 1990, the EPA set the reference dose (RfD) for imazethapyr at 0.25 mg/kg bwt/day, based on the NOAEL from the 1–year dietary toxicity study in dogs of 25 mg/kg bwt/day and a 100–fold uncertainty factor. Based on the chronic RfD of 0.25 mg/kg bwt/day and the EPA's default factors for bwt and drinking water consumption, the DWLOCs have been calculated to assess the potential dietary exposure from residues of imazethapyr in water. For the adult population the chronic DWLOC was 8,735 ppb and for children the DWLOC was estimated to be 2,491 ppb.

Chronic drinking water exposure analyses were calculated for imazethapyr using EPA screening models screening concentration in ground water ((SCI-GROW) for ground water and (generic expected environmental concentration) (GENEEC) for surface water). The SCI-GROW value is 16.54 ppb and the calculated peak GENEEC value is 5.96 ppb by aerial application. For the U.S. adult population, the estimated exposures of imazethapyr residues in groundwater and surface water are approximately 0.19% and 0.07%, respectively, of the DWLOC. The estimated exposures of children to imazethapyr residues in ground water and surface water are approximately 0.66%, and 0.24%,

respectively, of the DWLOC. Therefore, the exposures to drinking water from imazethapyr use are negligible.

2. *Non-dietary exposure*. Imazethapyr products are notcurrently registered or requested to be registered for residential use; therefore the estimate of residential exposure is not relevant to this tolerance petition.

*D. Cumulative Effects*

Imazethapyr is a member of the imidazolinone class of herbicides. Other compounds of this class are registered for use in the United States. However, the herbicidal activity of the imidazolinones is due to the inhibition of acetohydroxyacid synthase (AHAS), an enzyme only found in plants. AHAS is part of the biosynthetic pathway leading to the formation of branched chain amino acids. Animals lack AHAS and this biosynthetic pathway. This lack of AHAS contributes to the low toxicity of the imidazolinone compounds in animals. We are aware of no information to indicate or suggest that imazethapyr has any toxic effects on mammals that would be cumulative with those of any other chemical. Therefore, for the purposes of this tolerance petition no assumption has been made with regard to cumulative exposure with other compounds having a common mode of action.

*E. Safety Determination*

1. *U.S. population*. The RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. In 990, the EPA set the RfD for imazethapyr at 0.25 mg/kg bwt/day, based on the NOAEL from the 1–year dietary toxicity study in dogs of 25 mg/kg bwt/day and a 100–fold uncertainty factor. The chronic dietary exposure of 0.000419 mg/kg bwt/day for the general U.S. population will utilize only 0.2% of the RfD of 0.25 mg/kg bwt/day. EPA generally has no concern for exposures below 100% of the RfD. Due to the low toxicity of imazethapyr, an acute exposure dietary risk assessment is not warranted. The complete and reliable toxicity data base, the low toxicity of the active ingredient, and the results of the chronic dietary exposure risk assessment, support the conclusion that there is a ''reasonable certainty of no harm'' from the proposed use of imazethapyr on imidazolinone tolerant rice. Furthermore, these factors support the proposed tolerance on rice.

2. *Infants and children*. The conservative dietary exposure estimates of all registered uses including the proposed tolerance for rice show exposures of 0.001104, 0.000440, 0.000870, and 0.000610 mg/kg bwt/day which will utilize 0.4, 0.2, 0.3, and 0.2% of the RfD for all infants (<1 year), nursing infants, children 1-6 years, and children 7-12 years, respectively. The chronic dietary exposures for non-nursing infants, the most highly exposed subgroup, will utilize only 0.5% of the RfD. Results from the 2–generation reproduction study in rats and the developmental toxicity studies in rabbits and rats indicate no increased sensitivity to developing offspring when compared to parental toxicity. These results also indicate that imazethapyr is neither a developmental toxicant nor a teratogen in either the rat or rabbit. Therefore, an additional safety factor is not warranted, and the RfD of 0.25 mg/kg bwt/day, which utilizes a 100–fold safety factor is appropriate to ensure a reasonable certainty of no harm to infants and children.

*F. International Tolerances*

There are no Codex maximum residue levels established or proposed for residues of imazethapyr on rice.

[FR Doc. 00–24680 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

**[PF–972; FRL–6742–4]**

## Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

**DATES:** Comments, identified by docket control number PF–972, must be received on or before October 27, 2000.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–972 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Bipin Gandhi, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8380; e-mail address: gandhi.bipin@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

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

| Categories | NAICS | Examples of potentially affected entities |
|---|---|---|
| Industry | 111<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>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 PF–972. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record

includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–972 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, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–972. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI That I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

**List of Subjects**

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 15, 2000.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

**Summary of Petition**

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the Federal Food Drug and Cosmetic Act (FFDCA). The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announce the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

**DuPont Company**

*PP 6E4785*

EPA has received a pesticide petition (PP 6E4785) from the DuPont Company, DuPont Fluoroproducts, Chestnut Run Plaza, P.O. Box 80711, Wilmington, DE, 19880–0711 proposing, pursuant to section 408(d) of the (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of dimethylether (CAS Reg. No. 115–10–6) when used as an inert ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities (RAC) after harvest, and including area application in and around commercial and residential food handling facilities and establishments by certified applicators only. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

*A. Residue Chemistry*

*Analytical method*. DME is used as a propellant in pesticide formulations and exists as a gas at ambient conditions. Upon release from the container, it vaporizes completely with essentially no residue; consequently, no analytical method for residue measurement is needed.

*B. Toxicological Profile*

Since dimethylether (DME) exists as a gas at room temperature and any exposure to humans would occur via inhalation, all toxicity testing conducted with DME was done via inhalation or in the vapor phase.

1. *Acute toxicity*. An acute inhalation toxicity study was conducted in rats. The 4–hr $LC_{50}$ was determined to be 164,000 parts per million (ppm), EPA category IV.

2. *Genotoxicty*—i. An *in vitro* Ames/*Salmonella* mutagenicity assay in five commonly used strains was negative for mutagenic potential.

ii. An *in vitro* chromosomal aberration test in cultured human lymphocytes was negative for chromosomal aberrations.

3. *Reproductive and developmental toxicity*—i. Reproductive organs in male and female rats were examined histopathologically following inhalation of 0, 2,000, 10,000, or 25,000 ppm DME for 6, 12, 16, and 24 months. The no observed adverse effect level (NOAEL) in this study was 25,000 ppm as no compound-related effects on the reproductive organs of either male or female rats were observed.

ii. Developmental toxicity testing was conducted in rats exposed via inhalation to DME during days 6–15 of gestation. Fetal body weight (bwt) was decreased at the 20,000 and 40,000 ppm levels (of borderline statistical significance in the 20,000 ppm group) and there was an increased incidence of several skeletal variations (partial rib development in the lumbar region and partial or complete doubling of one or more vertebral centra). The NOAEL for the conceptus was 1,250 ppm. In comparison to maternal effect levels, DME was not demonstrated to represent a unique hazard to the rat conceptus.

4. *Subchronic toxicity*. Male and female Wistar rats were exposed to 0, 200, 2,000, or 20,000 ppm DME via inhalation for 30 weeks. At the 20,000 ppm level, male rats showed a significant reduction in liver weight accompanied by raised serum glutamic pyruvic transaminase (SGPT) levels. In the 20,000 ppm females, there was no significant effect on liver weight but SGPT levels were raised. The NOAEL in this study was 2,000 ppm.

5. *Chronic toxicity*. A 2–year DME inhalation study was conducted in rats for 6 hours/day, 5 days/week at concentrations of 0, 2,000, 10,000, or 25,000 ppm. The NOAEL was 2,000 ppm based on an increase in bwt and a decrease in survival in male rats exposed to 10,000 or 25,000 ppm DME vapors and on hemolytic effects noted in male rats exposed to 25,000 ppm DME vapors for 6 months. No neoplastic lesions were observed that could be attributable to DME exposure. DME was not carcinogenic.

6. *Animal metabolism*. Dimethylether is a volatile, stable compound. While no metabolism studies were identified, the primary route of DME elimination from the body is likely to be exhalation of parent compound.

7. *Endocrine disruption*. No adverse endocrine effects have been suggested or reported in any toxicity tests conducted with DME.

*C. Aggregate Exposure*

1. *Dietary exposure*. Dimethylether exists as a vapor at atmospheric pressure and ambient temperatures. It is handled and contained in aerosol products as a liquefied gas under its own vapor pressure which is 63 psig at 70°F. Upon release from container pressure, as when product is dispensed, dimethylether vaporizes completely with essentially no residue. Dimethylether is intended as an inert ingredient and propellant for pesticide formulations applied in food handling areas and establishments; these products are not intended for direct application to foods. Dietary exposure from use of dimethylether in these types of products is believed to be minimal, as discussed in food and drinking water below.

i. *Food*. Based on its physical properties, when dimethylether is used as a propellant in pesticide formulations applied in food handling areas and establishments, no residue is expected on or in food. Upon dispensing the insect control product, the dimethylether will vaporize and dissipate quickly, affording no residue or accumulation.

ii. *Drinking water*. Similarly, since dimethylether will vaporize completely at ambient conditions, no accumulation is expected in drinking water. There would be no liquid dimethylether to migrate to groundwater aquifers or surface water bodies that may serve as suitable drinking water sources.

2. *Non-dietary exposure*. The greatest potential for residential exposure to dimethylether would be via inhalation routes. However, even when these pesticide products are used in small areas, estimated dimethylether levels will be lower and of much shorter duration than recognized and accepted levels that are considered safe for chronic lifetime exposures. Additionally, tests have shown that such aerosol propellants dissipate within minutes of use.

*D. Cumulative Effects*

There is no reliable information that would indicate or suggest that dimethylether has any toxic effect on mammals that would be cumulative with those of any other chemical.

*E. Safety Determination*

1. *U.S. population*. Since potential dietary exposures are expected to be minimal, if any, and since potential inhalation exposures are estimated much lower than recognized and accepted levels considered safe for chronic lifetime exposures, dimethylether is not likely to pose any significant risk to the general U.S. population.

2. *Infants and children*. To the best of our knowledge, there is no information that suggests infants and children are more susceptible to exposure to or effects of dimethylether. The lack of significant toxicity in reproductive/developmental studies on dimethylether suggests that growing organisms are not at increased risks. Since potential dietary exposures to infants and children are minimal, if any, based on anticipated use, it is unlikely that any significant risks exist. Direct exposures to infants and children via inhalation are not anticipated for the intended use of dimethylether.

*F. International Tolerances*

DuPont is not aware of any tolerances for dimethylether outside the United States.

[FR Doc. 00–24438 Filed 9–26–00; 8:45 am]

**BILLING CODE 6560–50–S**

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## ENVIRONMENTAL PROTECTION AGENCY

**[PF–977; FRL–6746–4]**

## Notice of Filing Pesticide Petitions to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

**DATES:** Comments, identified by docket control number PF–977, must be received on or before October 27, 2000.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as

provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–977 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: For Pesticide Petition PP (0E6118), contact Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–3194; e-mail address: brothers.shaja@epa.gov.

For Pesticide Petition PP (0F6146), contact Thomas C. Harris, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9423; e-mail address: harris.thomas@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<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>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 PF–977. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

### *C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–977 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, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–977. Electronic comments may also be filed online at many Federal Depository Libraries.

### *D. How Should I Handle CBI That I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

### *E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the

name, date, and **Federal Register** citation.

## II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions.

## List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 15, 2000.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

*Summaries of Petitions*

Petitioners summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. The petitions summaries announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

## Interregional Research Project Number 4

## Novartis Crop Protection Inc.

*0E6118 and 0F6146*

EPA has received a pesticide petition (0E6118) from Interregional Research Project Number 4, 681 U.S. Highway #1 South, North Brunswick NJ 08902–3390. EPA has also received a pesticide petition (PP 0F6146) from Novartis Crop Protection Inc., Post Office Box 18300, Greensboro NC 27419–8300. These petitions propose, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of the insecticide, avermectin ( a mixture of avermectins containing greater than or equal to 80% avermectin $B_{1a}$ (5-O-demethyl avermectin $A_1$) and less than or equal to 20% avermectin $B_{1b}$ (5-O-demethyl-25-de(1-methylethyl) avermectin $A_1$)) and its delta 8,9–isomer in or on the food commodities at the tolerance level as follows:

1. PP 0E6118, which was submitted by IR–4, proposes the establishment of a tolerance for celeriac (roots and tops) at 0.05 parts per million (ppm).

2. PP 0F6146, which was submitted by Novartis Crop Protection Inc., proposes the establishment of tolerances for avocado at 0.02 ppm, grass forage at 0.001 ppm, grass hay at 0.001 ppm, stone fruit crop group at 0.015 ppm, mint tops at 0.01 ppm, tree nut crop group and pistachios at 0.005 ppm, and the tuberous and corm vegetables crop subgroup at 0.005 ppm.

*A. Residue Chemistry*

1. *Plant metabolism*. The metabolism of abamectin in plants is adequately understood and the residues of concern include the parent insecticide, abamectin or avermectin B1 (which is a mixture of a minimum of 80% avermectin $B_{1a}$ and a maximum of 20% avermectin B1b) and the delta 8,9–isomer of the $B_{1a}$ and of the $B_{1b}$ components of the parent insecticide.

2. *Analytical method*. The analytical methods involves homogenization, filtration, partition, and cleanup with analysis by high performance liquid chromotography (HPLC)-fluorescence detection. The methods are sufficiently sensitive to detect residues at or above the tolerances proposed. All methods have undergone independent laboratory validation as required by PR Notice 88–5.

3. *Magnitude of residues*. Complete residue data for abamectin for the petitioned tolerances has been submitted. The data support the requested tolerances.

*B. Toxicological Profile*

1. *Acute toxicity*. The data base includes the following studies:

i. A rat acute oral study with a lethal dose $(LD)_{50}$ of 4.4 to 11.8 mg/kg (males) and 10.9 to 14.9 milligrams/kilograms (mg/kg) (females).

ii. An acute oral toxicity in the CF–1 mouse with the delta 8,9–isomer has $LD_{50}$ greater than 80 mg/kg.

iii. A rabbit acute dermal study with a $LD_{50}$ >2,000 mg/kg.

iv. A rat acute inhalation study with a $LC_{50}$ >5.73 mg/L.

v. A primary eye irritation study in rabbits which showed irritation.

vi. A primary dermal irritation study in rabbits which showed no irritation.

vii. A primary dermal sensitization study in guinea pigs which showed no skin sensitization potential.

viii. An acute oral toxicity study in monkeys with a no observed adverse effect level (NOAEL) of 1.0 mg/kg based upon emesis at 2.0 mg/kg.

2. *Genotoxicity*. The Ames assays conducted with and without metabolic activation were both negative. The V–79 mammalian cell mutagenesis assays conducted with and without metabolic activation did not produce mutations. In an alkaline elution/rat hepatocyte assay, abamectin was found to induce single strand DNA breaks without significant toxicity in rat hepatocytes treated *in vitro* at doses greater than 0.2 mM. This *in vitro* dose of 0.2 mM is biologically unobtainable *in vivo*, due to the toxicity of the compound. However, at these potentially lethal doses, *in vivo* treatment did not induce DNA single strand breaks in hepatocytes. In the mouse bone marrow assay, abamectin was not found to induce chromosomal damage. There are also many studies and a great deal of clinical and follow-up experience with regard to ivermectin, a closely similar human and animal drug.

3. *Reproductive and developmental toxicity*. In a 2–generation study in rats the NOAEL was established at 0.12 mg/kg/day in pups based upon retinal folds, decreased body weight (bwt), and mortality. The NOAELs for systemic and reproductive toxicity were 0.4 mg/kg/day. In the 2–generations reproduction study in rats with the delta 8,9–isomer, the NOAEL was 0.4 mg/kg/day and the lowest observed adverse effect level (LOAEL) was greater than 0.4 mg/kg/day highest dose tested (HDT).

In an oral developmental toxicity study in the CF–1 mouse the maternal NOAEL was 0.05 mg/kg/day based upon decreased bwts and tremors. The fetal NOAEL was 0.20 mg/kg/day based upon cleft palates. In an oral developmental toxicity study with the delta 8,9–isomer in CF–1 mice the maternal NOAEL was 0.10 mg/kg/day based upon decreased bwts. The fetal NOAEL was 0.06 mg/kg/day based upon cleft palate. In an oral developmental toxicity study in rabbits the maternal NOAEL was 1.0 mg/kg/day based upon decreased bwts and tremors. The fetal NOAEL was 1.0 mg/kg/day based upon clubbed feet. In an oral developmental toxicity study in rats the maternal and fetal NOAEL was 1.6 mg/kg/day, the HDT. In an oral developmental toxicity study with the delta 8,9–isomer the maternal NOAEL in CF–1 mice that expressed P-glycoprotein was greater than 1.5 mg/kg/day, the highest and only dose tested. No cleft palates were observed in fetuses that expressed normal levels of P-glycoprotein, but fetuses with low or

no levels of P-glycoprotein had increased incidence of cleft palates.

4. *Subchronic toxicity*. Subchronic toxicity studies included the following:

i. A rat 8–week feeding study with a NOAEL of 1.4 mg/kg/day based upon tremors.

ii. A rat 14–week oral toxicity study with a NOAEL of 0.4 mg/kg/day, the HDT.

iii. A dog 12–week feeding study with a NOAEL of 0.5 mg/kg/day based upon mydriasis.

iv. A dog 18–week oral study with a NOAEL of 0.25 mg/kg/day based upon mortality.

v. A. CD–1 mouse 84–day feeding study with a NOAEL of 4 mg/kg/day based upon decreased bwts.

5. *Chronic toxicity*. A rat 53–week carcinogencity feeding study was negative for carcinogencity, with a NOAEL of 1.5 mg/kg/day based upon tremors. A CD–1 mouse 94–week carcinogencity feeding study was negative for carcinogencity, with a NOAEL of 4 mg/kg/day based upon decreased bwts. A dog 53–week chronic feeding study was negative for carcinogencity, with a NOAEL of 0.25 mg/kg/day based upon mydriasis.

6. *Animal metabolism*. Rats were given oral doses of 0.14 or 1.4 mg/kg bwt/day of abamectin or 1.4 mg/kg bwt/day of the delta–8,9 isomer. Over 7 days, the percentages excreted in urine were 0.3–1% of the administered dose of abamectin and 0.4% of the dose of the isomer. The animals eliminated 69–82% of the dose of abamectin and 94% of the dose of isomer in feces. In rats, goats, and cattle, unchanged parent compound accounted for up to 50% of the total radioactive residues in tissues. The 24–hydroxymethyl derivative of abamectin was found in rats, goats, and cattle treated with the compound and in rats treated with the delta–8,9 isomer, and the 3''-O-demethyl derivative was found in rats and cattle administered abamectin and in rats administered the isomer.

7. *Metabolite toxicology*. There are no metabolites of concern based on a differential metabolism between plants and animals. The potential hazard of the 24–hydroxymethyl or the 3''-O-demethyl animal metabolites was evaluated in through toxicology studies with abamectin photolytic break-down product, the delta 8,9–isomer.

8. *Endocrine disruption*. There is no evidence that abamectin is an endocrine disrupter. Evaluation of the rat multi-generational study demonstrated no effect on the time to mating or on the mating and fertility indices, suggesting no effects on the estrous cycle, on mating behavior, or on male or female fertility at doses up to 0.4 mg/kg/day, the HDT. Furthermore, the range finding study demonstrated no adverse effect on female fertility at doses up to 1.5 mg/kg/day, the HDT. Similarly, chronic and subchronic toxicity studies in mice, rats, and, dogs did not demonstrate any evidence of toxicity to the male or female reproductive tract, or to the thyroid or pituitary (based upon organ weights and gross and histopathologic examination). In the developmental studies, the pattern of toxicity observed does not seem suggestive of any endocrine effect. Finally, experience with ivermectin in breeding animals, including sperm evaluations in multiple species, shows no adverse effects suggestive of endocrine disruption.

*C. Aggregate Exposure*

1. *Dietary exposure*—i. *Food*. An acute assessment was conducted for avermectin $B_{1a}$ and $B_{1b}$ residues using the Dietary Exposure Evaluation Model (DEEM™) and food consumption information from United State Department of Agriculture's (USDA)'s 1994–1996 continuing survey of food intake by individuals (CSFII). Acute dietary exposure to the adult male subpopulation was compared to an acute reference dose (RfD) of 0.0025 mg/kg/day based on a NOAEL of 0.25 mg/kg/day from a 1–year dog study and a 100X uncertainty factor (UF). For all other populations (containing females, infants and children) an acute population adjusted dose (PAD) of 0.00083 mg/kg/day was used and reflects an appropriate 300X UF. This tier 3 probabilistic analysis included the entire distribution of field trial residues and percent of crop treated information was incorporated by adding zeroes into the residue distribution file (RDF) representing the percent of crop not treated. Non-detected residues of avermectin $B_{1a}$ were entered into the software as 1/2 the limit of quantitation (1/2 (LOQ)) and non-detected residues of avermectin $B_{1b}$ were entered in as 1/4 LOQ since the production ratio of $B_{1a}$:$B_{1b}$ is 80:20. The acute dietary exposure results for the male (20 + years) population shows that 2.6% of the acute RfD was utilized at the 99.9$^{th}$ percentile of exposure. For the general U.S. population at the 99.9$^{th}$ percentile, exposure was 13.2% of the acute PAD. The most sensitive subpopulation was non-nursing infants (< 1–year old) with 39.3% of the acute PAD at the 99.9$^{th}$ percentile.

For the male subpopulation, chronic exposure was compared to the chronic RfD of 0.0012 mg/kg/day from a 2–generation reproduction study in rats and a 100X UF. A 300X UF was utilized for populations containing females (13 + years old) and infants and children and the exposures were compared to a PAD of 0.0004 mg/kg/day. Residue values, taken from field trials conducted at maximum application rates and minimum pre-harvest intervals (PHI), were averaged and incorporated into the assessment. Residue values were adjusted with percent of crop treated information. For the male population (both 13–19 years and 20 + years), exposure was 0.3% of the chronic RfD. The chronic exposure results indicate that the U.S. population utilizes 1.3% of the chronic PAD. The most sensitive subpopulation was non-nursing infants with 2.9% of the chronic PAD. These results are conservative in that residue values were generated from field trials with maximum application rates and minimum post PHI. In addition, a significant reduction in residues would be expected as abamectin-treated commodities travel through food commerce, food preparation and storage.

ii. *Drinking water. Acute exposure* The estimated maximum concentration of abamectin in surface water is 0.88 parts per billion (ppb) (Peak estimated environmental concentration ((EEC) value from EPA's Pesticide Root Zone Model (PRZM)/EXAMS). This is an estimated environmental concentration based on the use of abamectin on strawberries (the maximum use rate on registered and proposed uses). Use rates for crops on the current petition are all below the maximum use rate for strawberries. Novartis believes the estimates of abamectin exposure in water derived from the PRZM/EXAMS models are significantly overstated. EPA noted that the certainty of the concentrations estimated for strawberries is low, due to uncertainty on the amount of runoff from plant beds covered in plastic mulch and uncertainty on the amount of degradation of abamectin on black plastic compared to soil. Although there is a high degree of uncertainty to this analysis, this is the best available estimate of concentrations of abamectin in drinking water.

Based on the EPA's ''Interim Guidance for Conducting Drinking Water Exposure and Risk Assessments'' document (12/2/97), the acute drinking water levels of comparison (($DWLOC_{acute}$)) were calculated for abamectin. For the adult male subpopulation, the $DWLOC_{acute}$ was determined based on an acute RfD of 0.0025 mg/kg/day based on a NOAEL of 0.25 mg/kg/day from a 1–year dog study and a 100X UF. For all other populations (containing females,

infants, and children), the $DWLOC_{acute}$ was determined based on a population adjusted dose PAD of 0.00083 mg/kg/day and reflects an appropriate 300X UF. The acute dietary exposure results for the male (20 + years) population shows an exposure estimate of 0.000066 mg/kg bwt/day at the 99.9th percentile of exposure, thus a $DWLOC_{acute}$ of 85 for this subpopulation. For the general U.S. population at the 99.9th percentile, an exposure estimate of 0.000110 mg/kg bwt/day was determined, thus a DWLOC acute of 25. The most exposed subpopulation was non-nursing infants (<1 year old) with an exposure estimate of 0.000327 mg/kg bwt/day at the 99.9th percentile, thus a $DWLOC_{acute}$ of 3 for this subpopulation. Based on this analysis, abamectin EECs do not exceed the calculated acute DWLOCs. Based on a maximum EEC of 0.88 ppb, acute exposure through the consumption of drinking water is below 19% of the acute population adjusted dose for all subpopulations.

*Chronic exposure*. The estimated maximum concentrations of abamectin in surface and ground water are 0.37 ppb (Mean of annual values from PRZM/EXAMS) and 0.002 ppb screening concentration in ground water (SCI-GROW), respectively. These are EECs based on the use of abamectin on strawberries (the maximum use rate on registered and proposed uses). Use rates for crops on the current petition are all below the maximum use rate for strawberries. The chronic drinking water levels of comparison ($DWLOC_{chronic}$) were calculated for abamectin. For the adult male subpopulation, the $DWLOC_{chronic}$ was determined based on the chronic RfD of 0.0012 mg/kg/day from a 2–generation reproduction study in rats and a 100X uncertainty factor. A 300X UF was utilized for populations containing females (13 + years old) and infants and children and the $DWLOC_{chronic}$ was determined based on a population-adjusted dose PAD of 0.0004 mg/kg/day. The chronic dietary exposure results for the male (13–19 yrs and 20 + years) population shows an exposure estimate of 0.000004 mg/kg bwt/day, thus a $DWLOC_{chronic}$ of 42 for this subpopulation. For the general U.S. population, an exposure estimate of 0.000005 mg/kg bwt/day was determined, thus a $DWLOC_{chronic}$ of 14. The most exposed subpopulation was non-nursing infants (<**1** year old) with an exposure estimate of 0.000012 mg/kg bwt/day, thus a $DWLOC_{chronic}$ of 2.3 for this subpopulation. Based on this analysis, abamectin EECs do not exceed the calculated chronic DWLOCs. Based on a maximum EEC of 0.37 ppb, chronic exposure through the consumption of drinking water is below 16% of the chronic population adjusted dose for all subpopulations.

2. *Non-dietary exposure*. Avermectin's registered residential uses include indoor crack/crevice and outdoor application to lawns. For lawn uses, EPA conducted a risk assessment for adult applicators and post-application exposure to avermectin using the EPA's draft SOPs for residential exposure assessments. The highest predicted exposure, oral hand to mouth for children, resulted in a calculated margin of exposure (MOE) of 14,000. For children's post-application exposure to avermectin from indoor crack/crevice products, valid exposure studies demonstrate there is no exposure and therefore no risk for indoor residential scenarios. Short- and intermediate-term risk for the registered uses do not exceed EPA's level of concern.

i. *Chronic exposure and risk*. Chronic exposures for the residential uses are not expected.

ii. *Short- and intermediate-term exposure and risk*. Risk for the registered uses do not exceed EPA's level of concern.

*D. Cumulative Effects*

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide residue and ''other substances that have a common mechanism of toxicity.'' The EPA stated in the **Federal Register** (FR) document published April 7, 1999, (Volume 64 Page 16843) (FRL-6070-6) that it does not have, at this time, available data to determine whether avermectin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment.

*E. Safety Determination*

1. *U.S. population*. Using the exposure assumptions described above and based on the completeness and reliability of the toxicity data base, Novartis has calculated aggregate exposure levels for this chemical. The calculations show that chronic dietary exposure is below 100% of the RfD and the predicted acute exposure is below 100% of the acute RfD for all subpopulations. Chronic exposure through the consumption of drinking water has been estimated to be well below any level of concern. Acute exposure to residues of abamectin in drinking water has been estimated to be above the drinking water level of comparison DWLOC for children (1-6 years old) but the certainty of this calculation is low due to the uncertainty on the amount of runoff from strawberry plant beds covered in plastic mulch and the uncertainty on the amount of degradation of abamectin on black plastic as compared to soil. Novartis concludes that there is a reasonable certainty that no harm will result from aggregate exposure to abamectin residues.

2. *Infants and children*. The food quality protection act (Public Law 104–170) (FQPA) authorizes the employment of an additional safety factor of up to 10X to guard against the possibility of prenatal or postnatal toxicity, or to account for an incomplete data base on toxicity or exposure. EPA has chosen to retain the FQPA safety factor for abamectin based on several reasons including evidence of neurotoxicity, susceptibility of neonatal rat pups, similarity to ivermectin, lack of a developmental neurotoxicity study, and concern for exposure to infants and children. It is the opinion of Novartis that a 3X safety factor is more appropriate for abamectin at this time. EPA has evaluated abamectin repeatedly since its introduction in 1985 and has found repeatedly that the level of dietary exposure is sufficiently low to provide ample margins of safety to guard against any potential adverse effects of abamectin. In addition, valid exposure studies demonstrate there is no exposure via indoor applications of abamectin products. Novartis states that the data base for abamectin is complete and that the developmental neurotoxicity study is a new and not yet initially required study. Additionally, there is much more information regarding human risk potential than is the case with most pesticides, because of the widespread animal-drug and human-drug uses of ivermectin, the closely related analog of abamectin.

It is the opinion of Novartis that the use of a full 10X safety factor to address risks to infants and children is not necessary. The established chronic endpoint for abamectin in the neonatal rat is overly conservative. Similar endpoints for ivermectin are not used by the Food and Drug Administration (FDA) to support the allowable daily intake for ivermectin residues in food from treated animals. No evidence of toxicity was observed in neonatal rhesus monkeys after 14 days of repeated administration of 0.1 mg/kg/day HDT and in juvenile rhesus monkeys after repeated administration of 1.0 mg/kg/day HDT. The comparative data on

abamectin and ivermectin in primates also clearly demonstrate the dose response for exposure to either compound is much less steep than that seen in the neonatal rat. Single doses as high as 24 mg/kg of either abamectin or ivermectin in rhesus monkeys did not result in mortality; however, this dose was more than 2 times the $LD_{50}$ in the adult rat and more than 20 times the $LD_{50}$ in the neonatal rat. The absence of a steep dose-response curve in primates provides a further margin of safety regarding the probability of toxicity occurring in infants or children exposed to avermectin compounds. The significant human clinical experience and widespread animal drug uses of ivermectin without systemically toxic, developmental, or postnatal effects supports the safety of abamectin to infants and children.

*F. International Tolerances*

There are no abamectin Codex maximum residue levels for avocados, celeriac, grass forage, grass hay, stone fruit, mint, tree nut crop group, pistachios and tuberous and corm vegetables crop subgroup.

[FR Doc. 00–24575 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–50872; FRL–6739–9]**

## Issuance of Experimental Use Permits

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has granted experimental use permits (EUPs) to the following pesticide applicants. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit.

**FOR FURTHER INFORMATION CONTACT:** By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

*In person or by telephone*: Contact the designated person at the following address at the office location, telephone number, or e-mail address cited in each experimental use permit: 1921 Jefferson Davis Hwy., Arlington, VA.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this action, consult the designated contact person listed for the individual EUP.

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

You may obtain electronic copies of this document from the EPA Internet Home Page at http://www.epa.gov/. 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/.

### II. EUPs

EPA has issued the following EUPs:

*11312–EUP–105*. Issuance. Agricultural Research Service (ARS) of the U.S. Department of Agriculture (USDA), Beltsville, MD 20705. This EUP allows the use of 26 pounds of the insecticide Phloxine B on 200 acres of field corn to evaluate the control of northern, southern, western, and mexican corn rootworms. The program is authorized only in the States of Nebraska and South Dakota. The EUP is effective from August 1, 2000 to October 1, 2000. The Agency considers this EUP to be non-food/non-feed because of the low use rate (1–2 oz per acre), the site of application (outer shucks of the corn), type of harvesting (mechanical harvesting and separation of shucks from ear), and composting of the shucks in the ground following application of product. (Daniel Peacock; Rm. 223, Crystal Mall #2; telephone number: (703) 305–5407; e-mail address: peacock.dan@epa.gov).

*62719–EUP–44*. Amendment. Dow AgroSciences LLC, 9330 Zionsville Rd., Indianapolis, IN 46268–1054. This experimental use permit allows the use of 3,379,758 pounds of the soil fumigants 1,3-dichloropropene and chloropicrin from the product InLine on 15,000 acres of soil, treated using drip irrigations systems only, to be planted to the commodities cauliflower, cucumbers, eggplant, lettuce, melons, onions, peppers, pineapples, squash, strawberries, and tomatoes to evaluate the control of nematodes, symphylans and certain soil-borne diseases. The program is authorized only in the States of Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Michigan, New Jersey, New Mexico, North Carolina, Oregon, South Carolina, Texas, Virginia, and Washington. The experimental use permit is effective from June 25, 1999 to June 25, 2002. (Mary L. Waller, Product Manager (21); Rm. 249, Crystal Mall #2; telephone number: (703) 308–9354; e-mail address: waller.mary@epa.gov).

*62719–EUP–46*. Issuance. Dow AgroSciences LLC, 9330 Zionsville Rd., Indianapolis, IN 46268–1054. This experimental use permit allows the use of 237,350 pounds of the nematicide 1,3-dichloropropene on 5,000 acres of golf course turf to evaluate the control of plant parasitic nematodes. The program is authorized only in the State of Florida. The experimental use permit is effective from August 28, 2000 to August 28, 2001. (Mary L. Waller; Rm. 249, Crystal Mall #2; telephone number: (703) 308–9354; e-mail address: waller.mary@epa.gov).

Persons wishing to review these EUPs are referred to the designated contact person. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**Authority:** 7 U.S.C. 136.

### List of Subjects

Environmental protection, Experimental use permits.

Dated: September 18, 2000.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 00–24679 Filed 9–26–00; 8:45 am]

BILLING CODE 6560–50–S

## FEDERAL MARITIME COMMISSION

## Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

*Agreement No.:* 011560–002.

*Title:* The TransAtlantic Bridge Agreement.
*Parties:*
The COSCO/KL TransAtlantic Vessel Sharing Agreement (FMC Agreement No. 011561)
The KL/YM TransAtlantic Vessel Sharing Agreement (FMC Agreement No. 011562)
*Synopsis:* The proposed amendment would extend the term of the Agreement through October 31, 2001.

*Agreement No.:* 011561–002.
*Title:* The COSCO/KL TransAtlantic Vessel Sharing Agreement.
*Parties:*
China Ocean Shipping (Group) Company
Kawasaki Kisen Kaisha, Ltd.
*Synopsis:* The proposed amendment would extend the term of the Agreement through October 31, 2001.

*Agreement No.:* 011562–003.
*Title:* The KL/YM TransAtlantic Vessel Sharing Agreement.
*Parties:*
Kawasaki Kisen Kaisha, Ltd.
Yang Ming Transportation Corporation.
*Synopsis:* The proposed amendment would extend the term of the Agreement through October 31, 2001.

*Agreement No.:* 011724.
*Title:* Maersk Sealand/CMA–CGM Pacific Slot Charter Agreement.
*Parties:*
A.P. Moller-Maersk Sealand (''MSL'') CMA–CGM S.A. (''CMA–CGM'').
*Synopsis:* The proposed agreement authorizes MSL to charter space on its vessels to CMA–CGM in the trade between Long Beach, California and ports in China, Taiwan, and South Korea. The agreement will expire on May 1, 2001, unless earlier terminated.

*Agreement No.:* 201107.
*Title:* Cooper/T. Smith Stevedoring Company, Inc., Stevedoring Services of America, Inc. and CSA Equipment Company, LLC, Joint Terminal Services Agreement.
*Parties:*
Cooper/T. Smith Stevedoring Company, Inc.
Stevedoring Services of America, Inc.
CSA Equipment Company, LLC.
*Synopsis:* The agreement provides for the establishment of a joint venture that will provide terminal services at state docks in Alabama. The agreement will remain in effect until terminated by the parties.

By Order of the Federal Maritime Commission.

Dated: September 22, 2000.

**Bryant VanBrakle,**

*Secretary.*

[FR Doc. 00–24809 Filed 9–26–00; 8:45 am]

BILLING CODE 6730–01–P

## FEDERAL MARITIME COMMISSION

### Controlled Carriers Under the Shipping Act of 1984

**AGENCY:** Federal Maritime Commission.

**ACTION:** Notice.

**SUMMARY:** The Federal Maritime Commission is publishing an updated list of controlled carriers, *i.e.*, ocean common carriers operating in U.S.-foreign trades that are owned or controlled by foreign governments. Such carriers are subject to special regulatory oversight by the Commission under the Shipping Act of 1984.

**FOR FURTHER INFORMATION CONTACT:** Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573, (202) 523–5740.

**SUPPLEMENTARY INFORMATION:** The Federal Maritime Commission is publishing an updated list of controlled carriers. Section 3(8) of the Shipping Act of 1984, 46 U.S.C. app. 1702(3), defines a ''controlled carrier'' as:

> an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by a government; ownership or control by a government shall be deemed to exist with respect to any carrier if—
>
> (A) a majority portion of the interest in the carrier is owned or controlled in any manner by that government, by any agency thereof, or by any public or private person controlled by that government; or
>
> (B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier.

Under the Shipping Act, controlled carriers are subject to special oversight by the Commission. Section 9(a) of the Act, 46 U.S.C. app. 1708(a), states, in part:

> No controlled carrier subject to this section may maintain rates or charges in its tariffs or service contracts, or charge or assess rates, that are below a level that is just and reasonable, nor may any such carrier establish, maintain, or enforce unjust or unreasonable classifications, rules, or regulations in those tariffs or service contracts. An unjust or unreasonable classification, rule, or regulation means one that results or is likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level. The Commission may, at any time after notice and hearing, prohibit the publication or use of any rates, charges, classifications, rules, or regulations that the controlled carrier has failed to demonstrate to be just and reasonable.

Congress enacted these protections to ensure that controlled carriers, whose marketplace decisionmaking can be influenced by foreign governmental priorities or by their access to non-market sources of capital, do not engage in unreasonable below-market pricing practices which could disrupt trade or harm privately-owned shipping companies.

The controlled carrier list is not a comprehensive list of foreign-owned or -controlled ships or shipowners; rather, it is only a list of ocean common carriers (as defined in section 3(16) of the Shipping Act) that are owned or controlled by governments. Thus, tramp operators and other non-common carriers are not included, regardless of their ownership status.

A number of carriers have been deleted from the list since its last republication in August 1994 (59 FR 44988), because they have ceased operating as an ocean common carrier in the U.S. trades or have gone out of existence altogether. In addition, some of the deleted carriers have been privatized and are no longer government-owned or -controlled. Recent additions to the list are China Shipping Container Lines Co. Ltd. and China National Foreign Trade Transportation (Group) Corp. (SINOTRANS).

Any new controlled carriers in U.S. trades are required to notify the Commission of their status in accordance with 46 CFR 565.4. It is requested that any other information regarding possible omissions or inaccuracies in this list be provided to the Commission's Office of the General Counsel. The amended list is set forth below:

(1) Black Sea Shipping Company—Ukraine
(2) Ceylon Shipping Corporation—Sri Lanka
(3) China National Foreign Trade Transportation (Group) Corp. (SINOTRANS)—People's Republic of China
(4) China Ocean Shipping Company—People's Republic of China
(5) China Shipping Container Lines Co. Ltd.—People's Republic of China
(6) Compagnie Nationale Algerienne de Navigation—Algeria
(7) Egyptian National Line—Egypt
(8) International Transport Enterprise Co. (GETDD) Ltd.—People's Republic of China
(9) Pakistan National Shipping Corporation—Pakistan

(10) POL-America, Inc.—Poland
(11) Polish Ocean Lines—Poland
(12) Shipping Corporation of India—India
(13) Tientsin Marine Shipping Company—People's Republic of China.

**Theodore A. Zook,**

*Assistant Secretary.*

[FR Doc. 00–24808 Filed 9–26–00; 8:45 am]

BILLING CODE 6730–01–P

## FEDERAL MARITIME COMMISSION

### Ocean Transportation Intermediary License Applicant

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, D.C. 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants:

LRI Express, Inc., 343 N. Wood Dale Road, Suite 201, Wood Dale, IL 60191; Officers: Frederick G. Frantz, Jr., President, Paul S. Jarzombek, Secretary (Qualifying Individual)

Autico International L.L.C., 1139 East Jersey Street, Suite 513, Elizabeth, NJ 07201; Officer: Jochen Auffhammer, Member, Bernard A. Russell, Vice President (Qualifying Individual)

Global Network Financial Services, Inc., d/b/a Global Network, 1237 NW 93 Court, Miami, FL 33178; Officers: Miguel Camacho, President, Marianella Camacho, Vice President (Qualifying Individual)

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

South Beach Maritime Company, 8626 NW 55 Place, Coral Springs, FL 33067; Officer: Pierre Larenas, President (Qualifying Individual)

Protrans International, Inc., 117 West Main Street, Plainfield, IN 46168; Officers: Craig G. Roeder, President, Marino J. Diaz, Director of Sales (Qualifying Individual)

Seaspace International Forwarders USA Inc., 328 Littlefield Avenue, South San Francisco, CA 94080; Officers: Mike Smith, President, Kevin Beehn, Vice President (Qualifying Individual)

Dated: September 22, 2000.

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 00–24810 Filed 9–26–00; 8:45 am]

BILLING CODE 6730–01–P

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 23, 2000.

**A. Federal Reserve Bank of Chicago** (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

*1. Northwest Financial Corp.,* Spencer, Iowa; to acquire 100 percent of the voting shares of Plymouth Bancorporation, Inc., Le Mars, Iowa, and thereby indirectly acquire voting shares of First National Bank, Sioux City, Iowa.

*2. Plymouth Financial Corporation,* Plymouth, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of New Liberty Bank, Plymouth, Michigan.

**B. Federal Reserve Bank of Kansas City** (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

*1. BOK Financial Corporation,* Tulsa, Oklahoma; to acquire 100 percent of the voting shares of CNBT Bancshares, Inc., Bellaire, Texas, and thereby indirectly acquire CNBT Bancshares (Delaware), Inc., Wilmington, Delaware, and Citizens National Bank of Texas, Bellaire, Texas.

Board of Governors of the Federal Reserve System, September 22, 2000.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 00–24824 Filed 9–26–00; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 12:00 noon, Monday, October 2, 2000.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Lynn S. Fox, Assistant to the Board; 202–452–3204.

**SUPPLEMENTARY INFORMATION:** You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: September 22, 2000.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 00–24875 Filed 9–22–00; 4:50 pm]

BILLING CODE 6210–01–P

## GENERAL SERVICES ADMINISTRATION

**[OMB Control No. 3090–0221]**

### Proposed Collection; Comment Request Entitled GSA Board of Contract Appeals Rules Procedure

**AGENCY:** GSA Board of Contract Appeals (GSBCA), GSA.

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance (3090–0221).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning GSA Board of Contract Appeals Rules Procedure. This OMB clearance expires on December 31, 2000.

**DATES:** Comment Due Date: November 27, 2000.

**ADDRESSES:** Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Margaret Pfunder, Deputy Chief Counsel, GSA Board of Contract Appeals, (202) 501–0272.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

The GSBCA requires the information collected in order to conduct proceedings in contract appeals and petitions, and cost applications. Parties include those persons or entities filing appeals, petitions, and cost applications, and government agencies.

**B. Annual Reporting Burden**

*Respondents:* 55; *annual responses:* 55; *average hours per response:* .20; *burden hours:* 6.4.

*Copy of Proposal:* A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: September 21, 2000.

**David A. Drabkin,**

*Deputy Associate Administrator, Office of Acquisition Policy.*

[FR Doc. 00–24819 Filed 9–26–00; 8:45 am]

BILLING CODE 6820–61–M

## GENERAL SERVICES ADMINISTRATION

### Performance Review Boards for Small Client Agencies Services by the General Services Administration, Names of Members

Sec. 4314(c)(1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by The Office of Personnel Management, one or more Performance Review Boards. The board shall review and evaluate the initial appraisal by the supervisor of a senior executive's performance, along with any recommendations to the appointing authority relative to the performance of the senior executive. The Performance Review Board also shall make recommendations as to whether the career executive should be recertified, conditionally recertified, or not recertified.

As provided under Section 601 of the Economy Act of 1932, amended 31 U.S.C. 1525, the General Services Administration through its Agency Liaison Division, provides various personnel management services to a number of diverse Presidential commission, committees, boards and other agencies through reimbursable administrative support agreements. This notice is processed on behalf of the client agencies, and it supersedes all other notices in the **Federal Register** on this subject. Because of their small size, a Performance Review Board register has been established in which SES members from the client agencies participate. The Board is composed of SES members from various agencies. From this register of names, the head of each client agency will appoint executives to a specific board to serve a particular client agency.

The members who names appear on the SES Performance Review Board standing roster to serve client agencies are:

*Barry M. Goldwater Scholarship and Excellence In Education Foundation*

Gerald J. Smith, Executive Secretary

*Committee for Purchase From People Who Are Blind or Severely Disabled*

Leon A. Wilson, Jr., Executive Director

*Federal Retirement Thrift Investment Board*

David L. Black, Director of Accounting
Stratos D. Valakis, Director of Contracts and Administration
Lawrence E. Stiffler, Director of Automated Systems
Veda R. Charrow, Director of Communications
Thomas J. Trabucco, Director of External Affairs
James B. Petrick, Director of Benefits and Investments
Elizabeth S. Woodruff, General Counsel

*Defense Nuclear Facilities Safety Board*

Kenneth M. Pusateri, General Manager
Joseph R. Neubeiser, Deputy General Manager
Richard A. Azaro, General Counsel

*Harry S. Truman Scholarship Foundation*

Louis H. Blair, Executive Secretary

*Japan-United States Friendship Commission*

Eric J. Gangloff, Executive Director

*Office of Navajo and Hopi Indian Relocation*

Christopher J. Bavasi, Executive Director
Michael J. McAlister, Deputy Executive Director

*Arctic Research Commission*

Garrett W. Brass, Executive Director

*National Mediation Board*

Ronald M. Etters, General Counsel
Stephen E. Crable, Chief of Staff

Dated: September 21, 2000.

**Melynda Clarke,**

*Director, Agency Liaison Division.*

[FR Doc. 00–24823 Filed 9–26–00; 8:45 am]

BILLING CODE 6820–61–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Diseases Transmitted Through the Food Supply

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of annual update of list of infectious and communicable diseases that are transmitted through handling the food supply and the methods by which such diseases are transmitted.

**SUMMARY:** Section 103(d) of the Americans with Disabilities Act of 1990, Public Law 101–336, requires the Secretary to publish a list of infectious and communicable diseases that are transmitted through handling the food supply and to review and update the list annually. The Centers for Disease Control and Prevention (CDC) published a final list on August 16, 1991 (56 FR 40897) and updates on September 8,

1992 (57 FR 40917); January 13, 1994 (59 FR 1949); August 15, 1996 (61 FR 42426); September 22, 1997 (62 FR 49518); September 15, 1998 (63 FR 49359) and September 21, 1999 (64 FR 51127). The final list has been reviewed in light of new information and has been revised as set forth below.

**EFFECTIVE DATE:** September 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Dr. Art Liang, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop G–24, Atlanta, Georgia 30333, telephone (404) 639–2213.

**SUPPLEMENTARY INFORMATION:** Section 103(d) of the Americans with Disabilities Act of 1990, 42 U.S.C. 12113(d), requires the Secretary of Health and Human Services to:

1. Review all infectious and communicable diseases which may be transmitted through handling the food supply;
2. Publish a list of infectious and communicable diseases which are transmitted through handling the food supply;
3. Publish the methods by which such diseases are transmitted; and,
4. Widely disseminate such information regarding the list of diseases and their modes of transmissibility to the general public.

Additionally, the list is to be updated annually. Since the last publication of the list on September 21, 1999 (64 FR 51127), new information has been reviewed.

Since the transmission of rotavirus is person to person via fecal/oral contact and there is no data to suggest that food is the vehicle for transmission, rotavirus was deleted.

### I. Pathogens Often Transmitted by Food Contaminated by Infected Persons Who Handle Food, and Modes of Transmission of Such Pathogens

The contamination of raw ingredients from infected food-producing animals and cross-contamination during processing are more prevalent causes of foodborne disease than is contamination of foods by persons with infectious or contagious diseases. However, some pathogens are frequently transmitted by food contaminated by infected persons. The presence of any one of the following signs or symptoms in persons who handle food may indicate infection by a pathogen that could be transmitted to others through handling the food supply: diarrhea, vomiting, open skin sores, boils, fever, dark urine, or jaundice. The failure of food-handlers to wash hands (in situations such as after using the toilet, handling raw meat, cleaning spills, or carrying garbage, for example), wear clean gloves, or use clean utensils is responsible for the foodborne transmission of these pathogens. Non-foodborne routes of transmission, such as from one person to another, are also major contributors in the spread of these pathogens. Pathogens that can cause diseases after an infected person handles food are the following:

Caliciviruses (Norwalk and Norwalk-like viruses)
Hepatitis A virus
*Salmonella typhi*
*Shigella* species
*Staphylococcus aureus*
*Streptococcus pyogenes*

### II. Pathogens Occasionally Transmitted by Food Contaminated by Infected Persons Who Handle Food, But Usually Transmitted by Contamination at the Source or in Food Processing or by Non-foodborne Routes

Other pathogens are occasionally transmitted by infected persons who handle food, but usually cause disease when food is intrinsically contaminated or cross-contaminated during processing or preparation. Bacterial pathogens in this category often require a period of temperature abuse to permit their multiplication to an infectious dose before they will cause disease in consumers. Preventing food contact by persons who have an acute diarrheal illness will decrease the risk of transmitting the following pathogens:

*Campylobacter jejuni*
*Cryptosporidium parvum*
*Entamoeba histolytica*
Enterohemorrhagic *Escherichia coli*
Enterotoxigenic *Escherichia coli*
*Giardia lamblia*
Nontyphoidal *Salmonella*
*Taenia solium*
*Vibrio cholerae* 01
*Yersinia enterocolitica*

### References

1. World Health Organization. Health surveillance and management procedures for food-handling personnel: report of a WHO consultation. World Health Organization technical report series; 785. Geneva: World Health Organization, 1989.

2. Frank JF, Barnhart HM. Food and dairy sanitation. In: Last JM, ed. Maxcy-Rosenau public health and preventive medicine, 12th edition. New York: Appleton-Century-Crofts, 1986:765–806.

3. Bennett JV, Holmberg SD, Rogers MF, Solomon SL. Infectious and parasitic diseases. In: Amler RW, Dull HB, eds. Closing the gap: the burden of unnecessary illness. New York: Oxford University Press, 1987:102–114.

4. Centers for Disease Control and Prevention. Locally acquired neurocysticercosis—North Carolina, Massachusetts, and South Carolina, 1989–1991. MMWR 1992; 41:1–4.

5. Centers for Disease Control and Prevention. Foodborne Outbreak of Cryptosporidiosis—Spokane, Washington, 1997. MMWR 1998; 47:27.

Dated: September 21, 2000.

**Joseph R. Carter,**

*Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 00–24755 Filed 9–26–00; 8:45 am]

BILLING CODE 4163–18–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request Proposed Projects

*Title:* Child Care Case-Level Report.

*OMB No.:* 0970–0167.

*Description:* Section 658K of the Child Care and Development Block Grant Act of 1990 (P.L. 105–108, 42 U.S.C 9858) requires that States and Territories submit monthly case-level data on the children and families receiving direct services under the Child Care and Development Fund. The implementing regulations for the statutorily required reporting are at 45 CFR 98.70. Case-level reports, submitted quarterly or monthly (at grantee option) include monthly sample or full population case-level data. The data elements to be included in these reports are represented in the ACF–801. Disaggregate data is used to determine program and participant characteristics as well as costs and levels of child care services provided. This provides ACF with the information necessary to make reports to Congress, address national child care needs, offer technical assistance to grantees, meet performance measures, and conduct research. Consistent with the statute and regulations, ACF requests extensions of the ACF–801.

*Respondents:* States, the District of Columbia, and Territories including Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Marianna Islands.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| ACF–801 | 56 | 4 | 20 | 4320 |

Estimated Total Annual Burden Hours: 4,320

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20047, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information be 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: September 21, 2000.

**Bob Sargis,**

*Reports Clearance Officer.*

[FR Doc. 00–24718 Filed 9–26–00; 8:45 am]

BILLING CODE 4184–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request Proposed Projects

*Title:* TANF High Performance Bonus Report.

*OMB No.:* 0970–0180.

*Description:* Public Law 104–193 (The Personal Responsibility and Work Opportunity Reconciliation Act of 1996) established the Temporary Assistance for Needy Families (TANF) Program. It also included provisions for rewarding States that attain the highest levels of success in achieving the legislative goals of that program. The purpose of this collection is to obtain data upon which to base the computation for measuring State performance in meeting those goals and for allocating the bonus grant funds appropriated under the law. States will not be required to submit this information unless they elect to compete for the bonus grants. Respondents, therefore, may include any of the 50 States, the District of Columbia, and the U.S. Territories of Guam, Puerto Rico, and the Virgin Islands. We are requesting extension of this currently approved information collection through November 30, 2001.

*Respondents:* States and Territorial Government.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| ACF–200, TANF High Performance Bonus Report | 54 | 4 | 30 | 6,480 |

Estimated Total Annual Burden Hours: 6,480

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: September 21, 2000.

**Bob Sargis,**

*Reports Clearance Officer.*

[FR Doc. 00–24719 Filed 9–26–00; 8:45 am]

BILLING CODE 4184–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Grant to National Adoption Center, Inc. ACF/ACY/CB–2000–03

**AGENCY:** Administration on Children, Youth and Families (ACYF), ACF, DHHS.

**ACTION:** Notice of award.

**SUMMARY:** Notice is hereby given that ACYF will award grant funds without competition to the National Adoption Center, Inc. (NAC), Philadelphia, Pennsylvania. This grant is a sole source award which will support the operation of the National Adoption Information Exchange and the continued development, expansion and implementation of a national Internet-based photo-listing activity. This award is made noncompetitively after our review of a proposal submitted by the NAC.

**Background**

In 1983, the National Adoption Center (then doing business as the Adoption Center of Delaware Valley) received a competitive grant award for a field-initiated proposal to develop a computerized database of children freed for adoption and waiting placement from state child welfare agencies. This database activity became known as the National Adoption Exchange and had been authorized in law in 1978 with the passage of the Adoption Opportunities Act. Currently, children are entered into the database by caseworkers from 44 States, though all 50 States are members of the exchange system and may enter information on adoptable children into the database. Subsequent to the development of the database/exchange in the mid-1990s, NAC developed a small internet-based listing, with accompanying photographs, of some of the children, using privately generated funds and in-kind expert services from computer software corporations. Currently, this photo listing has expanded to include children from 43 State child welfare agencies.

In 1998, President Clinton announced an initiative to mount a national internet-based photo listing of children adoptable from public child welfare agencies. In FY 2000, the Congressional Conference Report Language included a reference to NAC by saying, ''The conference agreement includes $400,000 for the National Adoption Center to develop a national adoption photo listing service on the Internet.'' The Senate Report Language also referenced NAC by saying ''The Committee recognizes that, under the Adoption and Safe Families Act, States are required to use all available resources to find homes for children. The Committee is aware that the National Adoption Center operates a multi-state, technology-based adoption clearinghouse to facilitate placement of needy children with adoptive parents. The Committee understands that the Department plans to implement a national adoption photo listing service on the Internet to help increase the number of adoptions. The Committee supports the idea that a national web site could include all youngsters available in public adoptions and will increase the likelihood that children will find loving, stable homes. The National Adoption Center has been at the forefront of developing and implementing technology-based resources to help facilitate adoptions and could be instrumental in creating a national adoption web site.''

Following our review of the proposal submitted by the NAC for these activities, this award is made noncompetively. The NAC proposal presents a unique opportunity to produce important progress on a set of tasks of significant interest to the Department.

The project period will be for 24 months, beginning September 29, 2000 and ending September 30, 2001. The grantee will be awarded $900,000 during the first twelve months of the project period. The grantee may, in the second twelve months of the project period, be awarded additional noncompetitive continuation funding of up to $1.6 million, depending on the availability of funds, satisfactory performance by the grantee, and a determination that such continued funding would be in the best interest of the government.

**Authority:** This award will be made pursuant to the Adoption Opportunities: Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, as amended [42 U.S.C. 5111]. (CFDA 93.652).

**FOR FURTHER INFORMATION CONTACT:** Sally Flanzer, Children's Bureau, Administration on Children, Youth and Families, 330 C Street, SW, Room 2429, Washington, D.C. 20447; Telephone: (202) 205–8914.

Dated: September 20, 2000.

**Patricia Montoya,**

*Commissioner, Administration on Children, Youth and Families.*

[FR Doc. 00–24717 Filed 9–26–00; 8:45 am]

BILLING CODE 4184–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 00F–0812]**

### Bayer Co.; Filing of Food Additive Petition; Amendment; Withdrawal in Part

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the filing notice for a food additive petition filed by Bayer Co. to clarify that the petitioner's request to amend the food additive regulations to provide for a more descriptive term in place of ''inhibitor of yeast,'' for the safe use of dimethyl dicarbonate (DMDC) will also involve adding related limitations to 21 CFR 172.133. The agency is also announcing the withdrawal of the petitioner's additional request to amend the food additive regulations to provide for the safe use of DMDC in noncarbonated juice beverages containing up to and including 100 percent juice.

**FOR FURTHER INFORMATION CONTACT:** Martha D. Peiperl, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3077.

**SUPPLEMENTARY INFORMATION:** In a notice published in the **Federal Register** of March 7, 2000 (65 FR 12014), FDA announced that a food additive petition (FAP 0A4718) had been filed by Bayer Co., c/o McKenna & Cuneo LLP, 1900 K St. NW., Washington, DC 20006–1108. The petition proposed to amend the food additive regulations in § 172.133 *Dimethyl dicarbonate* (21 CFR 172.133) both to provide for the safe use of DMDC in noncarbonated juice beverages containing up to and including 100 percent juice and to provide for a more descriptive term in place of ''inhibitor of yeast,'' for the safe use of DMDC.

Upon further review of the petition, FDA determined that, if granted, the requested amendment of § 172.133 to provide for a more descriptive term in place of ''inhibitor of yeast'' for the safe use of DMDC will also require adding related limitations to this regulation. Therefore, FDA is amending the filing notice of March 7, 2000, to indicate that this proposed amendment will involve adding related limitations to § 172.133.

The petitioner's additional request, to amend the food additive regulations to provide for the safe use of DMDC in noncarbonated juice beverages containing up to and including 100 percent juice, was converted to a food contact substance notice (FCN 0035), 21 U.S.C. 348(h)(5). This request to amend the food additive regulations was withdrawn from the petition as of the effective date of FCN 0035 (June 9, 2000).

The agency has determined under 21 CFR 25.30(I) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore,

neither an environmental assessment nor an environmental impact statement is required.

Dated: September 14, 2000.

**Alan M. Rulis,**

*Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.*

[FR Doc. 00–24843 Filed 9–26–00; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

**[HCFA–1145–NC]**

### Medicare and Medicaid Programs; Announcement of Additional Applications From Hospitals Requesting Waivers for Organ Procurement Service Areas

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice with comment period.

**SUMMARY:** This notice announces two additional applications that we have received from hospitals requesting waivers from entering into agreements with their designated organ procurement organizations (OPOs) in accordance with section 1138(a)(2) of the Social Security Act. This notice requests comments from OPOs and the general public for our consideration in determining whether we should grant these waivers.

**DATES:** We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on November 27, 2000.

**ADDRESSES:** Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1145–NC, P.O. Box 8016, Baltimore, MD 21244–8016.

To ensure that mailed comments are received in time for us to consider them, please allow for possible delays in delivering them.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1145–NC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

**FOR FURTHER INFORMATION CONTACT:** Mark A. Horney, (410) 786–4554.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Section 1138(a)(1)(A)(iii) of the Social Security Act (the Act) provides that a hospital must notify the designated OPO (for the service area in which it is located), as defined under section 1138(a)(3)(B) of the Act, of potential organ donors. Under section 1138(a)(1)(C) of the Act, the hospital must have an agreement to identify potential donors only with that designated OPO.

Section 1138(a)(2) of the Act provides that the hospital may obtain a waiver from the Secretary of these requirements. A waiver allows the hospital to have an agreement with an OPO, other than the designated OPO, if the hospital meets conditions specified in section 1138(a)(2)(A) of the Act. In addition, the Secretary may review additional criteria described in section 1138(a)(2)(B) of the Act to evaluate a hospital's waiver.

Section 1138(a)(2)(A) further states that in granting a waiver, the Secretary must determine that the waiver—(1) Is expected to increase organ donations; and (2) will ensure equitable treatment of patients referred for transplants within the service area served by the designated OPO and within the service area served by the OPO with which the hospital seeks to enter into an agreement under the waiver. In making a waiver determination, section 1138(a)(2)(B) of the Act provides that the Secretary may consider, among other factors: (1) Cost effectiveness; (2) improvements in quality; (3) whether there has been any change in a hospital's designated OPO service area due to the changes made in definitions for metropolitan statistical areas (MSAs); and (4) the length and continuity of a hospital's relationship with an OPO other than the hospital's designated OPO. Under section 1138(a)(2)(D) of the Act, the Secretary is required to publish a notice of any waiver application within 30 days of receiving the application and offer interested parties an opportunity to comment in writing within 60 days of the published notice.

The regulations at 42 CFR 486.316(d) provide that if we change the OPO designated for an area, hospitals located in that area must enter into agreements with the newly designated OPO or submit a request for a waiver within 30 days of notice of the change in designation. The criteria that the Secretary uses to evaluate the waiver in these cases are the same as those described above under sections 1138(a)(2)(A) and (B) of the Act and have been incorporated into the regulations at §§ 486.316(e) and (f). Section 486.316(g) further specifies that a hospital may continue to operate under its existing agreement with a now out-of-area OPO while we are processing the waiver request submitted in accordance with § 486.316(d).

## II. Waiver Request Procedures

In October 1995, we issued a Program Memorandum (Transmittal No. A–95–11) that has been supplied to each hospital. This Program Memorandum detailed the waiver process and discussed the information that hospitals must provide in requesting a waiver. We indicated that upon receipt of the waiver requests, we would publish a **Federal Register** notice to solicit public comments, as required by section 1138(a)(2)(D) of the Act.

We will review the requests and comments received. During the review process, we may consult on an as-needed basis with the Public Health Service's Division of Transplantation, the United Network for Organ Sharing, and our regional offices. If necessary, we may request additional clarifying information from the applying hospital or others. We will then make a final determination on the waiver requests and notify the affected hospitals and OPOs.

## III. Additional Hospital Waiver Requests

As allowed under § 486.316(e), each of the following two hospitals has requested a waiver to have an agreement with an alternative, out-of-area OPO. The listing includes the name of the facility, the city and State of the facility, the requested OPO, and the currently designated area OPO. This request is not a result of a governmental change; therefore, the exception under § 486.316(g) does not apply to these two hospitals. Moreover, these hospitals may not work with the requested OPOs rather than the designated OPOs until the completion of our review.

| Name of facility | City | State | Requested OPO | Designated OPO |
|---|---|---|---|---|
| Copley Hospital | Morrisville | VI | NYAP | MAOB |
| Mercy Memorial Hospital | Urbana | OH | OHLC | OHLP |

## IV. Keys to the OPO Codes

The keys to the acronyms used in the listings to identify OPOs and their addresses are as follows:

MAOB ..... New England Organ Bank, One Gateway Center, Newton, MA 02158.

NYAP ..... Center for Donation and Transplant, 218 Great Oaks Blvd, Albany, NY 12203.

OHLC ..... Life Connection of Ohio, 1545 Holland Road, Suite C, Maumee, OH 43537–1694.

OHLP ..... Lifeline of Ohio, 770 Kinnear Road, Suite 200, Columbus, OH 43212.

## V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection requirement should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, through the use of automated collection techniques or other forms of information technology.

Section 486.316 states the requirements for a Medicare or Medicaid participating hospital to request a waiver permitting the hospital to have an agreement with an OPO other than the OPO designated for the service area in which the hospital is located. The burden associated with these requirements are currently approved under OMB 0938–0688, HCFA–R–13, Conditions of Coverage for Organ Procurement Organizations, with an expiration date of November 30, 2001.

**Authority:** Section 1138 of the Social Security Act (42 U.S.C. 1320b–8).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774 Medicare—Supplementary Medical Insurance, and Program No. 93.778, Medical Assistance Program)

Dated: August 31, 2000.

**Robert A. Berenson,**

*Director, Center for Health Plans and Providers, Health Care Financing Administration.*

[FR Doc. 00–24820 Filed 9–26–00; 8:45 am]

BILLING CODE 4120–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### White House Initiative on Asian Americans and Pacific Islanders, President's Advisory Commission; 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 conduct a public meeting by teleconference during the month October 2000.

*Name:* President's Advisory Commission on Asian Americans and Pacific Islanders (AAPIs).

*Date and Time:* October 11, 2000; 5 p.m.–7 p.m. EST.

The President's Advisory Commission on AAPIs will conduct a public meeting by teleconference on October 11, from 5 p.m. to 7 p.m. EST inclusive. The meeting is open to the public; however, teleconference lines are limited. Please call Mr. Tyson Nakashima, (301) 443–2492, if you are interested in participating in the call and to obtain the dial-in number. Agenda items will include, but will not be limited to: Approval of September Commission meeting minutes; reports from subcommittees; administrative tasks; and deadlines.

The purpose of the Commission is to advise the President on the issues facing Asian Americans and Pacific Islanders (AAPIs). Requests to address the Commission should be made in writing and should include the name, address, telephone number and business or professional affiliation of the interested party. Individuals or groups addressing similar issues are encouraged to combine comments and present through a single representative. The allocation of time for remarks may be adjusted to accommodate the level of expressed interest. Written requests should be faxed to (301) 443–0259. Anyone who has interest in joining any portion of the meeting or who requires additional information about the Commission should contact: Mr. Tyson Nakashima, Office of the White House Initiative on AAPIs, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, MD, 20857, Telephone (301) 443–2492. Anyone who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mr. Nakashima no later than October 4, 2000.

Dated: September 21, 2000.

**Jane M. Harrison,**

*Director, Division of Policy Review and Coordination.*

[FR Doc. 00–24845 Filed 9–26–00; 8:45 am]

BILLING CODE 4160–15–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel, Shared Pathology Informatics Network.

*Date:* October 30–31, 2000.

*Time:* 7 pm to 5 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

*Contact Person:* Kenneth L. Bielat, Scientific Review Administrator, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8043, Bethesda, MD 20892, (301) 496–7576.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and

Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24725 Filed 9–26–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel, Community Clinical Oncology Program.

*Date:* October 24, 2000.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute, 6130 Executive Boulevard, Conference Room H, Rockville, MD 20852.

*Contact Person:* Timothy C. Meeker, Scientific Review Administrator, Special Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8088, Rockville, MD 20852, 301/594–1279.

*Name of Committee:* National Cancer Institute Special Emphasis Panel, Minority Based Community Clinical Oncology Program.

*Date:* October 25, 2000.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute, 6130 Executive Boulevard, Conference Room H, Rockville, MD 20852.

*Contact Person:* Timothy C. Meeker, Scientific Review Administrator, Special Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8088, Rockville, MD 20852, 301/594–1279.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24726 Filed 9–26–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel, Review and Analysis of Tobacco Industry Documents.

*Date:* October 13, 2000.

*Time:* 8:30 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute, 6130 Executive Blvd., Conference Room C, Rockville, MD 20852.

*Contact Person:* Mary Jane Slesinski, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8045, Bethesda, MD 20892, 301/594–1566.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24727 Filed 9–26–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel, Interdisciplinary Research Teams for Molecular Target Assessment (Molecular Biology Section).

*Date:* October 19–20, 2000.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* Holiday Inn—Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Joyce C. Pegues, Scientific Review Administrator, Special Review, Referral, and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8084, Bethesda, MD 20892, 301/594–1286.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24728 Filed 9–26–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Initial Review Group, Subcommittee G—Education.

*Date:* October 11–13, 2000.

*Time:* 12 p.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

*Contact Person:* Harvey P. Stein, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8036, Bethesda, MD 20892, 301/496–7841.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24730 Filed 9–26–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Mental Health.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Mental Health, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, National Institute of Mental Health.

*Date:* October 4, 2000.

*Time:* 8:30 a.m. to 2 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Institutes of Health, 9000 Rockville Pike, Building 10, Room 4N230, Bethesda, MD 20892.

*Contact Person:* Susan Koester, Executive Secretary, Associate Director for Science, Intramural Research Program, National Institute of Mental Health, NIH, Building 10, Room 4N222, MSC 1381, Bethesda, MD 20892–1381, 301–496–3501.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the intramural research review cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: September 15, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24721 Filed 9–26–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Initial Review Group, Treatment Research Subcommittee.

*Date:* October 17, 2000.

*Time:* 9 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Washington, 515 15th Street, NW., Washington, DC 20004.

*Contact Person:* Kesinee Nimit, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1432.

*Name of Committee:* National Institute on Drug Abuse Initial Review Group, Health Services Research Subcommittee.

*Date:* October 17–18, 2000.

*Time:* 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Washington, 515 15th Street, NW., Washington, DC 20004.

*Contact Person:* Marina L. Volkov, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1433.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel Treatment Research.

*Date:* October 17, 2000.

*Time:* 1 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Washington, 515 15th Street, NW., Washington, DC 20004.

*Contact Person:* William C. Grace, Deputy Director, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2755.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, Health Services Research.

*Date:* October 18, 2000.

*Time:* 11 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Washington, 515 15th Street, NW., Washington, DC 20004.

*Contact Person:* Kesinee Nimit, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1432.

*Name of Committee:* National Institute on Drug Abuse Initial Review Group, Medication Development Research Subcommittee.

*Date:* November 1–2, 2000.

*Time:* 9 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.

*Contact Person:* Khursheed Asghar, Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, Cognitive Approaches to Addictive Processes.

*Date:* November 14–15, 2000.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Radisson Barcelo Hotel, 2121 P Street, NW., Washington, DC 20037.

*Contact Person:* Marina. L. Volkov, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1433.

*Name of Committee:* National Institute on Drug Abuse Initial Review Group, Training and Career Development Subcommittee.

*Date:* November 14–16, 2000.

*Time:* 9:00 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.

*Contact Person:* Mark Swieter, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1389.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, Training and Career Development.

*Date:* November 16, 2000.

*Time:* 3:00 p.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.

*Contact Person:* Rita Liu, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, Centers Review Committee.

*Date:* November 20–21, 2000.

*Time:* 8:30 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

*Contact Person:* Rita Liu, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, Genetics and Consequences of Nicotine Addiction.

*Date:* November 21, 2000.

*Time:* 1 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

*Contact Person:* Rita Liu, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: September 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24722 Filed 9–26–00; 8:45 am]

**BILLING CODE 4140–01–M**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institutes of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, C–01, NIST Site Visit.

*Date:* October 1–2, 2000.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate cooperative agreement applications.

*Place:* National Institute of Standards and Technology, Quince Orchard Road, Gaithersburg, MD 20899.

*Contact Person:* Anna Sandberg, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–01, Review of P01–Applicant Interview.

*Date:* October 12–13, 2000.

*Time:* 7 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

*Contact Person:* Yasaman Shirazi, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institute of Dental & Craniofacial Res., Bethesda, MD 20892, (301) 594–2372.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–02, Review of F, K, and R03 Grants.

*Date:* October 19–20, 2000.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20892.

*Contact Person:* William J. Gartland, Scientific Review Administrator, Scientific Review Section, National Institute of Dental Research, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892, (301) 594–2372.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–06, Review of R21 Grants.

*Date:* October 23–24, 2000.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Anna Sandberg, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–10, Review of R44 Grants.

*Date:* October 31, 2000.

*Time:* 11 a.m. to 12:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 45 Natcher Bldg., Rm 5As.25u, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Philip Washko, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–07, Review of RFA–HIV/AIDS.

*Date:* November 2, 2000.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* George Washington University Inn, 824 New Hampshire Ave, NW, Washington, DC 20037.

*Contact Person:* Yasaman Shirazi, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institute of Dental & Craniofacial Res., Bethesda, MD 20892, (301) 594–2372.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–05, Review of R44 Grants.

*Date:* November 14, 2000.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 45 Natcher Bldg., Rm 5As.25u, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Philip Washko, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–09, Review of R01 Grants.

*Date:* November 16, 2000.

*Time:* 1 p.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Philip Washko, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 01–04, Review of R44 Grants.

*Date:* November 22, 2000.

*Time:* 10 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Philip Washko, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24723 Filed 9–26–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Drug Abuse, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, NIDA.

*Date:* October 17–19, 2000.

*Time:* 1 p.m. to 12 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* Intramural Research Program, National Institute on Drug Abuse, Johns Hopkins Bayview Campus, Bldg. C, 2nd Floor Auditorium, 5500 Nathan Shock Drive, Baltimore, MD 21224.

*Contact Person:* Stephen J. Heishman, Research Psychologist, Clinical Pharmacology Branch, Addiction Research Center, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5500 Nathan Shock Drive, Baltimore, MD 21224, (410) 550–1547.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: September 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24724 Filed 9–26–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Initial Review Group, Population Research Subcommittee.

*Date:* October 23–24, 2000.

*Time:* 8 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

*Contact Person:* Jon M. Ranhand, Health Scientist Administrator, Division of Scientific Review, National Institute of Child, Health and Human Development, 6100 Executive Blvd., Rm. 5E01, MSC 7510, Bethesda, MD 20892, (301) 435–6884.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: September 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–24729 Filed 9–26–00; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

### National Institute of Environmental Health Sciences, NIH; National Toxicology Program; Peer Review Meeting on Low-Dose Issues for Endocrine Disruptors; Update on Meeting Scope; Meeting Agenda; and Registration Information

**Summary**

The National Toxicology Program (NTP) is organizing a Peer Review to evaluate dose-response relationships for endocrine disrupting chemicals. In particular, the panel will evaluate whether chemicals can cause hormone-related effects at doses lower than those typically used in the standard toxicological dose-setting paradigm. The U.S. Environmental Protection Agency (EPA) Endocrine Disruptor Screening Program will use the results from this peer review to assist in determining how to identify and characterize potential low-dose effects that may arise during endocrine disruptor screening, testing, and hazard assessment. If the

review panel concludes that the current data on low-dose effects are inconclusive, it will be asked to describe specific research that would resolve the ambiguities. The Peer Review will take place October 10–12, 2000 at the Sheraton Imperial Hotel and Convention Center, Research Triangle Park, NC. This meeting is open to the public.

On January 6, 2000 the NTP published a **Federal Register** notice [Volume 65, Number 4, pages 784–787] outlining plans for the Peer Review meeting and soliciting public input into the process. A second **Federal Register** notice was published April 17, 2000 (Volume 65, Number 74, pages 20478–20479] that broadened the scope of the research studies and data to be considered for inclusion in this peer review. This notice supplements the earlier ones and provides an agenda, registration information, and updated details about the Peer Review.

**Endocrine Disruptor Peer Review**

*A. Background and Scope*

The goals of this peer review are to review the scientific evidence related to the low-dose effects of endocrine disruptors and to consider their implications for the development, validation, and interpretation of test protocols for reproductive and developmental toxicity. The intent is to examine data from major selected studies (excluding studies on dioxin and dioxin-like compounds) supporting the presence or absence of low-dose effects and to evaluate the likelihood and significance of these and/or other potential low-dose effects for humans. A main topic to be addressed is defining the shape of the dose-response curves for endocrine-active substances in the low-dose region. The analysis and evaluation will be accomplished during this three-day scientific peer review that includes plenary sessions and several subpanel meetings. This peer review is open to the public.

The EPA has established an official record for this action under docket control number OPPTS–42208A. The official record consists of the selected and background studies being considered in this peer review, any public comments received, and other information related to this action. The public version of the official record is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Room B–607, Waterside Mall, 401 M. Street, SW, Washington, DC. The Center is open from noon to 4 PM., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

*B. Tentative Agenda*

Tuesday, October 10, 2000

8:30–8:45 am
Scope of Review
8:45–9:00 am
Charge to Panel
9:00–10:15 am
Body of Knowledge Presentation and Discussion—Dr. Frederick S. vom Saal, University of Missouri
10:15–10:45 am
Break
10:45 am–Noon
Body of Knowledge Presentation and Discussion—Dr. John Ashby, Zeneca, Central Toxicology Laboratory, United Kingdom
Noon–1:00 pm
Lunch
1:00–2:15 pm
Body of Knowledge Presentation and Discussion—Dr. K. Barry Delclos, National Center for Toxicological Research
2:15–3:30 pm
Body of Knowledge Presentation and Discussion—Dr. John C. O'Connor, DuPont Haskell Laboratory
3:30–3:45 pm
Break
3:45–4:30 pm
Summary of Other Bodies of Knowledge Studies
4:30–5:00 pm
Report from the Statistics and Dose-Response Modeling
Subpanel—Statistical Evaluations
5:00–5:20 pm
Report from the Statistics and Dose-Response Modeling
Subpanel—Mechanism-Based Dose-Response Modeling
5:20–6:15 pm
Dinner
6:15–8:00 pm
Public Comments
8:00–9:00 pm
Subpanels: Initial Meeting

Wednesday, October 11, 2000

8:30–5:00 pm
Subpanel Meetings
Bisphenol A
Other Environmental Estrogens and Estradiol
Androgens and Anti-Androgens
Biological Factors (*i.e.* confounders: diet, strain, etc.) and Study Design
10:00–10:30 am
Break
Noon–1:00 pm
Lunch
2:30–3:00 pm
Break

Thursday, October 12, 2000

8:30–10:00 am
Subpanel Meetings
10:00–10:30 am
Break
10:30 am–Noon
Presentation and Discussion of Subpanel Reports
Noon–1:00 pm
Lunch
1:00–2:30 pm
Presentation and Discussion of Subpanel Reports
2:30–3:00 pm
Break
3:00–5:00 pm
Presentation and Discussion of Subpanel Reports

*C. Peer Review Evaluation and Analysis*

The NTP is establishing a scientific panel with broad expertise including endocrinology, reproductive and development biology/toxicology, statistics, modeling, receptor biology, and molecular biology to conduct the evaluation and analysis for this peer review. The Panel will be divided into five subpanels: (1) Bisphenol A, (2) Other Environmental Estrogens and Estradiol, (3) Androgens and Anti-Androgens, (4) Biological Factors (*i.e.* confounders: diet, strain, etc.) and Study Design, and (5) Statistics and Dose-Response Modeling. At the peer review, members of the Statistics and Dose-Response Modeling Subpanel will be available to interact with the other subpanels. A list of the Panel members and their subpanel assignments is available on-line through the NTP web site (http://ntp-server.niehs.nih.gov, What's New), from the EPA docket (see above), or by contacting the NTP Liaison and Scientific Review Office (contact information given below).

Studies for inclusion in this peer review are catalogued as either Selected Studies or Background Information. A list of the studies included in each group is found on the NTP web site (see above), from the EPA docket (see above), or by contacting the NTP Liaison and Scientific Review Office (see below). Copies of most studies are available from the EPA docket. As more information is received, the lists will be updated and studies will be added to the docket. Raw data for the Selected Studies will be available from the EPA docket no earlier than October 3rd. Individuals wanting to obtain a copy of particular datasets should bring two rewritable CDs to the EPA docket so the data can be transferred. The datasets will be available in ASCII format as well as SAS transport files.

The Panel will have available to them copies of both the Selected Studies and Background Information. Prior to the peer review, the Statistics and Dose-

Response Modeling Subpanel will reevaluate selective laboratory data and analyze dose-response relationships from identified studies and make that information available to the other subpanels for inclusion in their evaluations. Analyses by the Panel will focus on the interpretation of the Selected Studies showing or refuting effects at low doses for endocrine disruptors on reproductive and developmental endpoints. In addition, at the meeting invited researchers will make oral presentations to the Panel during the plenary sessions (see tentative agenda) and will be available for in-depth discussions during subpanel meetings. The individual subpanels will review all evidence, including relevant pharmacokinetic and mechanistic information that may have a bearing on the low-dose issue. In addition, they will consider the consistency in the data (within and across studies), the strength and specificity of the evidence for low-dose effects, the evidence for defining the shape of the dose-response curves in the low-dose regions, and the biologic plausibility of the reported effect(s). The subpanels will identify research gaps and as possible, suggest ways to address those gaps.

All subpanels will prepare reports of their conclusions, including areas of consensus and disagreement and identify research needs that would help resolve ambiguities. Following the meeting, the NTP will receive the final reports from the individual subpanels and will synthesize this information into its own report. The NTP will solicit public comments on the NTP report, synthesize those comments, and incorporate them into its final transmission to the EPA and other Federal agencies. The NTP will also publish the report in a scientific journal. This report will be posted on the NTP web site (see above) and made available to the panel members and the public; requests for hardcopies can be made to the NTP Liaison and Scientific Review Office (see below).

*D. Public Comments*

The Public is invited to attend the Peer Review with the number of observers limited only by the space available. A formal public comment period is scheduled for October 10 (see tentative agenda) for interested persons or groups to present their views and comments to the Panel (please limit speakers to one per group). The Public is invited to present oral comments at the meeting or to submit written comments by October 6, 2000 for distribution to the Panel at the meeting. Oral presentations will be limited to five to seven minutes per speaker depending upon the number of speakers. Individuals presenting oral comments are asked to provide 40 copies of their statement at registration for distribution to the Panel. For planning purposes, persons wishing to give oral comments are asked to check the box provided on the Registration Form (information provided below) or contact the NTP Liaison and Scientific Review Office (see below), although requests for oral presentations will also be accepted on-site (subject to availability of time). Persons registering for oral comments or submitting written remarks are asked to include their contact information (name, address, affiliation, telephone, fax, and e-mail). Written comments should be sent to the NTP Liaison and Scientific Review Office.

In addition to the plenary sessions, the Public is invited to attend the individual subpanel meetings. When registering, the Public is asked to indicate their first and second subpanel choices on the registration form. Attendance in these meetings will be limited by the available space and the NTP will make every effort to honor specific requests.

*E. Meeting Registration*

The Peer Review is open to the public, limited only by the space available. The registration fee is $90 per registrant. In order to plan appropriately, advance registration is requested by September 29, 2000, although on-site registration will be available (subject to space availability). Registration Forms can be obtained through the Internet at the NTP web site (http://ntp-server.niehs.nih.gov, What's New?) or by contacting the NTP Liaison and Scientific Review Office, NIEHS, P.O. 12233, MD A3–01, Research Triangle Park, NC, telephone: 919–541–0530; fax: 919–541–0295; and e-mail: liaison@starbase.niehs.nih.gov.

Dated: September 13, 2000.

**Kenneth Olden,**

*Director, NIEHS/NTP.*

[FR Doc. 00–24731 Filed 9–26–00; 8:45 am]

BILLING CODE 4140–01–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–023496*

*Applicant:* Endangered Species Recovery Program, Fresno, California.

The permittee requests a permit amendment to take (capture and radio-tag) the Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*) throughout the species' range in conjunction with relocation efforts and population augmentation at Lemoore Naval Air Station, Kings County, California, for the purpose of enhancing its survival.

*Permit No. TE–702631*

*Applicant:* Assistant Regional Director-Ecological Services, Region 1, U.S. Fish and Wildlife Service, Portland, Oregon.

The permittee requests a permit amendment to take the northern California Evolutionarily Significant Unit of steelhead (*Oncorhynchus mykiss*) throughout the species' range in conjunction with recovery efforts for the purpose of enhancing its survival.

*Permit No. TE–033313*

*Applicant:* David Moore, Mobile, Alabama.

The applicant requests a permit to purchase, in interstate commerce, four female and four male captive bred Hawaiian (=nene) goose (*Nesochen* [=*Branta*] *sandvicensis*) for the purpose of enhancing the species propagation and survival.

**DATES:** Written comments on these permit applications must be received on or before October 27, 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 19, 2000.

**Rowan W. Gould,**

*Acting Regional Director, Region 1, Portland, Oregon.*

[FR Doc. 00–24756 Filed 9–26–00; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Notice of Receipt of Applications for Permit

### Endangered Species

*Applicant*: National Zoological Park, Washington, DC, PRT–007870

The applicant requests a permit to import one male and one female captive-born giant panda (*Ailuropoda melanoleuca*) from Wolong, China for the purpose of scientific research and enhancement of the survival and propagation of the species. This application was published for public comment on Thursday August 17, 2000. Comments were accepted until on September 18, 2000. We are re-opening the comment period for 30-days to allow the public an opportunity to review and comment on information received from the Zoo on September 18, 2000.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: September 22, 2000.

**Charlie Chandler,**

*Chief, Branch of Permits, Division of Management Authority.*

[FR Doc. 00–24907 Filed 9–26–00; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

## National Park Sevice

## 60 Day Notice of Intention to Request Clearance of Collection of Information—Opportunity for Public Comment

**AGENCY:** Department of the Interior, National Park Service, Land and Water Conservation Fund State Assistance and Urban Park and Recreation Recovery Programs.

**ACTION:** Notice and request for comments.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507) and 5 CFR 1320, Reporting and Recordkeeping Requirements, the National Park Service invites public comments on eight proposed information collection requests (ICR) for the Land and Water Conservation Fund (LWCF) and Urban Park and Recreation Recovery (UPARR) grant programs. Comments are invited on the following:

1. LWCF Description and Notification (DNF) Form. The DNF is necessary to provide data input into the NPS Automated Project information system which provides timely data on projects funded over the life of the LWCF program.

2. LWCF Program Performance Report. As required by OMB Circular A–102, grantees must submit performance reports which describe the status of the work required under the project scope.

3. LWCF project Agreement and Amendment Form. The Project Agreement and Amendment forms set forth the obligations assumed by the State through its acceptance of Federal assistance under the LWCF Act and any special terms and conditions.

4. LWCF On-Site Inspection Report. The On-site Inspection Reports are used to insure compliance by grantees with applicable Federal and program guidelines, and to insure the continued viability of the funded site.

5. LWCF Conversion of Use Provisions. To convert assisted sites to other than public outdoor recreation, LWCF project sponsors must provide relevant information necessary to comply with Section 6(f)(3) of the LWCF Act of 1965.

6. UPARR Project Performance Report. As required by OMB Circular A–102, grant recipients must submit performance reports which describe the status of the work required under the project scope.

7. UPARR Conversion of Use Provisions. To convert assisted sites to other than public outdoor recreation, UPARR project sponsors must provide relevant information necessary to comply with the section 1010 of the UPARR Act of 1978.

8. UPARR Project Agreement and Amendment Form. The Project agreement and amendment forms set forth the obligations assumed by grant recipients through their acceptance of Federal Assistance under the UPARR Act and any special terms and conditions.

**DATES:** Public comments on these eight proposed ICRs will be accepted on or before November 27, 2000.

**ADDRESSES:** Send comments to Wayne T. Strum, Chief or Sylvia H. Wood, Outdoor Recreation Planner, Recreation Programs Division, National Park Service (2225), P.O. Box 37127, Washington, DC 20013–7127.

All responses to this notice will be summarized and included in the requests for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. Copies of the proposed information collection requirements and explanatory material may be obtained by contacting Mr. Wayne T. Strum or Ms. Sylvia Wood at the above address.

**FOR FURTHER INFORMATION CONTACT:** Wayne T. Strum at 202–565–1129 or Sylvia Wood at 202–565–1128.

*Title:* LWCF Description and Notification Form (DNF).

*Form:* NPS 10–903.

*OMB Number:* 1024–0031.

*Expiration Date:* December 31, 2003.

*Type of Request:* Data Input.

*Description of Need:* Provision of computer data.

*Description of Respondents:* 56 State Governments, DC and Territories.

*Estimated Annual; Reporting Burden:* 115 hours.

*Estimated Average Burden Hours Per Response:* 0.25 hours.

*Estimated Frequency of Response:* 450 nationwide.

*Title:* LWCF Program Performance Report.

*Form:* None.

*OMB Number:* 1024–0032.

*Expiration Date:* December 31, 2003.

*Type of Request:* Performance report describing project status.

*Description of Need:* For monitoring project status.

*Description of Respondents:* 56 State Governments, DC and Territories.

*Estimated Annual Reporting Burden:* 700 hours.

*Estimated Average Burden Hours Per Response:* 1.0 hours.

*Estimated Frequency of Response:* 700 nationwide.

*Title:* LWCF Project Agreement and Amendment Forms.

*Form:* NPS 10–902 and 10–902a, respectively.

*OMB Number:* 1024–0033.

*Expiration Date:* December 31, 2003.

*Type of Request:* Grant agreement.

*Description of Need:* Sets forth conditions of the grant award.

*Description of Respondents:* 56 State Governments, DC and Territories.

*Estimated annual Reporting Burden:* 450 hours.

*Estimated Average Burden Hours per Response:* 1.0 hours.

*Estimated Frequency of Response:* 450 nationwide.

*Title:* LWCF On-Site Inspection Report.

*Form:* None.

*OMB Number:* 1024–0034.

*Expiration date:* December 31, 2003.

*Type o Request:* Site condition/comment checklist.

*Description of Need:* To assure program/grant/Federal compliance.

*Description of Respondents:* 56 State Governments, DC and Territories.

*Estimated Annual Reporting Burden:* 3,700 hours.

*Estimated Average Burden Hours Per Response:* 0.5 hours.

*Estimated Frequency of Response:* 7,400 nationwide.

*Title:* LWCF Conversion of Use Provisions.

*Form:* None.

*OMB Number:* 1024–0047.

*Expiration Date:* December 31, 2003.

*Type of Request:* Application to substitute replacement property for the funded site.

*Description of Need:* Compliance with LWCF Act Section 6(f)(3).

*Description of Respondents:* 56 State Governments, DC and Territories.

*Estimated Annual Reporting Burden:* 1,750 hours

*Estimated Average Burden Hours Per Response:* 35 hours.

*Estimated Frequency of Response:* 50 nationwide.

*Title:* UPARR Project Performance Report.

*Form:* None.

*OMB Number:* 1024–0028.

*Expiration Date:* December 31, 2003.

*Type of Request:* Performance report describing project status.

*Description of Need:* For monitoring project status.

*Description of Respondents:* Urban cities and counties.

*Estimated Annual Reporting Burden:* 52 hours.

*Estimated Average Burden Hours Per Response:* 1.5 hours.

*Estimated Frequency of Response:* 35 nationwide.

*Title:* UPARR Conversion of Use Provisions.

*Form:* None.

*OMB Number:* 1024–0048.

*Expiration Date:* December 31, 2003.

*Type of Request:* Application to substitute replacement property for the funded site.

*Description of Need:* Compliance with UPARR Act Section 1010.

*Description of Respondents:* Urban cities and counties.

*Estimated Annual Reporting Burden:* 75 hours.

*Estimated Average Burden House Per Response:* 25 hours.

*Estimated Frequency of Response:* 3 nationwide.

*Title:* UPARR Project Agreement and Amendment Forms.

*Form:* NPS 10–912 and 10–915, respectively.

*OMB Number:* 1024–0089

*Expiration Date:* December 31, 2003.

*Type of Request:* Grant agreement.

*Description of Need:* Sets forth conditions of the grant award.

*Description of Respondents:* Urban cities and counties.

*Estimated Annual Reporting Burden:* 20 hours.

*Estimated Average Burden Hours Per Response:* 1.0 hours.

*Estimated Frequency of Response:* 20 nationwide.

The NPS also is asking for comments on the practical utility of the information being gathered; the accuracy of the burden hour estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology.

Dated: September 21, 2000.

**Betsy Chittenden,**

*Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.*

[FR Doc. 00–24797 Filed 9–26–00; 8:45 am]

BILLING CODE 4310–70–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

### National Capital Memorial Commission; Notice of Public Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission (the Commission) will be held at 2 p.m. on Friday, October 20, at the National Building Museum, Room 312, 5th and F Streets, NW., Washington, D.C.

The purpose of the meeting will be to discuss currently authorized and proposed memorials in the District of Columbia and environs.

In addition to discussing general matters and routine business, the Commission will consider:

**Action Item**

(a) National Capital Planning Commission Memorials and Museums Master Plan.

**Informational Items**

Status report on legislative actions of the 106th Congress on memorial bills.

The Commission was established by Public Law 99–652, the Commemorative Works Act, to advise the Secretary and the Administrator, General Services Administration, (the Administrator) on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia and its environs, as well as such other matters as it may deem appropriate concerning commemorative works.

The Commission examines each memorial proposal for conformance to the Commemorative Works Act, and makes recommendations to the Secretary and the Administrator and to Members and Committees of Congress. The Commission also serves as a source of information for persons seeking to establish memorials in Washington, D.C., and its environs.

The members of the Commission are as follows:

Director, National Park Service
Chairman, National Capital Planning Commission
Architect of the Capitol
Chairman, American Battle Monuments Commission
Chairman, Commission of Fine Arts
Mayor of the District of Columbia
Administrator, General Services Administration
Secretary of Defense

The meeting will be open to the public. Any person may file with the Commission a written statement

concerning the matters to be discussed. Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact Ms. Nancy Young, Executive Secretary to the Commission, at (202) 619–7097.

Dated: September 21, 2000.

**Terry R. Carlstrom,**

*Regional Director, National Capital Region.*

[FR Doc. 00–24796 Filed 9–26–00; 8:45 am]

**BILLING CODE 4310–70–M**

## 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 Florida Museum of Natural History, University of Florida, Gainesville, FL

**AGENCY:** National Park Service

**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 Florida Museum of Natural History, University of Florida, Gainesville, FL.

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 Florida Museum of Natural History professional staff in consultation with representatives of the Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood, and Tampa Reservations; Seminole Nation of Oklahoma; and Miccosukee Tribe of Indians of Florida.

Between 1914 and 1928, human remains representing one individual were removed from an above-ground grave box in southern Florida by Dr. A. J. Colborn of Connellsville, PA. In 1928, Dr. Colborn sent the remains to Rev. M. Herbert Burk in Valley Forge, PA. In 1953, an unknown person gave the remains to John Witthoft at the Pennsylvania State Museum. In July 1953, Mr. Witthoft wrote John Griffin, archeologist with the Florida Board of Parks and Historic Memorials, who arranged for the remains to be placed in the collections of the Florida Museum of Natural History. No associated funerary objects are present.

A February 14, 1928 letter from Dr. Colborn to Rev. Burk identifies the human remains as those of Mammy Trot, a Seminole or Miccosukee woman. A card attached to the letter states that Mammy Trot was a Seminole Indian born in 1806 at Fort Lauderdale and died in 1914 at age 108. To date, consultation with the Seminole Tribe of Florida and Miccosukee Tribe of Indians of Florida has not identified a lineal descendent.

In 1949, human remains representing one individual were excavated from a Spanish-Indian site (8AL66) in Alachua County, FL, by John M. Goggin, an archeologist in the Department of Anthropology at the University of Florida. The shallow grave, containing the remains, had been exposed in a road cut through the site. In 1971, the remains and associated funerary objects were transferred from the University of Florida to the Florida Museum of Natural History. No known individuals were identified. A minimum of 329 associated funerary objects includes a brass kettle, tools, gun parts, an iron tomahawk, knifes, lead shot, a mirror, brass buckles, a silver brooch or bangle, needle fragments, copper rings, coils of copper wire, and fragments of iron.

Based on osteological information, historical information about the Seminole Tribe of Florida, and material culture found with the interment, the individual has been determined to be Native American. The remains were determined to be those of a mature adult Seminole Indian male interred between A.D. 1750–1800. Historical evidence indicates that when settling northern Florida, Seminole peoples often re-occupied Spanish-Indian mission locations and Spanish hacienda locations abandoned between A.D. 1702–1710.

In 1949, human remains representing one individual were excavated from a Spanish-Indian site (8AL67) in Alachua County, FL by John M. Goggin's field team. In 1971, the remains were transferred from the University of Florida to the Florida Museum of Natural History. No known individuals were identified. No associated funerary objects are present.

Based on reported material culture found with the interment, and the intrusive nature of the burial, the individual has been determined to be Native American. The remains were determined to be those of a Seminole Indian interred between A.D. 1750–1800. Historical evidence indicates that when settling northern Florida, Seminole peoples often reoccupied Spanish-Indian mission locations and Spanish hacienda locations abandoned between A.D. 1702–1710.

In 1954, human remains representing one individual were excavated from the Graham site 8DA82, a pre-Columbian Glades midden site in Dade County, FL, by D.D. Laxson. Laxson found the burial in the root system and lower trunk of a large ficus tree. The individual had been buried in a hollow portion of the tree. In 1954, Laxson donated the human remains to the Florida Museum of Natural History. No known individuals were identified. The 32 associated funerary objects includes rifle parts and hardware; brass, lead, and copper scrap; a shot mold; a brass ladle; knife fragments; brass buttons; a circular hand mirror; fragments of clay pipe; ear bangles; bone points (presumably); bone buttons; a shark's tooth; a copper tack; and a brass rivet.

Based on material culture found with the interment, the individual has been determined to be Native American. The remains were determined to be those of a Seminole Indian interred between A.D. 1840–1850.

In 1958, human remains representing one individual were collected from the ''Everglades Management Area'' by Bill Rabenau and Phillip Lloyd of Davie, FL. Circumstances surrounding the recovery of the remains are unknown. Messrs. Rabenau and Lloyd gave the remains to Charles Loveless of the Florida Game and Freshwater Fish Commission in Fort Lauderdale, FL at an unknown date. In 1959, Mr. Loveless donated the remains to the Florida Museum of Natural History. No known individuals were identified. No associated funerary objects are present.

The accession card for the remains reads ''said to be of an Indian squaw about 35 years old and to have died of rickets about a hundred years ago.''

In 1957, human remains representing one individual were excavated from a disturbed burial in the Lehigh-Portland site 8DA93, in Dade County, FL, by D.D. Laxson. In the upper level of the site, Mr. Laxson found a disturbed interment of what he interpreted as two individuals. Subsequent examination indicated one individual. In 1957, Mr. Laxson donated the remains to the Florida Museum of Natural History. No known individuals were identified. No associated funerary objects are present.

Based on material culture found at site 8DA93, the individual has been determined to be Native American. The remains were determined to be those of

an adult Seminole Indian. The artifacts recovered during excavations of the site dated to the Glades II and III period (A.D. 750–1200), the Spanish colonial period and the 19th century. Interment may be from the period of the site's Seminole occupation from the Glades periods, which was later disturbed and scattered.

Based on the above-mentioned information, officials of the Florida Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of six individuals of Native American ancestry. Officials of the Florida Museum of Natural History also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 361 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Florida Museum of Natural History 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 associated funerary objects and the Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood, and Tampa Reservations; Seminole Nation of Oklahoma; and Miccosukee Tribe of Indians of Florida. This notice has been sent to officials of the Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood, and Tampa Reservations; Seminole Nation of Oklahoma; and Miccosukee Tribe of Indians of Florida. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Jerald Milanich, Curator, Florida Museum of Natural History, Museum Road, University of Florida, Gainesville, FL, telephone (352) 392–6791, before October 27, 2000. Repatriation of the human remains and associated funerary objects to the Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood, and Tampa Reservations; Seminole Nation of Florida; and Miccosukee Tribe of Indians of Florida may begin after that date if no additional claimants come forward.

Dated: August 22, 2000.

**John Robbins,**

*Assistant Director, Cultural Resources Stewardship and Partnerships.*

[FR Doc. 00–24795 Filed 9–26–00; 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 Possession of the Putnam Museum of History and Natural Science, Davenport, IA

**AGENCY:** National Park Service

**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 Putnam Museum of History and Natural Science, Davenport, 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 Putnam Museum of History and Natural Science professional staff in consultation with representatives of the Tunica-Biloxi Tribe of Louisiana and the Louisiana Office of Cultural Development.

In 1885, human remains representing 2 individuals and 17 associated funerary objects were removed from the Trudeau Site (16WF25) and donated to the Putnam Museum of History and Natural Science (then the Davenport Academy of Natural Science), Davenport, IA by W. P. Hall. The Trudeau Site is located in West Feliciana Parish, LA. No known individuals were identified. Associated funerary objects consisted of copper trap wire bracelets, copper kettle fragments, a necklace, and a ceramic plate.

Historical and oral history sources identify the Trudeau site as a Tunica-Biloxi settlement, occupied circa A.D. 1731-1764. The presence of Euroamerican funerary objects dating to the mid-1800's confirms the use of a mortuary area at the site during this time period. On the basis of archeological, historical, and oral history information these human remains and funerary objects are determined to be culturally affiliated with the Tunica-Biloxi Tribe of Louisiana. There is no evidence to indicate otherwise.

Based on the above-mentioned information, officials of the Putnam Museum of History and Natural Science have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the Putnam Museum of History and Natural Science also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 17 associated funerary objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Putnam Museum of History and Natural Science 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 associated funerary objects and the Tunica-Biloxi Tribe of Louisiana.

This notice has been sent to officials of the Tunica-Biloxi Tribe of Louisiana. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Janice Hall, Chief Curator, Putnam Museum of History and Natural Science, 1717 West 12th Street, Davenport, IA 52804, telephone (319) 324-1933, before October 27, 2000. Repatriation of the human remains and associated funerary objects to the Tunica-Biloxi Tribe of Louisiana may begin after that date if no additional claimants come forward.

Dated: September 21, 2000.

**John Robbins,**

*Assistant Director, Cultural Resources Stewardship and Partnerships.*

[FR Doc. 00–24794 Filed 9–26–00; 8:45 am]

BILLING CODE 4310–70–F

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–891 (Preliminary)]**

### Foundry Coke From China

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of antidumping investigation and scheduling of a preliminary phase investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–891 (Preliminary) under section 733(a) of the

Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of foundry coke, provided for in heading 2704.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by November 6, 2000. The Commission's views are due at the Department of Commerce within five business days thereafter, or by November 14, 2000.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**EFFECTIVE DATE:** September 20, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jozlyn Kalchthaler (202–205–3457), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

**SUPPLEMENTARY INFORMATION:**

*Background.*—This investigation is being instituted in response to a petition filed on September 20, 2000, by ABC Coke, Birmingham, AL; Citizens Gas and Coke, Indianapolis, IN; Erie Coke, Erie, PA; Tonawanda Coke, Tonawanda, NY; and the United Steelworkers of America, AFL–CIO.

*Participation in the investigation and public service list.*—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.*—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on October 11, 2000, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jozlyn Kalchthaler (202–205–3457) not later than October 6, 2000, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

*Written submissions.*—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 16, 2000, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: September 21, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–24821 Filed 9–26–00; 8:45 am]

**BILLING CODE 7020–02–P**

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## INTERNATIONAL TRADE COMMISSION

### Certain Safety Eyewear and Components Thereof; Notice of Commission Decision Not To Review an Initial Determination Amending the Complaint and Notice of Investigation and Finding the Economic Prong of the Domestic Industry Requirement Satisfied

[Inv. No. 337–TA–433]

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has decided not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') granting a motion to amend the complaint and notice of investigation to reflect the U.S. Patent and Trademark Office's issuance of U.S. Letters Patent Re. 36,762 as a reissue U.S. Letters Patent 5,457,505 and a motion granting summary determination that the economic prong of the domestic industry section 337 is satisfied.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on May 1, 2000, based on a complaint filed by Bacou USA Safety, Inc. and Uvex Safety Manufacturing, Inc. (''complainants''), both of Smithfield, Rhode Island. The complaint named one respondent, Crews, Inc. of Memphis, Tennessee.

Complainants alleged that respondent had violated section 337 of the Tariff

Act of 1930 by importing into the United States, selling for importation, and/or selling within the United States after importation certain safety eyewear and components thereof by reason of (a) infringement of claims 1–5, 8–14, and 16–18 of U.S. Letters Patent 5,457,505 (the '505 patent); (b) the claim of U.S. Letters Patent Des. 322,616; and (c) misappropriation of trade dress, the threat or effect of which is to destroy or substantially injure an industry in the United States.

On July 27, 2000, complainants moved for summary determination on the economic prong of the domestic industry requirements of section 337 as to the '505 patent. On August 4, 2000, complainants moved to amend the complaint and notice of investigation to reflect the U.S. Patent and Trademark Office's issuance of U.S. Letters Patent Re. 36,762 as a reissue of the '505 patent. Both respondent Crews and the Commission investigative attorney (''IA'') responded to the motion of summary determination motion on August 7, 2000. The IA filed a response to the motion to amend on August 14, 2000, and Crews filed its response to the motion to amend on August 16, 2000.

On May 18, 2000, the presiding ALJ issued an ID (Order No. 21) granting complainants' motions. No party petitioned for review of the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42). Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone 202–205–2000.

Issued: September 21, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–24813 Filed 9–26–00; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 332–345]**

## Shifts in U.S. Merchandise Trade in 2000

**AGENCY:** United States International Trade Commission.

**EFFECTIVE DATE:** September 8, 2000.

**ACTION:** Opportunity to submit written statements in connection with the 2000 report.

**SUMMARY:** The Commission has prepared and published annual reports on U.S. trade shifts in selected industries/commodity areas under investigation No. 332–345 since 1993. The Commission plans to publish the 2000 report in August 2001, which will cover shifts in U.S. trade in 2000 compared with trade in 1999.

The report structure and content is anticipated to be similar to the 1999 report issued in September 2000. Comments and suggestions regarding the August 2001 report are welcome in written submissions as specified below. The latest version of the report covering 1999 data (USITC Publication 3353, September 2000) may be obtained from the USITC's Internet server (http://www.usitc.gov). A printed report may be requested by contacting the Office of the Secretary at 202–205–2000 or by fax at 202–205–2104.

**FOR FURTHER INFORMATION CONTACT:** Questions about the trade shifts report may be directed to the project leader, Mr. Karl Tsuji, Office of Industries (202–205–3434) or the assistant project leader, Ms. Linda White, Office of Industries (202–205–3427). For information on the legal aspects, please contact Mr. William Gearhart, Office of General Counsel (202–205–3091). The media should contact Ms. Margaret O'Laughlin, Public Affairs Officer (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

*Background:* The initial notice of institution of this investigation was published in the **Federal Register** of September 8, 1993 (58 F.R. 47287). The Commission expanded the scope of this investigation to cover services trade in a separate report, which it announced in a notice published in the **Federal Register** of December 28, 1994 (59 F.R. 66974). The merchandise trade report has been published in the current series under investigation No. 332–345 annually since September 1993. As in past years, each report will summarize and provide analyses of the major trade developments that occurred in the preceding year. The reports will also provide summary trade information and basic statistical profiles of about 250 industry/commodity groups.

*Written Submissions:* No public hearing is planned. However, interested persons are invited to submit written comments or suggestions concerning the August 2001 report. Commercial or financial information which a submitter desires the Commission to treat as confidential must be provided on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules and Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested persons. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on December 29, 2000. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Issued: September 19, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–24814 Filed 9–26–00; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

## Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** October 3, 2000 at 11:00 a.m.

**PLACE:** Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. TA–201–72 (Extruded Rubber Thread)(Injury Phase)—briefing and vote. (The Commission is currently scheduled to transmit its recommendations to the President on December 4, 2000.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: September 22, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–24909 Filed 9–25–00; 11:45 am]

BILLING CODE 7020–02–P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. ICR–1218–0048 (2000)]**

### Occupational Noise Exposure Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice of an opportunity for public comment.

**SUMMARY:** OSHA solicits comments concerning the extension of the information-collection requirements contained in the Occupational Noise Exposure Standard (the Noise Standard'') (29 CFR 1910.95).

*Request for Comment:* The Agency has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

**DATES:** Submit written comments on or before November 27, 2000.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR–1218–0048 (2000), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

**FOR FURTHER INFORMATION CONTACT:** Todd R. Owen, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information-collection requirements in the Noise Standard is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Todd R. Owen at (202) 693–2444. For electronic copies of the ICR on the Noise Standard, contact OSHA on the Internet at *http://www.osha.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments clearly understood, and OSHA's estimate of the information burden is correct. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The information-collection requirements specified in the Noise Standard protect employees from suffering material hearing impairment. The information-collection requirements of the Noise Standard include: Conducting noise monitoring; notifying employees exposed at or above an 8-hour time-weighted average of 85 decibels; providing employees with initial and annual audiograms; after comparing audiograms, notifying employees if they have a hearing loss; training employees on the hearing effects of noise, the purpose and effectiveness of hearing protectors, the selection and use of hearing protectors, the purpose of audiometric testing, and an explanation of audiometric testing procedures; maintaining records of workplace noise exposure and employee audiograms; and providing access to these records by employees, their designated representatives, and OSHA.

## II. Proposed Actions

OSHA proposes to increase the existing burden-hour estimate, and to extend OMB's approval, of the collection-of-information (paperwork) requirements contained in the Noise Standard. The Agency is increasing its previous estimate of 5,166,401 burden hours by 470,677 burden hours. This increase resulted primarily from including, for the first time, the burden hours associated with employee training in the burden-hour estimates. OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information-collection requirements contained in the Noise Standard.

*Type of Review:* Extension of currently approved information-collection requirements.

*Title:* Noise Standard (29 CFR 1910.95).

*OMB Number:* 1218–0048.

*Affected Public:* Business or other for-profit; Federal government; State, Local or Tribal governments.

*Number of Respondents:* 379,512.

*Frequency:* On occasion.

*Total Responses:* 13,010,358.

*Average Time per Response:* Varies from 2 minutes to notify employees when noise exposure exceeds the 8-hour time-weighted average of 85 decibels to 1 hour for employees in small establishments to take an audiometric examinations.

*Estimated Total Burden Hours:* 5,637,078.

*Estimated Cost (Operation and Maintenance):* $53,891,845.

## III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No 3–2000 (65 FR 50017).

Signed at Washington, DC, on September 19, 2000.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 00–24804 Filed 9–26–00; 8:45 am]

BILLING CODE 4510–26–P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. ICR–1218–0197(2000)]**

### Construction Standards on Fall Protection Systems Criteria and Practice and Training Requirements; Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice of an opportunity for public comment.

**SUMMARY:** OSHA solicits comments concerning its request for an extension of the information-collection requirements contained in its standards titled, ''Fall Protection Systems Criteria and Practice'' (29 CFR 1926.502) and ''Training Requirements'' (29 CFR 1926.503).

*Request for Comment:* The Agency has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

**DATES:** Submit written comments on or before November 27, 2000.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR–1218–0197(2000), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Martinez, Directorate of Policy, OSHA, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information-collection requirements specified by its standards on Fall Protection Systems Criteria and Practice and Training Requirements is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Kathleen Martinez at (202) 693–2444. For electronic copies of this ICR, contact OSHA on the Internet at *http://www.osha.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information- collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information burden is correct. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The standards on Fall Protection Systems Criteria and Practice (29 CFR 1926.502) and Training Requirements (29 CFR 1926.503) ensure that employers provide the required fall protection for their employees. These standards have the following paperwork requirements: Paragraphs (c)(4)(i) and (k) of 29 CFR 1926.502, which require certification of safety nets and development of fall-protection plans, respectively, and paragraph (b) of 29 CFR 1926.502, which specifies that employers certify training records. The requirement to certify safety nets is an option available to employers who demonstrate that performing a drop test on safety nets is unreasonable; this provision allows such employers to certify that their safety nets are as protective as safety nets that meet the drop-test criteria. Fall-protection plans are available to employers who have employees engaged in leading-edge work, precast-concrete-erection work, or residential construction who provide evidence that using only conventional fall-protection equipment is infeasible or is more hazardous than the fall-protection alternative described in the fall-protection plan. The training-certification requirement documents the training provided by an employer to employees potentially exposed to fall hazards; this training includes recognizing fall hazards, and using procedures and equipment that minimize these hazards.

## II. Proposed Actions

OSHA proposes to extend OMB's approval of the collection-of-information (paperwork) requirements contained in its standards on Fall Protection Systems Criteria and Practice and Training Requirements. The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information-collection requirements contained in these standards.

*Type of Review:* Extension of currently approved information-collection requirements.

*Title:* Fall Protection Systems Criteria and Practice (29 CFR 1926.502) and Training Requirements (29 CFR 1926.503).

*OMB Number:* 1218–0197.

*Affected Public:* Business or other for-profit organizations; Federal, State, Local, or Tribal governments.

*Number of Respondents:* 100,000.

*Frequency:* On occasion.

*Average Time per Response:* Variable (*i.e.,* 5 minutes to certify a safety net; 65 minutes to develop and write a fall-protection plan; and 5 minutes to certify training).

*Estimated Total Burden Hours:* 767,246 hours.

## III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No 3–2000 (65 FR 50017).

Signed at Washington, DC on September 19, 2000.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 00–24805 Filed 9–26–00; 8:45 am]

BILLING CODE 4510–26–P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. ICR–1218–0065(2000)]**

### Regulation on Access to Employee Exposure and Medical Records; Extension of the Office of Management of Budget's (OMB) Approval of Information—Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice of an opportunity for public comment.

**SUMMARY:** OSHA solicits comments concerning the increased burden hours proposed for, and the extension of, the information-collection requirements contained in its regulation titled ''Access to Employee Exposure and Medical Records'' (the ''Access Regulation'') (29 CFR 1910.1020).

*Request for Comment:* The Agency has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

**DATES:** Submit written comments on or before November 27, 2000.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR–1218–0065(2000), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

**FOR FURTHER INFORMATION CONTACT:** Todd R. Owen, Directorate of Policy, OSHA, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information-collection requirements specified by the Access Regulation is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Todd Owen at (202) 693–2444. For electronic copies of this ICR, contact OSHA on the Internet at *http://www.osha.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information burden is correct. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

Under the authority granted by the OSH Act, OSHA published a health regulation governing access to employee exposure-monitoring data and medical records. This regulation does not require employers to collect any information or to establish any new systems of records. Rather, it requires that employers provide employees, their designated representatives, and OSHA with access to employee exposure-monitoring and medical records, and any analyses resulting from these records, that employers must maintain under OSHA's toxic-chemical and harmful physical-agent standards. In this regard, the regulation specifies requirements for record access, record retention, employee information, trade-secret management, and record transfer. Accordingly, the Agency attributes the burden hours and costs associated with exposure monitoring and measurement, medical surveillance, and the other activities required to generate the data governed by the regulation to the health standards that specify these activities; therefore, OSHA did not include these burden hours and costs in this ICR.

Access to exposure and medical information enables employees and their designated representatives to become directly involved in identifying and controlling occupational health hazards, as well as managing and preventing occupationally-related health impairment and disease. Providing the Agency with access to the records permits it to ascertain whether or not employers are complying with the regulation, as well as the recordkeeping requirements of its other health standards; therefore, OSHA access provides additional assurance that employees and their designated representatives are able to obtain the data they need to conduct their analyses.

## II. Proposed Actions

OSHA proposes to increase the existing burden hours specified for, and to extend OMB's approval of, the collection-of-information (paperwork) requirements contained in the Access Regulation. Accordingly, the Agency is increasing its previous estimate of 578,803 burden hours by 31,271 burden hours. This adjustment is the result of OSHA increasing the number of inspections in which its compliance officers review employee exposure and medical records as specified in paragraph (e)(2) of the Regulation. OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information-collection requirements contained in the Access Regulation.

*Type of Review:* Extension of currently approved information-collection requirements.

*Title:* Access to Employee Exposure and Medical Records (29 CFR 1910.1020).

*OMB Number:* 1218–0065.

*Affected Public:* Business or other for-profit organizations; Federal government; State, Local, or Tribal governments.

*Number of Respondents:* 785,875.

*Frequency:* On occasion.

*Total Responses:* 4,710,291.

*Average Time per Response:* 7 minutes.

*Estimated Total Burden Hours:* 610,074 hours.

*Estimated Cost (Operation and Maintenance):* $0.

## III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No 3–2000 (65 FR 50017).

Signed at Washington, DC on September 19, 2000.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 00–24806 Filed 9–26–00; 8:45 am]

BILLING CODE 4510–26–P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. ICR–1218–0145(2000)]**

### Formaldehyde Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice of an opportunity for public comment.

**SUMMARY:** OSHA solicits comments concerning the increased burden hours proposed for, and the extension of, the information-collection requirements contained in its Formaldehyde Standard (29 CFR 1910.1048).

*Request for Comment:* The Agency has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

**DATES:** Submit written comments on or before November 27, 2000.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR–1218–0145(2000), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

**FOR FURTHER INFORMATION CONTACT:** Todd R. Owen, Directorate of Policy, OSHA, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information-collection requirements specified by the Formaldehyde Standard is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Todd Owen at (202) 693–2444. For electronic copies of this ICR, contact OSHA on the Internet at *http://www.osha.gov*.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information burden is correct. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The information-collection requirements specified in the Formaldehyde Standard protect employees from the adverse health effects that may result from their exposure to this hazardous chemical.The major information-collection requirements of the standard address: Monitoring employee exposures to formaldehyde; notifying employees of their exposure levels; providing examining physicians with specific information; ensuring that employees receive a copy of their medical-examination results; training; maintaining employees' exposure-monitoring and medical records for specified periods; and providing OSHA, the National Institute for Occupational Safety and Health, the affected employees, and their authorized representatives with access to these records.

#### II. Proposed Actions

OSHA proposes to increase the existing burden hours specified for, and to extend OMB's approval of, the collection-of-information (paperwork) requirements contained in its Formaldehyde Standard. The Agency is increasing its previous burden-hour estimate of 521,110 hours by 57,334 hours. This adjustment occurred because the Agency is including burden hours for training in the burden-hour estimates, and is also increasing the number of employees estimated to receive the required medical examinations. The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information-collection requirements contained in the Formaldehyde Standard.

*Type of Review:* Extension of currently approved information-collection requirements.

*Title:* Formaldehyde Standard (29 CFR 1910.1048).

*OMB Number:* 1218–0145.

*Affected Public:* Business or other for-profit organizations; Federal government; State, Local, or Tribal governments.

*Number of Respondents:* 67,619.

*Frequency:* On occasion.

*Total Responses:* 4,808,412.

*Average Time per Response:* Varies from 5 minutes for an employer to maintain exposure-monitoring and medical records for each employee, to 1 hour for an employee to receive a medical examination.

*Estimated Total Burden Hours:* 578,444 hours.

*Estimated Cost (Operation Maintenance):* $65,639,922.

#### III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC on September 21, 2000.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 00–24807 Filed 9–26–00; 8:45 am]

BILLING CODE 4510–26–P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 00–117]**

### NASA Advisory Council (NAC), Aero-Space Technology Advisory Committee (ASTAC); Airframe Systems Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aero-Space Technology Advisory Committee, Airframe Systems Subcommittee.

**DATES:** Tuesday, October 24, 2000, 8:30 a.m. to 5:30 p.m.; Wednesday, October 25, 2000, 8:30 a.m. to 5:30 p.m.; and Thursday, October 26, 2000, 8:30 a.m. to 12:00 Noon.

**ADDRESSES:** National Aeronautics and Space Administration, Langley Research Center, Building 1219, Room 225, Hampton, VA 23681–0001.

**FOR FURTHER INFORMATION CONTACT:** Darrel R. Tenney, National Aeronautics and Space Administration, Langley Research Center, Hampton, VA 23681, 757/864–6033.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aerospace Vehicle Systems Technology Program (AVSTP) Overview—Strategic Direction and New Initiatives
—AVSTP Technical Reviews
—Research Facility Tours

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: September 22, 2000.

**Beth M. McCormick,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 00–24760 Filed 9–26–00; 8:45 am]

**BILLING CODE 7510–01–U**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 00–118]**

### NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Microgravity Research Advisory Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Microgravity Research Advisory Subcommittee.

**DATES:** Wednesday, October 18, 2000, from 8:00 a.m. to 5:00 p.m.

**ADDRESSES:** National Aeronautics and Space Administration, Room MIC–6 (Room 6H46), 300 E Street, SW, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Dr. Brad Carpenter, Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202–358–0813.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—New Enterprise Management (Tentative)
—Program Status/Division Reorganization
—Microgravity Program Office Report
—DWG Activities Reports
—Space Station Utilization Research Institute
—Plans for New Initiatives
—International Activities
—Status of MRAS Recommendations
—Discussion & Summary
—Executive Session/Writing Assignments

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 22, 2000.

**Beth M. McCormick,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 00–24761 Filed 9–26–00; 8:45 am]

**BILLING CODE 7510–01–U**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 00–119]**

### NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee Commercial Advisory Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Commercial Advisory Subcommittee.

**DATES:** Wednesday, October 18, 2000, 8 a.m. to 5 p.m.

**ADDRESSES:** National Aeronautics and Space Administration, Room MIC–5, 300 E Street, SW, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Ms. Candace Livingston, Code UM, National Aeronautics and Space Administration, Washington, DC 20546, 202–358–0697.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public to the seating capacity of the room. Advance notice of attendance to the Executive Secretary is requested. The agenda for the meeting will include the following topics:

—Status of subcommittee and LMSAAC meetings
—Status of the NGO proposal for the ISS
—Status of OLMSA Organization (Dr. Nicogossian's successor has not been appointed)
—Report of the Task Team on Product Development Levels
—Selection of Environmental Systems CSTC and Discussion of relationship to CSC's
—Scientific Quality Control for CSC Payloads
—Recommendations and Wrap-Up

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 22, 2000.

**Beth M. McCormick,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 00–24762 Filed 9–26–00; 8:45 am]

**BILLING CODE 7510–01–U**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts; Combined Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Local Arts Agencies section (Access, Education and Heritage/Preservation categories), to the National Council on the Arts will be held from October 26–27, 2000 in Room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506. A portion of this meeting, from 10:30 a.m. To 12 p.m. on October 27th, will be open to the public for policy discussion and guidelines review.

The remaining portions of this meeting, from 9 a.m. To 5 p.m. on October 26th, and from 9–10:30 a.m.

and 12–3 p.m. on October 27th, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 12, 2000, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contract the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: September 22, 2000.

**Kathy Plowitz-Worden,**

*Panel Coordinator, Panel Operations, National Endowment for the Arts.*

[FR Doc. 00–24842 Filed 9–26–00; 8:45 am]

BILLING CODE 7537–01–M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–271]**

## Vermont Yankee Nuclear Power Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–28 issued to Vermont Yankee Nuclear Power Corporation (the licensee) for operation of the Vermont Yankee Nuclear Power Station (Vermont Yankee) located in Vernon, Vermont.

The proposed amendment would clarify the valve isolation signal information in the Technical Specification (TS) Table 4.7.2 and make an administrative change to the Table main steam isolation valves component identification. TS Table 4.7.2 lists containment isolation valves and the Primary Containment Isolation System (PCIS) groups to which the valves are assigned. Note 1 to Table 4.7.2 defines the isolation signals that are associated with the designated groups. The isolation signal description for Group 2 states that the valves are closed upon either low reactor water level or high drywell pressure. Residual heat removal (RHR) containment cooling valves V10–39A/B, V10–34A/B, V10–26A/B, V10–31A/B, and V10–38A/B are designated as Group 2 in Table 4.7.2 and isolate upon either (1) low-low reactor water level and low reactor pressure, or (2) high drywell pressure. Table 4.7.2 and associated Note 1 are being revised to clarify Group 2 isolation signals. Additionally, main steam isolation valve component identifications are revised by this proposed change to more clearly reflect all four inboard and outboard valves.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of the Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

No changes are being made to plant design, method of operation or method of testing. This change will not alter the basic operation of process variables, systems, or components as described in the safety analysis. No new equipment is introduced.

The proposed change does not affect the ability of the primary containment isolation system or ECCS systems to perform their required safety functions. The essential safety functions of providing primary containment integrity and providing water to cool the core in the event of an accident are maintained. There is no physical or operational change being made which would alter the sequence of events, plant response, or conclusions of existing safety analyses. This proposed change results in no impact on analyzed accident event precursors or effects.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve any physical alteration of plant equipment and does not change the method by which any safety-related system performs its function. As such, no new or different types of equipment will be installed, and the basic operation of installed equipment is unchanged. There is no change in plant operation that involves failure modes other than those previously evaluated. The methods governing plant operation and testing remain consistent with current safety analysis assumptions.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

No changes are being made to plant design, method of operation or method of testing. This change will not alter the basic operation of process variables, systems, or components as described in the safety analysis. No new equipment is introduced.

The proposed change does not affect the ability of the primary containment isolation system or ECCS systems to perform their required safety functions. The essential safety functions of providing primary containment integrity and providing water to cool the core in the event of an accident are maintained. There is no physical or operational change being made which would alter the sequence of events, plant response, or conclusions of existing safety analyses. This proposed change results in no impact on analyzed accident event precursors or effects.

This proposed change does not alter the physical design of the plant, methods or modes of operation, testing or analyses, thereby resulting in no impact on safety functions. Since the proposed change does not alter the means by which primary containment isolation is maintained and containment cooling valves are isolated in support of RHR LPCI actuation, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 27, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to David R. Lewis, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC, 20037–1128, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a

balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 14, 2000, which is available for public inspection at the Commission's Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 21st day of September, 2000.

For the Nuclear Regulatory Commission.

**Richard P. Croteau,**

*Sr. Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–24831 Filed 9–26–00; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Sunshine Act Meeting

**DATES:** Weeks of September 25, October 2, 9, 16, 23, and 30, 2000.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**MATTERS TO BE CONSIDERED:**

*Week of September 25*

Friday, September 29

9:25 a.m.
Affirmation Session (Public Meeting) (If needed)

9:30 a.m.
Briefing on Risk-Informing Special Treatment Requirements (Public Meeting) (Contact: Tim Reed, 301–415–1462)

This meeting will be webcast live at the Web address—*www.nrc.gov/live.html*

1:30 p.m.
Briefing on Threat Environment Assessment (Closed-Ex. 1)

*Week of October 2—Tentative*

Friday, October 6

9:25 a.m.
Affirmation Session (Public Meeting) (If needed)

9:30 a.m.
Meeting with ACRS (Public Meeting) (Contact: John Larkins, 301–415–7360)

*Week of October 9—Tentative*

There are no meetings scheduled for the Week of October 9.

*Week of October 16—Tentative*

Tuesday, October 17

9:25 a.m.
Affirmation Session (Public Meeting) (If needed)

*Week of October 23—Tentative*

Monday, October 23

1:55 p.m.
Affirmation Session (Public Meeting) (If needed)

*Week of October 30—Tentative*

There are no meetings scheduled for the Week of October 30.

*THE SCHEDULE FOR COMMISSION MEETINGS IS SUBJECT TO CHANGE ON SHORT NOTICE. TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 415–1292. CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: September 22, 2000.

**William M. Hill, Jr.,**

*SECY Tracking Officer, Office of the Secretary.*

[FR Doc. 00–24911 Filed 9–25–00; 2:12 pm]

BILLING CODE 7590–01–M

## NUCLEAR REGULATORY COMMISSION

### Notice of Correction to Biweekly Notice Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

On September 20, 2000, the **Federal Register** published the Biweekly Notice of Applications and Amendments to Facility Operating Licenses Involving Notice of Issuance of Amendments. On page 56964, column 2, TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, the numbers of the amendments issued should be Amendment Nos. 79 and 79.

Dated at Rockville, Maryland, this 21st day of September 2000.

For the Nuclear Regulatory Commission.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–24832 Filed 9–26–00; 8:45 am]

BILLING CODE 7590–01–P

## OFFICE OF MANAGEMENT AND BUDGET

### Cumulative Report on Rescissions and Deferrals

September 1, 2000.

Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of September 1, 2000, of three rescission proposals and two deferrals contained in one special message for FY 2000. The message was transmitted to Congress on February 9, 2000.

**Rescissions (Attachments A and C)**

As of September 1, 2000, three rescission proposals totaling $128 million have been transmitted to the Congress. Attachment C shows the status of the FY 2000 rescission proposals.

**Deferrals (Attachments B and D)**

As of September 1, 2000, $244 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 2000.

**Information From Special Message**

The special message containing information on the rescission proposals and deferrals that are covered by this cumulative report is printed in the edition of the **Federal Register** cited below:

65 FR 9017, Wednesday, February 23, 2000.

**Jacob J. Lew,**
*Director.*

## ATTACHMENT A—STATUS OF FY 2000 RESCISSIONS

[In millions of dollars]

| | Budgetary resources |
|---|---|
| Rescissions proposed by the President | 128.0 |
| Rejected by the Congress | ..... |
| Pending before the Congress for more than 45 days (available for obligation) | −128.0 |
| Currently before the Congress for less than 45 days | ..... |

## ATTACHMENT B—STATUS OF FY 2000 DEFERRALS

[In millions of dollars]

| | Budgetary resources |
|---|---|
| Deferrals proposed by the President | 1,622.0 |
| Routine Executive releases through September 1, 2000 (OMB/Agency releases of $1,394.2 million, partially offset by a cumulative positive adjustment of $16.1 million) | −1,378.0 |
| Overturned by the Congress | ..... |
| Currently before the Congress | 244.0 |

BILLING CODE 3110–01–P

**ATTACHMENT C**
**Status of FY 2000 Rescission Proposals - As of September 1, 2000**
**(Amounts in thousands of dollars)**

| Agency/Bureau/Account | Rescission Number | Amounts Pending Before Congress: Less than 45 days | Amounts Pending Before Congress: More than 45 days | Date of Message | Previously Withheld and Made Available | Date Made Available | Amount Rescinded | Congressional Action |
|---|---|---|---|---|---|---|---|---|
| **DEPARTMENT OF ENERGY** | | | | | | | | |
| Atomic Energy Defense Activities | | | | | | | | |
| Defense Environmental Restoration and Waste Management. | R00-1 | | 13,000 | 2-9-00 | * | | | |
| Energy Programs | | | | | | | | |
| SPR Petroleum Account | R00-2 | | 12,000 | 2-9-00 | * | | | |
| **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT** | | | | | | | | |
| Public and Indian Housing | | | | | | | | |
| Housing Certificate Fund | R00-3 | | 103,000 | 2-9-00 | * | | | |
| **TOTAL, RESCISSIONS** | | | **128,000** | | | | | |

* No funds were withheld.

ATTACHMENT D
Status of FY 2000 Deferrals - As of September 1, 2000
(Amounts in thousands of dollars)

| Agency/Bureau/Account | Deferral Number | Amounts Transmitted: Original Request | Amounts Transmitted: Subsequent Change (+) | Date of Message | Releases(-): Cumulative OMB/ Agency | Releases(-): Congressionally Required | Congressional Action | Cumulative Adjustments | Amount Deferred as of 9-1-00 |
|---|---|---|---|---|---|---|---|---|---|
| **DEPARTMENT OF STATE** | | | | | | | | | |
| Other | | | | | | | | | |
| United States Emergency Refugee and Migration Assistance Fund | D00-1 | 172,858 | | 2-9-00 | 27,548 | | | | 145,310 |
| **INTERNATIONAL ASSISTANCE PROGRAMS** | | | | | | | | | |
| International Security Assistance Economic Support Fund | D00-2 | 1,449,159 | | 2-9-00 | 1,366,605 | | | 16,133 | 98,687 |
| **TOTAL, DEFERRALS** | | **1,622,017** | | | **1,394,153** | | | **16,133** | **243,996** |

[FR Doc. 00–24846 Filed 9–26–00; 8:45 am]

BILLING CODE 3110–01–C

## POSTAL SERVICE

### Sunshine Act Meeting

**TIMES AND DATES:** 9 a.m., Monday, October 2, 2000; 8:30 a.m., Tuesday, October 3, 2000.

**PLACE:** Previously Published.

**STATUS:** October 2 (Closed); October 3 (Open).

**MATTERS TO BE CONSIDERED:**

Addition to Agenda

Tuesday, October 3—8:30 a.m. (Open)
Fiscal Year 2001 Annual Performance Plan

**CONTACT PERSON FOR MORE INFORMATION:** David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

**David G. Hunter,**
*Secretary.*

### TENTATIVE AGENDA

*Monday Session*

*October 2—9 a.m.* (Closed)—San Diego Marriott in Marina Ballroom D

1. Financial Performance. (Mr. Richard Strasser)
2. Fiscal Year 2001 Integrated Financial Plan. (Mr. Richard Strasser)
3. Establish/Deploy Process. (Mr. Patrick Donahoe)
4. Fiscal Year 2001 EVA Variable Pay Program. (Ms. Yvonne Maguire)
5. Overview of the Sales Organization. (Ms. Gail Sonnenberg)
6. Briefing on Advertising. (Mr. Allen Kane)
7. EEO Settlement Authority. (Ms. Mary Anne Gibbons)
8. Personnel Matters.
9. Compensation Issues.

*Tuesday Session*

*October 3—8:30 a.m.* (Open)—San Diego Marriott in Marina Ballroom D

1. Minutes of the Previous Meeting, August 28–29, 2000.
2. Remarks of the Postmaster General and CEO. (Mr. William Henderson)
3. Fiscal Year 2001 Annual Performance Plan. (Chairman Dyhrkopp)
4. Board of Governors Calendar Year 2001 Meeting Schedule. (Chairman Dyhrkopp)
5. Office of the Governors FY 2001 Budget. (Chairman Dyhrkopp)
6. Preliminary FY 2002 Appropriation Request. (Mr. Richard Strasser)
7. Capital Investments.
   a. Champaign, Illinois, Processing and Distribution Facility Expansion. (Mr. Danny Jackson)
   b. Stamford, Connecticut—New Springdale Station Additional Funding. (Ms. Diane Van Loozen)
8. Report on the San Diego District.
9. Tentative Agenda for the November 13–14, 2000, meeting in Washington, DC.

[FR Doc. 00–24912 Filed 9–25–00; 2:12 pm]

BILLING CODE 7710–12–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 35–27231; International Series Release No. 1232]**

### Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

September 20, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 13, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After October 13, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

**PowerGen PLC, et al. (70–9671)**

PowerGen plc (''PowerGen''), a public limited company organized under the laws of England and Wales, its wholly owned nonutility holding company subsidiaries, PowerGen US Holdings Limited (''US Holdings''), PowerGen US Investments Limited, Ergon US Investments Limited, PowerGen Luxembourg sarl, PowerGen Luxembourg Holdings sarl, PowerGen Luxembourg Investments sarl, PowerGen US Partnership and PowerGen U.S. Investments Corporation (these subsidiaries, ''Intermediate Companies''), each located at 53 New Broad Street, London EC2M 1SL, United Kingdom; [1] LG&E Energy Corp. (''LG&E Energy''), a public-utility holding company exempt from registration by order under section 3(a)(1) of the Act,[2] located at 220 West Main Street, Louisville, Kentucky 40232; LG&E Energy's wholly owned public-utility company subsidiaries Louisville Gas and Electric Company (''LG&E''), located at 220 West Main Street, Louisville, Kentucky 40232, and Kentucky Utilities Company (''KU'', located at One Quality Street, Lexington, Kentucky 40507, and LG&E Energy's nonutilty subsidiaries LG&E Capital Corp., LG&E Energy Marketing Inc. and LG&E Energy Power Inc., each located at 220 West Main Street, Lexington, Kentucky 40232 (collectively, ''Applicants''), have filed a joint application-declaration (''Application'') under sections 2(a)(7), 2(a)(8), 3(a)(1), 3(a)(2), 4, 5, 6(a), 7, 9(a), 10, 11(b), 12(b), 12(c), 13(b), 14, 15 and 33 of the Act, and rules 42, 43, 45, 46, 52, 53, 54, 80–91, 93 and 94 in connection with the proposed acquisition of LG&E Energy by PowerGen (''Merger'') and related transactions. Following the Merger, PowerGen and each of the Intermediate Companies will register under section 5 of the Act.

*Summary of Proposals*

PowerGen proposes to acquire all of the issued and outstanding common stock of LG&E Energy [3] (''LG&E Energy Common Stock''). Through the acquisition, PowerGen would indirectly acquire LG&E; KU; a 20% interest in Electric Energy, Inc. (''EEI'' and together with LG&E and KU, ''LG&E Energy Utility Subsidiaries''),[4] an electric utility company; and a 4.9% interest held by LG&E and a 2.9% interest held by KU in Ohio Valley Electric Company (''OEC''), an electric utility company; and LG&E Energy's direct and indirect nonutility subsidiaries (''LG&E Energy Nonutility Subsidiaries,'' and together

[1] The Intermediate Companies have been or will be formed prior to consummation of the proposed merger described in the filing.

[2] *See LG&E Energy Corp.,* Holding Co. Act Release No. 26886 (Apr. 30, 1998).

[3] LG&E Energy will merge with a Kentucky corporation to be formed as a direct, wholly owned subsidiary of PowerGen US Investments Corp. (''Merger Sub''), with LG&E Energy as the surviving entity.

[4] LG&E Energy's direct and indirect nonutility subsidiaries are described in Appendix A to this notice.

with the LG&E Energy Utility Subsidiaries, the ''LG&E Energy Subsidiaries''). PowerGen seeks to retain LG&E Energy and KU as public-utility holding company subsidiaries exempt from registration under sections 3(a)(1) and 3(a)(2), respectively. PowerGen seeks authority to engage in acquisition-related financing transactions; to retain the gas utility system of LG&E; and to retain PowerGen's existing utility and non utility activities, businesses and investments and the LG&E Energy Nonutility Subsidiaries. Applicants request that the Commission disregard: (1) For purposes of calculating the percentage limitation of rule 58, nonutility investments made by LG&E Energy prior to the effective date of rule 58; and (2) for purposes of applying section 11(b)(2) of the Act, the existence in the corporate structure of the Intermediate Companies and KU. Applicants further request authority: (1) To execute a system tax allocation agreement, (2) to establish a service company subsidiary and (3) to adopt utility and non utility service company agreements.

In addition, Applicants request authorization to engage in a series of financial transactions. Following the Merger, Applicants propose to maintain in place the existing financing arrangements of LG&E and its subsidiaries and to engage in a variety of transactions, including, among other things: (1) External financings by PowerGen, US Holdings, LG&E and KU, (2) intrasystem financings by the Intermediate Companies, LG&E and the LG&E Energy Subsidiaries (together with LG&E Energy, ''LG&E Energy Group''), (3) guarantees by PowerGen, US Holdings and members of the LG&E Energy Group securities and other obligations of their subsidiaries, (4) payment by members of the LG&E Energy Group of dividends out of unearned capital or surplus and (5) use of securities proceeds to invest in exempt wholesale generators and foreign utility companies.

*Parties*

PowerGen

PowerGen, through its subsidiaries, is a leading U.K. gas and electric company with significant investments in utility operations outside the U.K. and the U.S. PowerGen conducts its business through two direct subsidiaries: PowerGen U.K. which conducts PowerGen's U.K. businesses, and U.S. Holdings.[5] PowerGen U.K. serves as a holding company over PowerGen Energy (formerly East Midlands Electricity plc) and those PowerGen subsidiaries that will not be in the LG&E Energy chain of ownership following the Merger.

PowerGen U.K.'s primary businesses are generation and distribution of electricity. It is also involved, either directly or through its subsidiaries or investment interests, in the transportation, marketing and delivery of natural gas, and the development and operation of combined heat and power plants (*i.e.,* cogeneration) and renewable energy facilities (*i.e.,* wind farms).

PowerGen Energy, plc (''PowerGen Energy'') is the third largest regional electricity company in England and Wales. It distributes electricity to approximately 2.3 million residential and business customers in a service territory covering a 16,000 square kilometer area. PowerGen Energy operates a distribution network of over 67,000 kilometers of overhead lines and underground cables together with utility connections and metering services.

PowerGen U.K.'s other significant subsidiaries are: PowerGen CHP Limited and PowerGen CoGeneration Limited, subsidiaries that construct and operate power plants that provide electricity and heat or steam to industrial customers; PowerGen Energy Trading Limited, a subsidiary that trades electricity, gas and oil in seven energy trading markets in the U.K. and Europe; PowerGen Energy Solutions Limited, a subsidiary that provides tailored energy service products and advice to customers; PowerGen Renewables Holdings Limited, a 50% owned subsidiary that develops wind farms; PowerGen Gas Limited, a subsidiary that operates PowerGen U.K's natural gas pipelines in the U.K.; and PowerGen International Limited (''PowerGen International''), a power project developer involved in eleven projects in Europe, India and Asia.[6]

Prior to consummation of the Merger, either PowerGen U.K. or PowerGen Group Holdings, a holding company to be organized, intends to file Form U–57, under rule 57, claiming status as a foreign utility company (''FUCO'') under section 33 of the Act.[7] Applicants anticipate that the claimant will retain FUCO status following the Merger.

PowerGen's ordinary shares are listed on the London Stock Exchange (''LSE''). PowerGen has an American Depositary Share (''ADS'') program under which some of its shares trade in the United States as American Depositary Receipts (''ADRs'') on the New York Stock Exchange (''NYSE''). According to a report filed by PowerGen with the Commission on Form 20–F on March 29, 2000, in accordance with section 12(b) of the Securities Exchange Act of 1934, PowerGen had issued and outstanding as of January 2, 2000 649,726,502 ordinary shares, 50 pence par value per share, 49,998 shares of limited voting redeemable preference shares, 1 pound sterling par value per share, and one ''golden share.''[8] As of PowerGen's fiscal year ended January 2, 2000, PowerGen had revenues, net income and total assets of $6.058 billion, $1.819 billion, and $10.740 billion, respectively.[9]

LG&E Energy

LG&E engages in the generation, transmission, and distribution of electricity to approximately 366,000 customers in Louisville and adjacent areas in Kentucky. LG&E also purchases, distributes, and sells natural gas to approximately 295,000 customers within this service area and in limited additional areas. For the twelve months ended December 31, 1999, LG&E had electric operating revenues of $790.7 million, gas operating revenues of $177.6 million, electric operating income of $189.9 million, and gas operating income of $7.9 million. LG&E is subject to regulation by the Federal Energy Regulatory Commission (''FERC'') and the Kentucky Public Service Commission (''Kentucky Commission'').

KU is engaged in producing, transmitting, and selling electric energy to approximately 458,000 customers in over 600 communities and adjacent suburban and rural areas in 77 counties in central, southeastern and western Kentucky, and to approximately 29,000 customers in five counties in southwestern Virginia. In Virginia, KU

[5] PowerGen has one other direct subsidiary, PowerGen Share Scheme Trustee Limited (''Share Trustee''). Share Trustee, a trust company, administers employee stock plans to benefit the employees of PowerGen.

[6] PowerGen's subsidiaries and activities are described in Appendix A to this notice.

[7] PowerGen Group Holdings, a new, unlimited liability holding company, will be established between PowerGen and PowerGen UK. This measure will permit PowerGen International to become a sister company, rather than a subsidiary, of PowerGen UK. At the same time, it will create a single FUCO, with ownership of all FUCO businesses except those in the LG&E Energy Group.

[8] Applicants explain that the golden share, which is held by the U.K. government, effectively operates as governmental change-in-control regulation.

[9] All figures are presented on a U.S. Generally Accepted Accounting Procedures (''U.S. GAAP'') basis. The figures for revenues and net income were translated into dollars using a rate of U.S. $1.6172 for one pound, and the figure for total assets was translated using a rate of U.S. $1.6117 for one pound. Consistent with U.S. GAAP, PowerGen's share of joint ventures and associates' businesses is included in net income and assets but is omitted from revenues.

operates under the name Old Dominion Power Company. KU also sells electric energy at wholesale for resale to twelve Kentucky municipalities and one Pennsylvania municipality. In addition, KU owns and operates a small amount of electric utility property in one county in Tennessee.[10]

For the year ended December 31, 1999, KU had operating revenues of $937.3 million and operating income of $196.4 million. KU is subject to regulation by the FERC, the Kentucky Commission, the Virginia State Corporation Commission (''Virginia Commission ''), and the Tennessee Regulatory Authority (''Tennessee Commission'').

In addition to its utility subsidiaries, LG&E Energy has three direct, nonutility subsidiaries. LG&E Energy Foundation, Inc., a charitable foundation exempt from taxation under section 501(c)(3) of the Internal Revenue Code, makes charitable contributions to qualified entitles.[11] LG&E Energy Marketing Inc. (''LEM'') engages in energy marketing and trading.[12] LG&E Capital Corp, is a holding company for nonutility investments. Through various subsidiaries and joint ventures, LG&E Capital Corp. is involved in numerous energy-related businesses. These nonutility subsidiaries include: LG&E Credit Corp., which offers consumer lending programs and services in Louisville; LG&E International Inc., a management and holding company for international energy project investments and operations, each of which qualifies for FUCO status; LG&E Power, Inc., which develops, operates, maintains and owns interests in domestic power facilities, each of which qualifies as an exempt wholesale generator under section 32 of the Act or qualifying facility under the Public Utilities Regulatory Policy Act of 1978; WKE CORP., a company whose subsidiaries operate the Big Rivers Electric Corporation's generation facilities; and CRC-Evans International, Inc., which provides equipment and services used in the construction and rehabilitation of gas and oil piplines.[13]

As of February 29, 2000, there were 129,677,030 shares of LG&E Energy Common Stock outstanding. As of December 31, 1999, on a consolidated basis, LG&E Energy's assets, operating revenues, and net income were $5,133.8 million, $2,707.3 million, and $62.1 million, respectively.

*Proposed Merger and Resulting Structure*

In accordance with an Agreement and Plan of Merger dated February 27, 2000, among LG&E Energy, PowerGen, PowerGen US Investments Corp., a Delaware corporation to be formed as an indirect, wholly owned subsidiary of PowerGen, and Merger Sub (''Merger Agreement''), LG&E Energy will merge into Merger Sub, with LG&E Energy as the surviving entity. LG&E Energy will be an indirect, wholly owned subsidiary of PowerGen.

As consideration for each share of LG&E Energy Common Stock outstanding at the time of the Merger, LG&E Energy shareholders will receive $24.85 per share in cash, without interest.[14] LG&E Energy shareholders will not obtain any stock consideration from PowerGen in the Merger. Applicants estimate that total cash payable to LG&E Energy shareholders (''Cash Consideration''), based on the number of shares of LG&E Energy Common Stock outstanding on February 27, 2000, will be approximately $3.23 billion.[15]

PowerGen intends to establish the Intermediate Companies as intermediate holding companies in the corporate structure between PowerGen and LG&E Energy.[16] Applicants state that the Intermediate Companies will exist primarily to create an economically efficient structure for the Merger and the ongoing operations of PowerGen and the LG&E Energy Subsidiaries. Applicants request that the Commission disregard the Intermediate Companies, LG&E Energy and KU solely for purposes of section 11(b)(2) of the Act.

*Financing of the Merger*

As noted previously, the Cash Consideration for the Merger will be approximately $3.23 billion. PowerGen intends to finance the Merger by borrowings under a fully committed bank facility (''Credit Facility'').[17] PowerGen and U.S. Holdings established the Credit Facility on February 27, 2000. It was originally underwritten by five internationally recognized banks and subsequently syndicated among a larger group. It provides for up to $4.0 billion in borrowings by PowerGen, US Holdings and other Intermediate Companies that are subsidiaries of US Holdings as approved in writing by the banks, and guaranteed by PowerGen or US Holdings.[18] The Credit Facility has a final maturity of five years from the date of signing. To the extent necessary, Applicants request authorization for borrowings under the Credit Facility.

*Retention of LG&E's Gas System*

Applicants seek to retain the gas integrated public-utility system of LG&E in addition to the electric integrated public-utility system of LG&E Energy. Applicants have submitted a study of the gas utility operations that analyze the lost economies that these operations would suffer upon divestiture. Applicants represent that substantial lost economies would result from divestiture.

*Approval of Tax Allocation Agreement*

Applicants request approval of an agreement for the allocation of consolidated tax among PowerGen US Partnership, PowerGen US Investments Corp. and the LG&E Energy Group following the Merger (''Tax Allocation Agreement''). Approval is necessary because the Tax Allocation Agreement will provide for the retention by the PowerGen entities within the consolidated group of certain payments for tax losses, rather than the allocation of the losses to subsidiary companies without payment, as would otherwise be required by rule 45(c)(5) under the Act.

*Subsidiary Service Company and Affiliated Transactions*

Applicants propose to form a subsidiary service company of LG&E Energy, to be named LG&E Energy Services, Inc. (''LG&E Services''), to provide goods and services to members of the LG&E Energy Group, and to a lesser extent, to PowerGen and its other subsidiaries. Applicants request that LG&E Services be authorized under

[10] KU is also a holding company by reason of its ownership interests in OVEC and EEI. KU is exempt from registration by order under section 3(a)(1) of the Act. *See KU Energy Corp.,* Holding Co. Act Release No. 25409 (Nov. 13, 1991).

[11] As of December 31, 1999, the market value of the assets of LG&E Energy Foundation was $19.9 million.

[12] LEM has discontinued its merchant trading and sales business, but maintains the technical systems and personnel necessary to make power marketing sales from assets owned or controlled by its affiliates.

[13] LG&E Energy Subsidiaries are described in Appendix A of this notice.

[14] Under Kentucky law, dissenting shareholders are entitled to seek the judicially determined value of their common stock in lieu of the $24.85 provided in the Merger Agreement.

[15] Applicants state that the Merger is expected to have no effect on the outstanding public debt of the LG&E Energy Group.

[16] Applicants state that there will be no third party holders of voting equity securities in the Intermediate Companies.

[17] Applicants state that the Credit Facility was established both to fund the Merger and, if necessary, to provide funding and accommodate working capital needs of the Intermediate Companies and the LG&E Energy Group.

[18] Applicants state that, although the Credit Facility permits other borrowers, Applicants intend that US Holdings will be the only borrower, with a guarantee provided by PowerGen.

section 13(b) and rule 88 to provide goods and services to associate companies, and to charge for goods and services to LG&E Energy Subsidiaries under two separate service agreements, one for the LG&E Energy Utility Subsidiaries and one for the LG&E Energy Nonutility Subsidiaries. In addition, Applicants propose that members of the PowerGen System provide goods and services to the LG&E Energy Group. Presently, it is anticipated that the majority of trans-Atlantic goods and services will be provided by the PowerGen system, principally, PowerGen UK (or PowerGen Group Holdings, if applicable). Charges for services provided to public-utility associate companies will comply with the at-cost requirements of section 13.

In addition, Applicants request that the Commission grant an exemption under section 13(b) from the at-cost requirement of section 13 and rules 90 and 91 for any nonutility subsidiary of Powergen to provide services to: (1) Associate FUCOs and exempt wholesale generators (''EWGs'') that derive no part of their income, directly or indirectly, from the generation, transmission or distribution of electric energy for sale or the distribution of natural gas at retail in the United States; and (2) services provided to an associate EWG, qualifying facility (''QF''), or independent power project (''IPP'') provided that the purchaser of the electricity sold by the entity is not an associate company of LG&E Energy. No services will be provided at market-based rates to a QF, IPP or EWG that sells electricity to an LG&E Energy Utility Subsidiary.

Certain LG&E Energy Group companies have in place arrangements for the provision of facilities, personnel and services to other LG&E Energy Group companies, as described below. All such arrangements for the provision of goods, services and construction are provided at cost as determined in accordance with rules 90 and 91. Certain of the goods, services and construction to be provided by the providing company to the other LG&E Energy Group companies are provided through contracts with third parties. Where practicable, the contracting LG&E Energy Group companies will enter into assignments to LG&E Service of any such existing contracts. In addition, the Applicants expect that upon the expiration or renegotiation of the original contract for such goods, services and construction, LG&E Services will enter into new contracts with such third parties, in compliance with the requirements of rules 87, 90 and 91. The Applicants seek the necessary approval for the continued performance of these arrangements through December 31, 2001 in order to allow an orderly transition of such contracts and arrangements.

*Description of Financing Proposals*

Applicants request authority through February 28, 2004 (''Authorization Period'') to engage in a variety of financing transactions subsequent to the Merger including: (1) External financings and guarantees by PowerGen, US Holdings, LG&E Energy and the LG&E Energy Subsidiaries, (2) intrasystem financings by the Intermediate Companies, other special purpose PowerGen subsidiaries, LG&E Energy and the LG&E Energy Subsidiaries, (3) increases in the number of shares authorized by the Intermediate Companies with respect to any capital security, without further Commission authorization, (4) currency and interest rate hedging instruments, (5) acquisition, redemption or retirement of securities issued by the Intermediate Companies and members of the LG&E Energy Group, (6) the formation of financing entities and the issuance by those entities of securities authorized to be issued and sold under the authority requested in the Application, (7) acquisition of intermediate subsidiaries for the purpose of investing in EWGs, FUCO, rule 58 subsidiaries (''Rule 58 Subsidiaries''), exempt telecommunications companies (''ETCs'') and other non-exempt, nonutility subsidiaries, (8) reorganization and restructuring of the Intermediate Companies and the LG&E Energy Nonutility Subsidiaries, (9) investment of up to 100% of the PowerGen system's consolidated retained earnings post-Merger in EWGs and FUCOs, (10) financial reporting as described in the Application, (11) maintenance of the existing financial arrangements of the LG&E Energy Group and (12) the payment by the PowerGen, the Intermediate Companies and members of the LG&E Energy Group of dividends out of capital or unearned surplus. In addition, Applicants request an exemption for certain reporting requirements.

The proceeds from the sale of securities in external financing transactions by US Holdings and the LG&E Energy Group will be used for the general corporate purposes of the LG&E Energy Subsidiaries. The proceeds from the sale of the capital stock and short-term debt by PowerGen will be used by the PowerGen system, subject to any applicable limits on such uses.

The Applicants represent that no proceeds of financing by PowerGen will be used to acquire a new subsidiary, other than a special purpose financing entity as described below, unless such acquisition is consummated in accordance with an order of the Commission or an available exemption under the Act.

*PowerGen and US Holdings External Financing*

Applicants propose that PowerGen and US Holdings be granted authority to issue equity and debt securities in amounts that, except as noted below, would not aggregate more than $6 billion outstanding at any time during the Authorization Period (''Aggregate Limitation''). Debt incurred to finance the Merger, including any borrowings under the Credit Facility, would be included in the Aggregate Limitation. These securities could include, but would not necessarily be limited to, ordinary shares, preferred shares, options, warrants, long- and short-term debt (including commercial paper), convertible securities, subordinated debt, bank borrowings and securities with call or put options. In addition to the Aggregate Limitation, aggregate outstanding amounts of securities issued by PowerGen would be subject to the limits for each type of security described below:

| Security | $ billions |
|---|---|
| Ordinary Shares, including options and warrants | 4.0 |
| Preferred stock | 1.0 |
| Short-term debt financing | 4.0 |
| Long-term debt financing | 6.0 |

*Ordinary Shares*

PowerGen's common equity consists of ordinary shares, with a par value of 50 pence each, that are listed on the LSE. PowerGen currently has ADSs in the United States which trade as ADRs on the NYSE and are registered under the Securities Act of 1933, as amended.

Ordinary share financings by PowerGen covered by this Application may occur in any one of the following ways: (1) Through a pro rata rights offering directly to existing shareholders; (2) through underwriters or dealers under underwriting agreements of a type standard in the United Kingdom, the United States, or other places of sale; (3) through agents; (4) directly in private placements or other non-public offerings to a number of purchasers or a single purchaser; (5) directly to employees (or to trusts established for their benefit) and other shareholders through PowerGen's

employee benefit plans; (6) through the issuance of bonus shares (*i.e.*, stock splits or stock dividends) to existing shareholders; or (7) through the issuance of options or warrants to acquire ordinary shares.

PowerGen seeks authority to use its ordinary shares (or associated ADSs or ADRs) as consideration for acquisitions that are otherwise authorized under the Act. Among other things, transactions may involve the exchange of PowerGen equity securities for securities of the company being acquired in order to provide the seller with certain tax advantages. The PowerGen ordinary shares to be exchanged may, among other things, be purchased on the open market or may be original issue. For purposes of the $6.0 billion external financing limit, PowerGen ordinary shares used as consideration in an acquisition would be valued at market value based upon the last closing price of the ordinary shares on the LSE prior to the execution of the transaction agreement.

In addition to other general corporate purposes, the ordinary shares will be used to fund employee benefit plans. PowerGen currently has and Applicants propose that it maintain three employee benefit plans under which its employees may acquire ordinary shares of PowerGen as part of their compensation: (1) The PowerGen ShareSave Scheme, (2) the PowerGen Executive Share Option Scheme and (3) the PowerGen Restricted Share Plan. The PowerGen ShareSave Scheme is available to all eligible employees of PowerGen. It provides for the issuance of share options that are normally exercisable on completion of a three or five year ''save-as-you-earn'' contract. The exercise price of options granted may be at a discount of no more than 20% of the market price at the date of the grant. The PowerGen Executive Share Option Scheme is available to executive directors and other senior executives and managers selected by the Remuneration Committee of the Board of Directors. Options are generally exercisable between the third and tenth anniversaries of the date of the grant, and are granted at the market price of PowerGen's shares at the time of the grant or higher where options have previously been exercised at a higher rate. The PowerGen Restricted Share Plan involves two types of awards: (1) Medium Term Bonus Awards and (2) Annual Bonus Enhancement Awards. The Medium Term Bonus Awards are available to executive directors and senior managers selected by the Remuneration Committee. Shares of equivalent value to the annual bonus received by the participant are placed into trust. Subject to certain performance conditions being met, shares vest into the ownership of the participant after three and four years, and may be called for a year after that. The annual bonus Enhancement Awards are available to executive directors and managers who may elect to forgo some or all of their cash Annual Bonus. Shares of equivalent value to the bonus forgone are placed into trust, and if held in trust for a period of three years, are enhanced by PowerGen on the basis of one extra share for every four shares so held.

In addition, PowerGen may adopt one or more other plans which will provide for the issuance and/or sale of PowerGen ordinary shares, share options and share awards to a group which has not yet been determined but may include directors, officers and employees of the companies in the PowerGen System. PowerGen also has agreed to give holders of LG&E Energy stock options the right to convert those options into options for PowerGen ADSs. PowerGen may issue its ordinary shares under the requested authority described in this notice in order to satisfy its obligations under these plans. Ordinary shares for use under share plans may be newly issued shares or shares purchased in the open market. PowerGen or the Share Trustee may make open-market purchases of ordinary shares in accordance with the terms of or in connection with the operation of the plans.

Securities issued by PowerGen under all of the plans will be included within the $6.0 billion external financing limit and will be valued, if ordinary shares, at market value based on the closing price on the LSE on the day before the issuance of the shares. Options issued by PowerGen under the plans will be valued at zero until exercised.

Any ordinary shares issued by US Holdings will be issued solely to PowerGen absent additional authority from the Commission. However, Applicants propose that US Holdings issue non-voting preferred stock from time to time during the Authorization Period. Any preferred stock would have dividend rates or methods of determining the same, redemption provisions, conversion or put terms and other terms and conditions as US Holdings may determine at the time of issuance. All issuances of preferred stock will be at rates or prices, and under conditions negotiated under, based upon, or otherwise determined by competitive market conditions.

*PowerGen and US Holdings Short-Term Debt*

Applicants request that PowerGen and US Holdings may engage in short-term financing as each may deem appropriate in light of its needs and market conditions at the time of issuance. Financing could include, without limitation, commercial paper sold in established U.S. or European commercial paper markets, lines of credit with banks or other financial institutions and debt securities issued under an indenture or a note program. All transactions will be at rates or prices, under conditions negotiated using, based upon or otherwise determined by competitive market conditions.

*US Holdings Long-Term Debt*

Applicants propose that US Holdings issue long-term debt from time to time during the Authorization Period.[19] Any long-term debt would have the designation, aggregate principal amount, interest rate(s) or method of determining the same, terms of payment of interest, redemption provisions, non-refunding provisions, sinking fund terms, put terms and other terms and conditions as are deemed appropriate at the time of issuance. In addition, the long-term debt may be convertible into preferred shares of US Holdings or exchangeable for ordinary shares of PowerGen authorized to be issued hereunder. The maturity of any long-term debt will not exceed 50 years.

The long-term debt may be issued and sold under standard underwriting agreements or under negotiated bank facilities. In the case of public debt offerings, distribution may be effected through private negotiations with underwriters, dealers or agents, or through competitive bidding among underwriters. In addition, the long-term debt may be issued and sold through private placements or other non-public offerings to one or more persons. All transactions will be at rates or prices, under conditions negotiated using, based upon or otherwise determined by competitive market conditions.

In addition to the specific securities listed above, PowerGen and US Holdings may issue other types of securities during the Authorization Period that are not exempt from prior Commission approval. Applicants request that the Commission reserve jurisdiction over the issuance of additional types of securities by PowerGen and US Holdings. Applicants also undertake to have a post-effective

[19] PowerGen does not itself anticipate issuing long-term debt during the Authorization Period.

amendment filed in this proceeding that will describe the general terms of each such security and request a supplemental order of the Commission authorizing the issuance thereof. Applicants further request that each supplemental order be issued by the Commission without further public notice.

*Intermediate Company Financings*

The portion of an individual Intermediate Company's aggregate financing to be effected through the sale of equity securities to its immediate parent company during the Authorization Period cannot be determined at this time. It may happen that the proposed sale of capital securities may in some cases exceed the capital stock of a given Intermediate Company authorized at the date of the Merger, in which case the limit will be increased. In addition, an Intermediate Company may choose to use other forms of capital securities. Capital stock includes common stock, ordinary shares, preferred stock, other preferred securities, options and/or warrants convertible into common or preferred stock, rights, and similar securities. As needed to accommodate the sale of additional equity, Applicants request the authority to increase the amount or change the terms of any Intermediate Company's authorized capital securities, without additional Commission approval. The terms that may be changed include dividend rates, conversion rates and dates, and expiration dates. Applicants note that except for the financings of US Holdings described above, each of the Intermediate Companies will be wholly owned directly or indirectly by PowerGen and will not have third-party investors.

Applicants also propose that Intermediate Companies and LG&E Energy be authorized to borrow from its parent company. These inter-company loans would be on terms and conditions not materially less favorable than those obtainable by US Holdings from third parties.

Separately, US Holdings and its direct subsidiary, PowerGen US Investments Limited, will enter into parallel loans in order to effect a currency hedging transaction. Applicants believe that, although the transaction will be booked as loans, they do not constitute loans or extensions of credit within the meaning of section 12(a) of the Act and request approval of such transactions.

*PowerGen Capital and Luxembourg Securities*

Applicants propose for PowerGen to establish two subsidiaries, PowerGen Capital and Luxembourg Securities, sarl, which will stand outside the chain of the Intermediate Companies, to serve as conduits through which dividend payments from LG&E Energy are repatriated to PowerGen.

PowerGen Capital will be a sister company to US Holdings, and will not be in the chain of ownership between PowerGen and LG&E Energy. Applicants propose that PowerGen Capital issue non-voting ordinary shares to PowerGen Luxembourg sarl (''PowerGen Luxembourg''), an indirect subsidiary of US Holdings, and an Intermediate Company in the chain of ownership of LG&E Energy, and loan the proceeds from the sale to US Holdings.[20] Applicants state that PowerGen Capital will serve as a conduit through which dividend payments from LG&E Energy are repatriated to PowerGen in the most economically efficient manner, and ask that the transactions not be deemed to constitute an ''upstream loan'' for purposes of section 12(a).

Luxembourg Securities also will not be an Intermediate Company, but will be wholly owned by an Intermediate Company. At the time of the Merger, Luxembourg Securities will own voting preference share capital of PowerGen Luxembourg Holdings sarl (''PowerGen Luxembourg Holdings''), an Intermediate Company.[21] The ordinary shares of PowerGen Luxembourg Holdings will be owned by PowerGen Luxembourg, also an Intermediate Company. The only assets of Luxembourg Securities will be the preference shares of PowerGen Luxembourg Holdings and a participating loan note to be issued for tax purposes by PowerGen Luxembourg Holdings.[22] The funds that PowerGen Luxembourg Holdings will be using to make payments on the participating loan note will originate as lawfully payable dividends from LG&E Energy and these funds will be dividended by Luxembourg Securities to its immediate parent and, ultimately, to PowerGen.

Neither PowerGen Capital nor Luxembourg Securities will issue securities to third parties, nor will it be engaged in any substantive business activity other than to effect the dividend repatriation.

*LG&E Energy Group Financings*

Applicants seek Commission approval to retain the existing financing arrangements of members of the LG&E Energy Group, which, to this date, have been exempt from Commission authorization. These arrangements are more particularly described in Appendix B to this notice. Applicants request that the Commission authorize the existing financing arrangements through the Authorization Period.

*LG&E Energy Financing*

Applicants propose that LG&E Energy obtain funds externally through sales of short-term debt securities, which include commercial paper and bank financings. The aggregate amount of short-term debt of LG&E Energy to be outstanding at any one time during the Authorization Period shall not exceed $400 million. This financing could include, without limitation, commercial paper sold in established U.S. or European commercial paper markets, lines of credit with banks or other financial institutions, and debt securities issued under an indenture or a note program. Applicants also request that the Commission reserve jurisdiction over the issuance by LG&E Energy of additional types of securities and the amount thereof.

*LG&E Energy Utility Subsidiary Financing*

All securities of LG&E and KU, except for securities with maturities of two years or less, are approved by the Kentucky Commission. Accordingly, authority is requested for LG&E and KU to issue debt with maturities of two years or less to one or more associate or non-associate lenders, provided that the aggregate principal amount of such debt incurred by either at any one time during the Authorization Period not exceed $400 million outstanding. In addition, LG&E and KU may find it necessary or desirable to issue other types of securities during the Authorization Period that are not exempt from prior Commission approval. Applicants request that the Commission reserve jurisdiction over the issuance of such additional types of securities and the amount of these issuances.

[20] Applicants also seek authority for PowerGen Capital to issue non-voting ordinary shares to other Intermediate Companies and to loan the proceeds from any such issuance to US Holdings on commercially reasonable terms.

[21] Luxembourg Securities will own less than 1% of the voting securities of PowerGen Luxembourg Holdings.

[22] The terms of the participating loan note provide for the payment in any year, from dividend payments received in such year, an amount that causes the rate of tax credit for UK double tax relief purposes to be equivalent to the current rate of UK corporation tax.

*LG&E Energy Nonutility Subsidiary Financings*

The LG&E Energy Nonutility Subsidiaries have financing arrangements in place, which arrangements Applicants propose to maintain in place following the Merger. To the extent such financing arrangements are not exempt under rule 52, Applicants request authorization for such arrangements. These arrangements are more particularly described in Exhibit C to this Notice. Applicants believe that, in almost all cases, financings entered into by the LG&E Energy Nonutility Subsidiaries will be exempt from prior Commission authorization pursuant to rule 52(b). Applicants request authority, to the extent necessary, to engage in these transactions and ask that the Commission reserve jurisdiction over the issuance of these securities.

*Intra-System Financings*

The activities of LG&E Energy and the LG&E Energy Nonutility Subsidiaries are financed, in part, through inter-company loans. The sources of funds for the operations of LG&E Energy and the LG&E Energy Nonutility Subsidiaries include internally generated funds and proceeds of external financings. Outside of borrowings from the LG&E Money Pool (as defined below), there were outstanding as of December 31, 1999, inter-company loans among LG&E Energy and the LG&E Energy Nonutility Subsidiaries in a net principal amount of approximately $757 million, including upstream loans from LG&E Capital to LG&E Energy in the aggregate amount of approximately $230 million.

The Applicants request authorization to maintain in place the existing intercompany loans.[23] In addition, the Applicants request authorization for additional inter-company loans among LG&E Energy and the LG&E Energy Nonutility Subsidiaries in a net principal amount at any one time outstanding during the Authorization Period not to exceed $1.0 billion. The authorization for inter-system financing requested in this paragraph excludes (1) financing that is exempt pursuant to rules 45(b) and 52, as applicable, and (2) amounts outstanding from time to time under the LG&E Money Pool and/or the Utility Money Pool and Nonutility Money Pool. These financings would generally be in the form of cash capital contributions, open account advances, intercompany loans, and/or capital stock purchases. The terms and conditions of intercompany loans available to any borrowing company will be materially no less favorable than the terms and conditions of loans available to such borrowing company from thirdparty lenders.

*Money Pools*

LG&E Energy, LG&E and KU currently participate in a money pool (''LG&E Money Pool''). Through the LG&E Money Pool, LG&E and KU make unsecured short-term borrowings from the money pool and contribute surplus funds to the money pool. LG&E Energy contributes surplus funds to the LG&E Money Pool, but does not borrow from the LG&E Money Pool. At March 31, 2000, LG&E Energy and LG&E were contributors to the LG&E Money Pool and KU had borrowings from the LG&E Money Pool of approximately $17.2 million.

Applicants request that the Commission authorize the continuation of the LG&E Money Pool for an interim period not to exceed two years to permit LG&E Energy to make a transition from the LG&E Money Pool to the Utility Money Pool and the Nonutility Money Pool as discussed below.

Applicants propose that LG&E Energy, LG&E, KU and the LG&E Energy Nonutility Subsidiaries replace the LG&E Money Pool with the Utility Money Pool and Nonutility Money Pool and request authority to do so. Further, LG&E and KU, to the extent not exempted by rule 52, also request authorization to make unsecured short-term borrowings from the Utility Money Pool, to contribute surplus funds to the Utility Money Pool and to lend and extend credit to (and acquire promissory notes from) one another through the Utility Money Pool. Applicants request authorization for LG&E Energy to contribute surplus funds and to lend and extend credit to (1) LG&E and KU through the Utility Money Pool and (2) LG&E Energy Nonutility Subsidiaries through the Nonutility Money Pool. Under the proposed terms of the Utility Money Pool, short-term funds would be available from surplus funds in the treasuries of the LG&E Energy, KU and the LG&E (''Internal Funds''), surplus funds in the treasury of LG&E Energy, and proceeds from bank borrowings by Utility Money Pool participants or the sale of commercial paper by the Utility Money Pool participants for loan to the Utility Money Pool (''External Funds'').

Utility Money Pool participants that borrow would borrow pro rata from each company that lends, in the proportion that the total amount loaned by each such lending company bears to the total amount then loaned through the Utility Money Pool.

If only Internal Funds make up the funds available in the Utility Money Pool, the interest rate applicable and payable to or by the Utility Money Pool participants for all loans of such Internal Funds outstanding on any day will be the rates for high-grade unsecured 30-day commercial paper sold through dealers by major corporations as quoted in the Wall Street Journal on the preceding business day. If only External Funds comprise the funds available in the Utility Money Pool, the interest rate applicable to loans of such External Funds would be equal to the lending company's cost for such External Funds, or, if more than one Utility Money Pool participant had made available External Funds on such day, the applicable interest rate would reflect a weighted average of the two rates.

Funds not required by the Utility Money Pool to make loans (with the exception of funds required to satisfy the Utility Money Pool's liquidity requirements) would ordinarily be invested in one or more short-term investments, including: (1) Interest-bearing accounts with banks, (2) obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities, including obligations under repurchase agreements, (3) obligations issued or guaranteed by any state or political subdivision thereof, provided that such obligations are rated not less than ''A'' by a nationally recognized rating agency, (4) commercial paper rated not less than ''A–1'' or ''P–1'' or their equivalent by a nationally recognized rating agency, (5) money market funds, (6) bank certificates of deposit, (7) Eurodollar funds and (8) such other investments as are permitted by section 9(c) of the Act and rule 40. The interest income and investment income earned on loans and investments of surplus funds would be allocated among the participants in the Utility Money Pool in accordance with the proportion each participant's contribution of funds bears to the total amount of funds in the Utility Money Pool.

Each Applicant receiving a loan through the Utility Money Pool would be required to repay the principal amount of such loan, together with all

[23] If LG&E Energy is denied its request for continuing exemption under section 3(a)(1) of the Act, upstream loans to LG&E Energy would violate section 12(a) of the Act as of the moment LG&E Energy registers as a holding company. In such event, LG&E Energy requests that these borrowings and extensions of credit not be deemed illegal under the Act, pending their repayment over a reasonable period of time. Because of the amount of the borrowings, LG&E Energy requests that it be granted two years from the date of the order authorizing the proposals in this Application to repay these borrowings and eliminate the extensions of credit.

interest accrued thereon, on demand. All loans made through the Utility Money Pool may be prepaid by the borrower without premium or penalty.

The Nonutility Money Pool will be operated substantially on the same terms and conditions as the Utility Money Pool. All contributions to, and borrowings from, the Nonutility Money Pool are exempt under the terms of rule 52 under the Act, except contributions and extensions of credit by LG&E Energy, authorization for which applicants request authority. LG&E Services will administer the Utility and Nonutility Money Pools on an ''at cost'' basis and will maintain separate records for each money pool.

*Guarantees*

Applicants request authority for PowerGen to guarantee obligations incurred by US Holdings under the Aggregate Limitations. In addition, Applicants request that PowerGen and US Holdings to enter into guarantees, obtain letters of credit, extend credit or otherwise provide credit support with respect to the obligations of the Intermediate Companies and members of the LG&E Energy Group as may be appropriate to enable such system companies to carry on their respective authorized or permitted businesses. Guarantees entered into pursuant to this authorization by PowerGen and US Holdings will be subject to a $2.5 billion limit, based upon the amount at risk outstanding at any one time, which amount is in addition to guarantees by PowerGen of securities issued by US Holdings under the Aggregate Limitation.

*Existing Guarantees of the LG&E Energy Group*

Members of the LG&E Energy Group have in place certain guarantees and other credit support arrangements, more particularly described in Appendix D to this notice, which arrangements Applicants request that the Group maintain following the Merger (''Existing Guarantees''). In addition, Applicants request authorization for LG&E Energy to enter into guarantees, extend credit and obtain letters of credit expense agreements and otherwise to provide credit support for the obligations from time to time of the LG&E Energy Subsidiaries during the Authorization Period in an aggregate principal amount not to exceed $1.5 billion, based on the amount at risk, outstanding at any one time, exclusive of the Existing Guarantees.

In addition, the Applicants request authorization for the LG&E Energy Nonutility Subsidiaries to enter into guarantees, extend credit, obtain letters of credit or otherwise provide credit support with respect to the obligations of the other LG&E Energy Nonutility Subsidiaries as may be appropriate to enable the LG&E Energy Nonutility Subsidiaries to carry on their businesses, in an aggregate principal amount not to exceed $1.5 billion outstanding at any one time, exclusive of the Existing Guarantees and any guarantees that may be exempt under rule 45(b).

*Interest Rate and Currency Risk Management Devices*

Applicants request authority to enter into, perform, purchase and sell financial instruments intended to manage the volatility of interest rates and currency exchange rates, including but not limited to interest rate and currency swaps, caps, floors, collars and forward agreements or any other similar agreements. Activities of this nature could include (1) converting variable rate debt to fixed rate debt, (2) converting fixed rate debt to variable rate debt, (3) limiting the impact of changes in interest rates resulting from variable rate debt and (4) hedging currency exposures of foreign currency denominating debt. In addition, the Applicants may utilize instruments to manage interest rate and currency risks in future periods for planned issuances of debt securities. In no case will the notional amount of any hedging instruments exceed that of the underlying debt instrument.

*Acquisition, Redemption or Retirement of Securities*

Applicants propose that each of PowerGen, the Intermediate Companies and each member of the LG&E Energy Group acquire, redeem, or retire its securities or those of its direct and indirect subsidiaries, which securities may be either outstanding presently or issued and sold in the future from time to time during the Authorization Period.

*Financing Entities*

Applicants request authority for US Holdings and the LG&E Energy Subsidiaries to organize and acquire voting interest in or equity securities of new corporations, trusts, partnerships or other entities created for the purpose of facilitating financing through their issuance to third parties of trust preferred securities or other securities authorized by the Application. Applicants also request authority for these financing entities to issue the securities to third parties. Additionally, Applicants request authority with respect to (1) the issuance of debentures or other evidences of indebtedness by any of US Holdings and the LG&E Energy Subsidiaries to a financing entity in return for the proceeds of the financing and (2) the guarantee by PowerGen, US Holdings or the LG&E Energy Subsidiaries of the financing entity's obligations in connection with its issuance of securities. Any amounts issued by financing entities to third parties under these authorizations will count against the external financing limit for US Holdings or and of the LG&E Energy Subsidiaries, as applicable. However, the underlying intra-system mirror debt and guarantee will not count against any applicable intercompany financing limit or the separate guarantee limits for PowerGen and US Holdings, or for the LG&E Energy Group.

*Receivables Factoring Program*

Applicants propose that each of LG&E and KU, prior to the closing of the Merger, implement a receivables factoring program, providing for the factoring of accounts receivable (''Receivables''), including outstanding consumer billings, through one or more existing or newly-formed subsidiaries of LG&E and KU (''Receivables Sub''), to one or more unaffiliated third parties (''Purchasers''). Each Receivables Sub will purchase Receivables from the related associate company as the Receivables are generated at a discount based on, among other things, the collection history of the associate company.

Each Receivables Sub will enter into purchase and sale agreements with one or more Purchasers under which Receivables Sub may sell (from time to time in its discretion and subject to the satisfaction of certain conditions precedent) fractional, undivided ownership interests expressed as a percentage (''Receivable Interests'') in (1) Receivables of its related associate company and (2) certain related assets, including any security or guarantee for the Receivables, all collections thereon and related record (''Related Assets''). The Purchasers of the Receivable Interests are expected to be special purpose corporations, which acquire receivables and other assets and issue commercial paper to finance these acquisitions and/or financial institutions, and their respective successors or assigns.

Primarily because of the reserves that are included in the calculation of the Receivable Interests sold to the Purchasers, the purchase price paid by the Purchasers for the Receivable Interests will be lower than the purchase price paid by the Receivables

Sub to the associate company for the Receivables and Related Assets. The funds available at the Receivables Sub at any time may not match the cost of the Receivables and Related Assets available for purchase from the associate company. In the event that the Receivables and Related Assets originated by an associate company exceeds the amount of cash that the applicable Receivables Sub has available, either the Receivables Sub will pay the purchase price of the Receivables in part in cash and in part through the use of an inter-company note, or the associate company will make an additional capital contribution to the Receivables Sub in the form of excess Receivables and Related Assets.

Applicants state that, for financial reporting purposes, LG&E Energy will treat the transfer of Receivables Interest from associate companies to the Receivables Subs as sales under U.S. GAAP. Applicants request that the Commission authorize the retention of existing Receivables Subs, the creation of new subsidiaries for the purpose of acting as Receivables Subs and the payment of dividends or other distributions by the Receivables Subs to their own parent companies, to the extent the dividends or other distributions may be considered to be paid out of capital or unearned surplus. Applicants also request that the Commission authorize the inter-company notes issued by the Receivables Subs to its parent, as described above. These inter-company notes will not be counted against the intra-system financing limit requested.

*Intermediate Subsidiaries*

Applicants propose that LG&E Energy and the LG&E Energy Nonutility Subsidiaries acquire the securities of one or more intermediate subsidiaries (''LG&E Energy Intermediate Subsidiaries''), which would be organized exclusively for the purpose of acquiring, holding and/or financing the acquisition of the securities of, or other interest in, one or more EWGs, FUCOs, Rule 58 Subsidiaries, ETCs or other nonexempt, nonutility subsidiaries, provided that the LG&E Energy Intermediate Subsidiaries may also engage in development activities and administrative activities relating to these subsidiaries. Investments in LG&E Energy Intermediate Subsidiaries may take the form of any combination of the following: (1) Purchases of capital shares, partnership interests, member interests in limited liability companies, trust certificates or other forms of equity interests, (2) capital contributions, (3) open account advances with or without interest, (4) loans and (5) guarantees issued, provided or arranged in respect of the securities or other obligations of any LG&E Energy Intermediate Subsidiaries.

*Reorganization*

Applicants propose that the Intermediate Companies receive a general grant of authority to adjust the capital structure of the Intermediate Companies from time to time, in order to reflect tax and accounting changes after the Merger, without the need to apply for or receive prior Commission approval, on the condition that the reorganization will not result in (1) any Intermediate Company being organized under any jurisdiction other than a member state of the European Union with which the United States has a Double Taxation Treaty, or a state of the United States, (2) any Intermediate Companies not being wholly-owned, directly or indirectly, by PowerGen or, other than in respect of the debt and preferred stock of US Holdings, having third party investors, (3) the Intermediate Companies being engaged in any business or trade other than the business of owning, directly or indirectly, equity securities of LG&E Energy and the financing transactions described in the notice and (4) any of the Intermediate Companies being regulated by United Kingdom or other third country regulatory authorities having jurisdiction over electricity rates and service. Such restructurings may involve the creation of new, the elimination of existing or the consolidation of Intermediate Companies and/or the re-incorporation of an Intermediate Company in a different jurisdiction.

In addition, Applicants request authority for LG&E Energy to reorganize and restructure the LG&E Energy Nonutility Subsidiaries from time to time, without the need to apply for or receive prior Commission approval, on the condition that the reorganization will not result in the entry by the LG&E Energy Nonutility Subsidiaries into new lines of business that have not previously been authorized by the Commission or that are not permissible on an exempt basis under the Act or Commission rule. These restructurings may involve the creation of new, or the elimination of existing, LG&E Energy Nonutility Subsidiaries, the consolidation of LG&E Energy Nonutility Subsidiaries, the spin-off of a portion of an existing business of an LG&E Energy Nonutility Subsidiary to another LG&E Nonutility Subsidiary, the reincorporation of an existing LG&E Energy Nonutility Subsidiary in a different state, the transfer of authority from one LG&E Energy Nonutility Subsidiary to another, the transfer or sale of one LG&E Energy Nonutility Subsidiary, or its assets, to LG&E Energy or another LG&E Energy Nonutility Subsidiary or other similar type arrangements.

*EWG/FUCO Related Financings*

As a general matter, PowerGen intends to fund its FUCO activities at the level of its first-tier subsidiary, PowerGen UK (or PowerGen Group Holdings, as applicable), under which PowerGen subsidiaries, other than the Intermediate Companies and the LG&E Energy Group, will be segregated. However, under certain circumstances, it may be desirable from time to time for PowerGen to provide some additional investment capital or credit support for FUCO acquisitions or operations. At the end of the fiscal year 1999 (as adjusted for investments subsequently sold), the combined LG&E Energy Group and PowerGen ''aggregate investment'' in EWGs and FUCOs was approximately $1.270 billion. This investment represents 77% of PowerGen consolidated retained earnings at the end of fiscal year 1999, calculated in accordance with U.S. GAAP. Applicants seek authority to finance, after the Merger, additional EWG and FUCO investments and operations in an aggregate amount of up to 100% percent of the consolidated retained earnings of the entire PowerGen system at any one time outstanding during the Authorization Period. These financings may include the issuance or sale of securities for the purpose of financing the acquisition or operations of an EWG or FUCO or the guarantee of a security of an EWG or FUCO.

*Payment of Dividends*

Applicants will use the purchase method of accounting for the Merger. Applicants state that, under applicable exemptions to these accounting rules, PowerGen is not required to ''push down'' the premium paid in the Merger to the LG&E Energy Group. However changes in circumstances or changes in accounting principles or the application thereof may result in such a pushdown or a similar non-cash charge to retained earnings. Accordingly, Applicants request authority for PowerGen, the Intermediate Companies and members of the LG&E Energy Group to pay dividends out of additional paid-in-capital up to the amount of LG&E Energy's consolidated retained earnings just prior to the Merger and out of earnings before the amortization of goodwill after the Merger. In addition,

Applicants request authorization for the LG&E Energy Nonutility Subsidiaries to pay dividends with respect to the securities of companies, from time to time through the Authorization Period, out of capital and unearned surplus capital (including revaluation reserve), to the extent permitted under applicable corporate law.

*Requests for Exemption From Rule 26(a)(1)*

Applicants request an exemption from rule 26(a)(1) under the Act, regarding the maintenance of financial statements in conformance with Regulation S-X, for any subsidiary of PowerGen UK (or PowerGen Group Holdings as of its formation) organized outside the United States. Any FUCO acquired directly or indirectly by PowerGen subsequent to the issuance of an order in this Application will maintain its financial statements in accordance with U.S. GAAP or reconcile such statements to U.S. GAAP in the same manner as required by Form 20–F.

## Appendix A—Nonutility Businesses

*PowerGen*

I. FUCOs and ETCs

PowerGen owns, directly or indirectly, the following interests in foreign utility companies (''FUCOs'') and exempt telecommunications companies (''ETCs'') (all of the following subsidiaries or affiliates are 100% owned, except where noted): Telecentric Solutions Ltd (internet sales services; ETC); PowerGen UK plc (electric generation and holding and financing company over subsidiaries; FUCO); 33.3% interest in Phambile Nobane (Proprietary) Ltd (gas distribution project in South Africa; FUCO); PowerGen CHP Ltd (development and operation of cogeneration plant in UK and holding company and financing company for PowerGen Cogeneration Ltd and Biogeneration Ltd; FUCO and energy-related company); PowerGen Cogeneration Ltd (operates cogeneration plant in UK; FUCO or energy-related company); 50% interest in Biogeneration Ltd (operates biomass plant in UK; FUCO or energy-related company); 50% interest in PowerGen Renewables Ltd (operates 9 windfarms in UK; FUCO or energy-related company); 25% interest in Yorkshire Windpower Ltd (operates 2 windfarms in UK; FUCO or energy-related company); 25% interest in TPG Wind Ltd (operates 1 windfarm in UK; FUCO or energy-related company); Gen Net. Com Ltd (internet services provider; ETC); PowerGen Systems & Services (information technology services company; ETC); Garnedd Power Co Ltd (hydro electric plant in Wales; FUCO); PowerGen Retail Gas Ltd (gas retail in UK; FUCO); 99% interest in PT PowerGen Jawa Timur (operator of Paiton station in Indonesia; FUCO); 49.99% interest in Turbogas Produtora Energetica SA (owner of Tapada station in Portugal; FUCO); 75% interest in Portugen Energia SA (operator of Tapada station in Portugal; FUCO); Csepel Eromu Rt (owner of Csepel I plant in Hungary; FUCO); PowerGen Energia RT (operator of Csepel II project in Hungary; FUCO); Csepel Aramtermelo (owner of Csepel II station in Hungary, which is under construction; FUCO); 49.5% interest in Yallourn Energy PTY Ltd (owner of Yallourn station in Australia; FUCO); 74.1% interest in Gujarat PowerGen Energy Corporation (owner of Pagathan plant in India; FUCO); 20.5% interest in Kraftwerk Schkopau GbR (owner of Schkopau plant in Germany; FUCO); 22.5% interest in Kraftwerk Schkopau B'Gessellschaft GmbH (operator of Schkopau plant in Germany; FUCO); 49.9% interest in LG Energy Co Ltd (owner of Bugkok plant; FUCO); and 35% interest in PT Jawa Power (owner of Paiton station in Indonesia; FUCO); PowerGen Energy plc (electric distribution in UK and holding company for PowerGen Retail Gas Ltd, East Midlands Electricity Gen Ltd, Charnwood Insurance Co Ltd, Coppice Insurance Co Ltd, East Midlands Electricity Gen (IPG) Ltd, Phambile Nobane (Proprietary) Ltd, and 29 dormant companies; FUCO).

*II. Intermediate Holding Companies and Financing Entities*

PowerGen owns, directly or indirectly, the following interests in intermediate holding companies holding, or financing entities financing, its nonutility business interests (all of the following subsidiaries or affiliates are 100% owned, except where noted): PowerGen (Kentucky) Ltd (representative office in UK for PowerGen's interest in LG&E Energy Corp.); PowerGen East Midlands Investments (holding and financing company for PowerGen Energy plc, an electric distribution company and holding company for other energy facilities); PowerGen (East Midlands) Holdings (financing company); East Midlands Electricity Gen (Non Fossil) Ltd (holding company for Biogas Generation Ltd, an energy-related company); PowerGen Directors Ltd (company administration); PowerGen Secretaries Ltd (company administration); PowerGen Investments Ltd (holding and finance company for PowerGen Renewables Holdings Ltd); 50% interest in PowerGen Renewables Holdings Ltd (holding and finance company for PowerGen Renewables Ltd); PowerGen Finance Ltd (finance company); Ergon Finance Ltd (finance company); PowerGen Energy Solutions (energy management company in UK and holding company for DelComm Ltd, a dormant company; also qualifies as energy-related company); Ergon Nominees Ltd (finance company); PowerGen Projects Consultancy Ltd (with Malaysian Branch) (project management; also qualifies as energy-related company); PowerGen International Limited (holding and financing company for PowerGen Overseas Holdings Limited, Visioncash, Ergon Overseas Holdings Ltd, Inputrapid Ltd, Ergon Energy Ltd, PowerGen Serang Ltd, and North Queensland Power Ltd); PowerGen Overseas Holdings Limited (holding and finance company for Ergon Generation (Malaysia) Sdn Rhd, a dormant holding company); Visioncash (finance company); Ergon Overseas Holdings Ltd (holds 84% of, and serves as finance company for, PowerGen Holdings BV, which is a holding and finance company); Inputrapid Ltd (holds 16% of, and serves as finance company for, PowerGen Holdings BV); PowerGen Holdings BV (holding and finance company for sixteen direct subsidiaries); PowerGen Nederland BV (finance company); 33% interest in MIBRAG BV (finance company for Mibrag lignite mine in Germany); 33% interest in MIBRAG IB GmbH (finance company for Mibrag lignite mine in Germany); 33% interest in MIBRAG IV GmbH (finance company for Mibrag lignite mine in Germany); 33% interest in MIBRAG IVB GmbH (finance company for Mibrag lignite mine in Germany); PowerGen Australia Holdings BV (finance company for Yallourn Energy Pty Limited, a FUCO); PowerGen Australia BV (finance company for Yallourn Energy Pty Limited, a FUCO); PowerGen Aus PTY Ltd (finance company); 49.5% interest in Auspower PTY Ltd (finance company); 49.5% interest in Mezzco PTY Ltd (financing partnership); PowerGen India Ltd (holds 46.3% of the Gujarat PowerGen Energy Corporation (''Gujarat''), a FUCO, with PowerGen BV Holdings holding 27.8%; also serves as financing company for Gujarat); 50% interest in Saale Energie GmbH (financing company for Schkopau plant); 40% interest in PT Power Jawa Barat (developer of Serang project, a prospective power station in Indonesia; also qualifies as an energy-related company); 35% interest in BLCP Power Limited (developer of Map Ta Phut project, a prospective power station in Thailand; also qualifies as an energy-related company); PowerGen (Malaysia) Sdn Bhd (regional headquarters of PowerGen in Malaysia; operation headquarter support service); Ergon Energy Ltd (holding and finance company for PT Jawa Power, a FUCO); 49.95% interest in LLPCo Holdings Ltd (holding and finance company for LLPCo PTY Ltd); 49.95% interest in LLPCo PTY Ltd (manages Yallourn Investments); 49.95% interest in Yallourn Investments, A Limited Partnership (LLP) (financing partnership for Yallourn station); and 49.95% interest in Meerco PTY Ltd (finance company for Yallourn Energy Pty Limited, a FUCO).

III. Energy-Related Companies

The following is a list of the companies Applicants assert are energy-related companies, owned directly or indirectly by PowerGen (all of the following subsidiaries or affiliates are 100% owned, except where noted): EME Industrial Shipping Ltd (gas shipping in UK); 50% interest in Biogas Generation Ltd (waste combustion in UK); East Midlands Pipelines Ltd (installation and operation of gas pipelines); PowerGen Energy Trading Ltd (energy trading in Europe); 50% interest in PowerGen Renewables Developments Ltd (develops windfarms in UK; holding company for Blyth Offshore Wind Ltd); 16.5% interest in Blyth Offshore Wind Ltd (developing an offshore windfarm); 50% interest in Fusers Ltd (develops windfarms in Ireland; holding company for Tursillagh Windfarm Ltd); 25% interest in Tursillagh Windfarm Ltd (develops windfarms in Ireland); 50% interest in Cottam Development Centre Ltd (turbine testing/operation in UK); PowerGen Gas Ltd (gas pipeline transportation and operation in

UK); 33% interest in MIBRAG mbH (owner of Mibrag lignite mine in Germany); 49% interest in Bina Power Supply Company Limited (developer of Bina project); and 49.5% interest in Saale Energie Services GmbH (consultancy services).

IV. Nonutility Companies Authorized by Order or Commission Precedent

In addition to the above nonutility subsidiaries and affiliates, PowerGen also owns interests in the following nonutility entities, a description of which follows each entity's name in parentheses (all of the following subsidiaries or affiliates are 100% owned, except where noted): Ergon Pensions Trustee Ltd (pension scheme trustee); PowerGen Share Trustees Ltd (share scheme trustee); PowerGen Share Scheme Trustee Limited (Qualifying Employee Trust Company); Charnwood Insurance Co Ltd, Guernsey (captive insurance company); 58.9% interest in Hams Hall Management Co Ltd (property management company); East Midlands Electricity Share Scheme Trustees Ltd (staff share scheme trustee); and Ergon Insurance Ltd (captive insurance company).

V. Inactive Companies

PowerGen also, directly or indirectly, owns the following inactive companies (all of the following subsidiaries or affiliates are 100% owned, except where noted): Central England Networks Ltd; Drakmarn O&M Ltd; Electricity Ltd; Ergon Properties Ltd; First Energy (UK) Ltd; Kinesis Resources Ltd; Kinesis Resource Management Ltd; Kinetica Ltd; Lincoln Green Energy Ltd; PowerGas Ltd; PowerGen Leasing Ltd; PowerGen Technology Ltd; The Power Generation Company Ltd; Wavedriver Ltd; Coppice Insurance Co Ltd, Guernsey; East Midlands Electricity Gen (IPG) Ltd; Derek B Haigh Ltd; East Midlands Electricity Distribution Ltd; East Midlands Electricity Generation (Rugby) Ltd; East Midlands Electricity Supply Ltd; East Midlands Telecommunications Ltd; EMCO Ltd; EME Employment Co Ltd; EME Employment Co No. 2 Ltd; Furse Earthing and Lightning Project Systems Ltd; Furse Specialist Contracting Ltd; Homepower Retail (EME) Ltd; J Smith (Southern) Ltd; M MacDonald & Co Ltd; Padfield and Howes Ltd; Ransome Properties Ltd; SGB (Steeplejacks) Ltd; Statco 2 Ltd; Statco 3 Ltd; Statco 4 Ltd; Statco 5 Ltd; Statco 6 Ltd; Statco 7 Ltd; The Peerless Engineering Co Ltd; The Santon Steeplejacks Co Ltd; 50% interest in Windy Hills Ltd; DelComm Ltd; PowerGen Brasil Limitada; Csepel Holdings BV; 40% interest in North Queensland Power Ltd; Powerconsult Ltd; Powercoal Ltd; Ergon Power Ltd; Ergon Generation (Malaysia) Sdn Bhd (to be used in possible Malaysia energy projects); and PowerGen Serang Ltd (will be holding company for Serang project, a prospective power station in Indonesia).

*LG&Energy*

I. EWGs, FUCOs, and QFs

LG&E Energy owns, directly or indirectly, the following interests in exempt wholesale generators (''EWGs''), foreign utility companies (''FUCOs''), and qualifying facilities (''QFs'') (all of the following subsidiaries or affiliates are 100% owned, except where noted), which constitute the vast majority of LG&E Energy's nonutility businesses: LG&E Power Monroe LLC(lease and combustion turbine purchase in Monroe, Georgia; EWG); Western Kentucky Energy Corp. (leases the generating facilities owned by Big Rivers Electric Corporation, certified as an EWG, and sells the output of those facilities to LG&E Energy Marketing Inc. and, potentially, other affiliates and third-parties); 40% of Tenaska III Texas Partners (owns QF facility in Paris, Texas); 5% of Tenaska Washington Partners, L.P. (owns QF facility in Ferndale, Washington); 45% general partner interest and 5% indirect general partner interest in LG&E-Westmoreland Southampton (owns QF facility in Southampton, Virginia); 45% general partner interest and 5% indirect general partner interest in LG&E-Westmoreland Altavista (owns QF facility in Altavista, Virginia); 45% general partner interest and 5% indirect general partner interest in LG&E-Westmoreland Hopewell (owns QF facility in Hopewell, Virginia); 0.5% general partner interest and 49.5% limited partner interest in Windpower Partners 1993, L.P. (owns QF facility, windmill farms, in Minnesota and California); 0.33% direct and 0.113% indirect general partner interest and 24.67% direct and 8.22% indirect limited partnership interest in Windpower Partners 1994, L.P. (owns EWG facility, a windmill farm, in Salt Flat, Texas); 45.84% interest in K.W. Tarifa, S.A. (power generation facilities in Spain; FUCO); 45.9% interest in Distribuidora de Gas del Centro S.A. (natural gas distribution company in Argentina; FUCO); 14.4% interest in Distribuidora de Gas Cuyana S.A. (natural gas distribution company in Argentina; FUCO); and 19.6% interest in Gas Natural BAN S.A. (natural gas distribution company in Argentina; FUCO).

II. EWG, QF and FUCO Related Intermediate Holding Companies and Financing Entities

LG&E Energy owns, directly or indirectly, the following interests in intermediate holding companies holding, or financing entities financing, its nonutility business interests (all of the following subsidiaries or affiliates are 100% owned, except where noted): LG&E Capital Corp. (primary holding company for LG&E Energy's nonutility business interests); LG&E International Inc. (management and holding company for international energy project investments and operations); WKE Corp. (holding company for EWGs that are parties to the lease and related transactions with Big Rivers Electric Corporation, other than LG&E Energy Marketing Inc.); LG&E Power Inc. (management and holding company for QFs and EWGs); KUCC Paris Corporation (holds 15% limited partnership interest in Tenaska III Partners, Ltd., which owns 40% of Tenaska III Texas Partners, a QF); KUCC Ferndale Corporation (holds limited partnership interests in QFs); LG&E Power Spain, Inc. (management and holding company for energy power projects in Spain); LG&E Power Argentina II Inc. (owner of 45.9% combined equity interest in Distribuidora de Gas del Centro S.A., a FUCO); LG&E Power Argentina III LLC (owner of 14.4% combined equity interest in Distribuidora de Gas Cuyana S.A., a FUCO); LG&E Centro S.A. (receives consulting revenues and pays management expenses related to Distribuidora de Gas del Centro S.A. (10% owned indirectly through LG&E Power Argentina II Inc.); holding company for FUCO); LG&E Power Finance Inc. (special purpose financing subsidiary formed to purchase and resell certain subordinated indebtedness collection rights as a part of a settlement of claims with K.W. Tarifa, S.A. (a FUCO and Spanish corporation owned 45.9% by LG&E Power Spain Inc.)); Inversora de Gas del Centro S.A. (owner of 51% equity interest in Distribuidora de Gas de Centro S.A., a FUCO (75% ownership)); LG&E Power Development Inc. (development of QFs and EWGs); American Power, Incorporated (owner of 99% interest in LG&E Power Monroe L.L.C., a QF); LG&E Power Gregory I, Inc. (formed to hold interests in Gregory Power Partners L.P., which will be a QF); LG&E Power Gregory II Inc. (formed to hold interests in Gregory Power Partners LLC, which will be an EWG); LG&E Power Gregory III Inc. (formed to hold interests in Gregory Power Partners LLC, which will be a QF); LG&E Power Gregory IV Inc. (formed to hold interests in Gregory Power Partners L.P., which will be a QF); KUCC Grimes GP Corporation (intermediate holding company formed in conjunction with EWG project in Grimes, Texas); KUCC Grimes LP Corporation (intermediate holding company formed in conjunction with EWG project in Grimes, Texas); LG&E Power 11 Incorporated (indirect owner of interest in QF in Southampton, Virginia); LG&E Southampton Incorporated (indirect owner of interest in QF in Southampton, Virginia); LG&E Power 12 Incorporated (indirect owner of interest in QF in Altavista, Virginia); LG&E Altavista Incorporated (indirect owner of interest in QF in Altavista, Virginia); LG&E Power 13 Incorporated (indirect owner of interest in QF in Hopewell, Virginia); LG&E Hopewell Incorporated (indirect owner of interest in QF in Hopewell, Virginia); LG&E Power 16 Incorporated (indirect owner of interest in QF in Roanoke Valley, North Carolina); LG&E Power Roanoke Incorporated (indirect owner of interest in QF in Roanoke Valley, North Carolina); LG&E Power 21 Incorporated (indirect owner of interest in QF, windmills in California and Minnesota); LG&E Power 21 Wind Incorporated (indirect owner of interest in QF, windmills in California and Minnesota); LG&E Power 31 Incorporated (indirect owner of interest in QF in Salt Flat, Texas); 33.3% interest in LQC LP LLC (indirect owner of interest in QF in Salt Flat, Texas); 33.3% interest in LQ GP LLC (indirect owner of interest in QF in Salt Flat, Texas); LG&E Power 31 Wind Incorporated (indirect owner of interest in QF in Salt Flat, Texas); 15% of Tenaska III Partners, Ltd. (owns 40% of Tenaska III Texas Partners, a QF, in Paris, Texas); 20% general partnership interest in LG&E Southampton L.P. (intermediate holding company for QF); 20% general partnership interst in LG&E Altavista L.P. (intermediate holding company for QF); 20% general partnership interest in LG&E Hopewell L.P. (intermediate holding company for QF); 50% general partnership interest in Westmoreland-LG&E Partners (owner of QF interestst in Roanoke Valley, North Carolina); 24.0% interest in Inversora

de Gas Cuyana S.A. (intermediate holding company for FUCO); 28% interest in Invergas S.A. (owns 51% interest in Gas Natural BAN S.A., a FUCO); and 28% interest in Gas Natural S.D.G. Argentina S.A. (owns 19% of Gas Natural BAN S.A., a FUCO).

III. Energy-Related Companies

The following is a list of the energy-related companies owned, directly or indirectly, by LG&E Energy (all of the following subsidiaries or affiliates are 100% owned, except where noted) that Applicants assert are energy-related: LG&E Energy Marketing Inc. (power marketing); LG&E Home Services Inc. (appliance repair and warranty); LG&E Enertech Inc. (engineering, energy management and consulting services); LG&E Energy Services Inc. (formed to submit bid to provide electric service to Ft. Campbell project; FSF Minerals Inc. (owns Pittsburgh and Midway coal reserves near Henderson, Kentucky); LCC Inc. (formed to bid on a coal project); KU Solutions Corporation (energy marketing and services corporation); LG&E Power Engineers and Constructors Inc. (engineering and project management); LG&E Power Services Inc. (power facilities management and operation); LG&E Power Operations Inc. (intermediate holding company for QFs; power project ownership, management and development); LG&E Facilities Inc. (marketing, processing, storage and transmission of natural gas); LG&E Natural Gathering & Processing LLC and Llano Gathering Inc. (both natural gas transmission and processing); LG&E Natural Plains Marketing LLC and LG&E Crown Inc. (both marketing of natural gas); Hadson Gas Transmission LLC and Power Tex Parent Inc. (both natural gas transmission); LG&E Natural Plains Energy Services LLC and LG&E Minor Facilities Inc. (natural gas transmission); LG&E Natural Pipeline LLC and Llano Storage Inc. (both natural gas storage and transmission); LG&E Energy Natural Industrial Marketing Co. (natural gas marketing and transmission); LG&E Fuels Services Inc. (formed for alternative fuels investments); CRC-Evans Pipeline International, Inc. (primary operating company of CRC-Evans companies providing specialized equipment and services for pipeline construction); CRC-Key, Inc. (manufactures concrete weights for pipeline construction); CRC-Evans B.V. (international sales office); CRC-Evans Canada LTD. (company for Canada operations); PIH Holdings LTD. (holding company for operations in Europe and the Middle East); Pipeline Induction Head Ltd. (services for pipelines); GGSI Crown J.V.[24] (owns gas gathering and processing assets); Power Tex J.V.[25] (owns gas gathering and processing assets); 50% general partnership interest in Adobe Merchant 89 (owns gas gathering and processing assets); 50% interest in Gregory Power Partners LLC[26] (owns and developing power project in Gregory, Texas; will be a QF); 1% general partnership interest and 49% limited partnership interest in Gregory Power Partners L.P. (owns and developing power project in Gregory, Texas; will be a QF); 50% general partnership interest in Wheeler Gathering System (owns gas gathering and processing assets); 11.5% general partnership interest in Hillsboro Gathering System (owns gas gathering and processing assets); and LG&E Industrial Sales Corporation (owner of natural gas transmission assets).

IV. Other Nonutility Companies

In addition to the above nonutility subsidiaries and affiliates, LG&E Energy also owns interests in the following nonutility entities, a description of which follows each entity's name in parentheses (all of the following subsidiaries or affiliates are 100% owned, except where noted): LG&E Energy Foundation Inc. (charitable contributions); LG&E Credit Corp. (offers consumer lending programs for energy efficient products in the Louisville metropolitan area); CRC-Evans International, Inc. (formed for the acquisition of CRC Holdings Corp., which owns interests in energy-related companies); WKE Station Two Inc. (operates the Station Two generating facility that is owned by the City of Henderson, Kentucky under an agreement with the city and Big Rivers Electric Corporation); 28% interest in ServiConfort Argentina S.A. (provides retail services to gas customers in Argentina).

V. Inactive Companies

LG&E Energy also, directly or indirectly, owns the following inactive companies (all of the following subsidiaries or affiliates are 100% owned, except where noted): Lexington Utilities Company; LNGCL Inc. (indirectly held former interest in Natural Gas Clearinghouse); LNGCG Inc. (indirectly held former interest in Natural Gas Clearinghouse); KUCC Frederickson Corporation (owns 10% interest of Tenaska Washington Partners, II, L.P.); KUCC Portland 34 Corporation (holds 21% interest in Portland 34, L.P. and serves as its general partner); KUCC Portland 34, L.P. (former lessor regarding combustion turbine); Portland 34 LTD Corporation (holds 79% limited partnership interests in Portland 34, L.P.); KUCC Development Corporation (former development company); KUCC Grimes Corporation (intermediate holding company for developing EWG project in Grimes, TX); WKE Facilities Corp.; LCC LLC; FCD LLC; Excalibur Development LLC; LG&E Mendoza Services Inc. (originally formed to hold investment in foreign power facilities); LG&E Power Venezuela I, Inc. (originally formed to hold investment in foreign power facilities); LG&E Power Australia I Inc.; Ultrasystems Construction Co., Inc. (originally formed to construct power and related facilities); HD Energy Corporation; Hadson Financial Corporation (former management company); Ultrasystems Small Power, Incorporated; Hadson Fuels, Inc.; 70% interest in HD/WS Corporation (holding company for ash disposal activities); LG&E Power 5 Incorporated (former owners of investment in power facilities); LG&E Power 6 Incorporated (former owner of investment in power facilities): LG&E Power 14 Incorporated (owner of investment in power facilities); LG&E Power 18 Incorporated (owner of investment in power facilities); LG&E Erie Partner Incorporated (owner of investment in power facilities); LG&E Power 22 Incorporated (owner of investment in power facilities); LG&E Power 29 Incorporated (indirect owner of interest in QF); LG&E Power 25 Incorporated (owner of investment in power facilities); LG&E Power 26 Incorporated (owner of investment in power facilities); LG&E Australia Pty Limited; LG&E Power Constructors Inc. (former constructor of QFs and EWGs); Ultraclean Incorporated; NuHPI, Inc.; Ultrafuels Incorporated; Ultrafuels 1 Incorporated; Ultrapower Biomass Fuels Corporation; Hadson Power Live Oak Incorporated; Ultrasystems Small Power 1, Incorporated; Triple T Services, Inc.; 25.4% capital stock interest in Babcock & Wilcox; 10% interest in Tenaska Washington Partners, II, L.P. (interest in power general facilities; former facility in Frederickson, Washington); 17% general partnership interest in Babcock-Ultrapower West Enfield; 17% general partnership interest in Babcock-Ultrapower Jonesboro; 45% general partnership interest in LG&E Power 14–Buena Vista (owner of investment in power facilities); 1% general partnership interest, 49% limited partnership interest, and a 0.5% general partnership interest in Erie Power Partners L.P. (former owner of power supply contract); 2% general partnership interest and 49% limited partnership interest in LG&E/Kelso Power Partners, L.P. (formed to develop and own power facilities); 50% general partnership interest in Maine Power Services; 50% general partnership interest in LG&E–Westmoreland Rensselaer (former owner of power generation facilities); LG&E Power Argentina I, Inc. (management and holding company of former natural gas projects in Argentina); LG&E Power Spain LLC (formed to facilitate possible merger with LG&E Power Spain Inc.); and LG&E Natural Canada Inc. (former natural gas marketer).

## Appendix B—Existing Financing Arrangements of U.S. Utility Subsidiaries

*LG&E*

Bond Financing:

*At 12/31/99*

First Mortgage Bonds—(× 000's)

Series due July 1, 2000, 7.5%*—20,000

Series due August 15, 2003, 6%—42,600

Pollution control series:

P due June 15, 2015, 7.45%—25,000

Q due November 1, 2020, 7.625%—83,335

R due November 1, 2020, 6.55%—41,665

S due September 1, 2017, variable—31,000

T due September 1, 2017, variable—60,000

U due August 15, 2013, variable—35,200

V due August 15, 2019, 5.625%—102,000

W due October 15, 2020, 5.45%—26,000

X due April 15, 2023, 5.90%—40,000

Total first mortgage bonds—506,800

Pollution control bonds (unsecured):

Jefferson County Series due September 1, 2026, variable—22,500

Trimble County Series due September 1, 2026, variable—27,500

[24] 34.6% by Hadson Gas Transmission LLC (''HGTC''); 65.4% by LG&E Natural Plains Marketing LLC.

[25] 34.6% by HGTC; 65.4% by LG&E Natural Plains Energy Services LLC.

[26] 1% held by LG&E Power Gregory II, Inc. and 49% held by LG&E Power Gregory II, Inc.

Jefferson County Series due November 1, 2027, variable—35,000
Trimble County Series due November 1, 2027, variable—35,000
Total unsecured pollution control bonds—120,000
Total LG&E bonds outstanding—626,800
* Redeemed
Capital Stock:
Common Stock, without par value—Authorized: 75,000,000 shares
Outstanding: 21,294,233 shares
Cumulative Preferred Stock:

| | Shares outstanding | Current redemption price |
|---|---|---|
| $25 par value, 1,720,000 shares authorized, 5% series | 860,287 | $28.00 |
| Without par value, 6,750,000 shares authorized: | | |
| Auction rate | 500,000 | 100.00 |
| 5.875% series | 250,000 | 104.70 |

Short-Term Financing:
$200 million revolving credit line, expiring November 2001.
Commercial paper program, up to $200 million authorized
*KU*
Bond Financing:
*At 12/31/99*
First Mortgage Bonds— (x 000's)
Series Q, due June 15, 2000, 5.95%—61,500
Series Q, due June 15, 2003, 6.32%—62,000
Series S, due January 15, 2006, 5.99%—36,000
Series P, due May 15, 2007, 7.92%—53,000
Series R, due June 1, 2025, 7.55%—50,000
Series P, due May 15, 2027, 8.55—%33,000
Pollution Control Series:
Series 7, due May 1, 2010, 7.375%—4,000
Series 8, due September 15, 2016, 7.45%—96,000
Series 1B, due February 1, 2018, 6.25%—20,930
Series 2B, due February 1, 2018, 6.25%—2,400
Series 3B, due February 1, 2018, 6.25%—7,200
Series 4B, due February 1, 2018, 6.25%—7,400
Series 7, due May 1, 2020, 7.60%—8,900
Series 9, due December 1, 2023, 5.75%—50,000
Series 10, due November 1, 2024, variable—54,000
Total KU bonds outstanding—546,330
Capital Stock:
Common Stock, without par value—Authorized: 80,000,000 shares
Outstanding: 37,817,878 shares
Cumulative Preferred Stock:

| | Shares outstanding | Current redemption price |
|---|---|---|
| Without par value, 5,300,000 shares authorized: | | |
| 4.75% series, $100 stated value | 200,000 | 101.00. |
| 6.53% series, $100 stated value | 200,000 | Not redeemable. |

Short-Term Financing:
Commercial paper program, inactive.
Uncommitted credit line with Centric Corporation (''Centric''), up to $60 million.

## Appendix C—Existing Financing Arrangements of U.S. Non-Utility Subsidiaries

*LG&E Capital Corp.*
Long-Term Debt:
*At 12/31/99*—(× 000's)
Medium term notes, due September 7, 2000, variable—50,000
Medium term notes, due May 1, 2004, 6.205%—150,000
Medium term notes, due January 15, 2008, 6.46%—150,000
Medium term notes, due November 1, 2011, 5.75%—150,000
Total Capital Corp. bonds outstanding—500,000
Credit Facilities:
$200 million revolving lines of credit, expiring September 2000.
$500 million revolving line of credit, expiring September 2002.
$20 million uncommitted letter of credit facility.
Commercial paper program, up to $600 million authorized.
*CRC-Evans Pipeline International Inc.*
*At 12/31/99*—(× 000's)
Note payable, due May 2003, 6.75%—$281
*Distribution de Gas del Centro*
*At 12/31/99*—(× 000's)
Argentine negotiable obligations, due August 2001, 10.5%—$37,782

## Appendix D—Guarantees

*Obligations of LG&E Capital Supported by LG&E Energy under the Support Agreement*

1. Obligations of LG&E Capital on each of its credit facilities, in an aggregate principal amount of $720 million.

2. Obligations of LG&E Capital in respect of its commercial paper program, in an authorized principal amount of $600 million.

3. Obligations of LG&E Capital in respect of its medium-term notes outstanding, in an aggregate principal amount as of March 31, 2000 of $500 million.

4. Obligations of LG&E Capital in respect of a guarantee of lease obligations of LG&E Power Monroe, LLC. See ''Guarantees issued by LG&E Energy and the U.S. Non-Utility Subsidiaries'' below.

5. Obligations of LG&E Capital under interest rate swap transactions in an aggregate notional amount of $50 million, entered into in connection with the hedging of interest rate risk on outstanding indebtedness of LG&E Capital Corp.

6. Obligations of LG&E Capital under a guarantee of certain obligations of LG&E Energy Marketing Inc. under several Purchased Power Agreements relating to the purchase of 560 MW of power. No limit is stated.

*Guarantees Issued by LG&E Energy and the U.S. Non-Utility Subsidiaries*

1. LG&E Power and LG&E Capital guarantee certain obligations of LG&E Energy Marketing. These guarantees are provided in lieu of letters of credit or other credit enhancements required by counterparties and are provided in order to minimize the cost of providing the commodity required under the contract. The guarantees typically have a stated maximum amount, but the actual exposure is typically only a small percentage of the aggregate maximums stated amount of the guarantee. The maximum stated amount on such guarantees as of March 31, 2000 was $461 million. In other cases, no maximum amount is stated. The aggregate exposure of LG&E Power and LG&E Capital under such guarantees as of March 31, 2000 was approximately $63 million.

2. Guarantee by LG&E Capital of the lease obligations of LG&E Power Monroe, LLC under an operating lease relating to three combustion turbines and related facilities to be installed and constructed in Monroe, Georgia. The value of the assets under lease is expected to be approximately $175 million.

3. Guarantee by LG&E Capital of the obligation of LG&E Power Inc. under a lease of office space in Irvine, CA in an aggregate amount of less than $5 million.

4. Guarantees by LG&E Capital to provide equity contributions in respect of the Gregory Project. Each guarantee is unlimited on its

face, but the underlying agreements effectively limit the guaranteed obligations to $4.5 million.

5. Guarantees by LG&E Capital of the obligations of HD/WS Corporation under a standby ash disposal agreement relating to certain power projects in Franklin, VA, Altavista, VA and Hopewell, VA. There is no stated cap on the potential liability under these guarantees.

6. Guarantee by LG&E Energy of all obligations of certain of the U.S. Non-Utility Subsidiaries relating to the lease of the generating assets of Big Rivers Electric Corporation (''Big Rivers''). The transaction provides the U.S. Non-Utility Subsidiaries with access to approximately 1,700 megawatts of capacity and requires that power be supplied to Big Rivers at contractual prices. The leased assets are expected to be capable of meeting the requirements of Big Rivers throughout the term of the lease. In addition, the U.S. Non-Utility Subsidiaries are required to make annual lease payments of $31.5 million to Big Rivers through July 2023.

7. LG&E Energy has guaranteed all obligations of LG&E Energy Marketing in its contract with Oglethorpe Power Corporation (''OPC''). Under this contract LG&E Energy Marketing is required to supply approximately one-half of the system-wide power needs of OPC at fixed prices and has access to one-half of OPC's generation capacity. LG&E Energy Marketing has assumed the risk of price increases for any power it is required to purchase off system and any load growth under this contract. LG&E Energy has discontinued its merchant energy trading operation which includes servicing of this contract has booked reserves to cover expected future losses from these activities. In July 1998, LG&E Energy recorded an after-tax loss on disposal of discontinued operations of $225 million. In December 1999, LG&E Energy increased the size of this reserve by $175 million based on what it believes to be appropriate estimates of future energy prices and load growth. There is no guarantee that higher-than-anticipated future commodity prices or load demands or other factors could not result in additional losses.

8. Guarantee by LG&E Capital of certain obligations, up to a maximum amount of $96 million, payable by LG&E Power Development Inc. with respect to a purchase contract for eight turbines.

**Exelon Corporation, et al. (70–9693)**

Exelon Corporation (''Exelon''), Exelon Business Services Company (''Services''), Exelon Ventures Company (''Ventures''), Exelon Enterprises Company, LLC (''Enterprises''), Exelon Generation Company, LLC (''Genco''), and Exelon Energy Delivery Company (''Energy Delivery''), each located at 10 South Dearborn Street, Chicago, Illinois 60603 and each a subsidiary of PECO Energy Company (''PECO''), a combination gas and electric utility holding company claiming exemption from registration under section 3(a)(1) of the Act by rule 2 under the Act; PECO and its utility subsidiaries, PECO Energy Power Company, Susquehanna Power Company and Susquehanna Electric Company, each located at 2301 Market Street, Philadelphia, Pennsylvania 19101; and Commonwealth Edison Company (''ComEd'' and collectively, ''Applicants''), an electric utility subsidiary of Unicom Corporation (''Unicom''), an electric utility holding company exempt by order from registration under section 3(a)(1),[27], each located at 10 South Dearborn Street, Chicago, Illinois 60603, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 12(c) of the Act and rules 43, 44, 45, 46, 53 and 54 under the Act.

In a separate filing with this Commission, file no. 70–9645 (''Merger Application''), Exelon has sought authority to exchange its common stock for the common stock of its parent, PECO, followed by a merger of Unicom with and into Exelon (''Merger''). Exelon will establish Energy Delivery as an intermediate holding company over PECO and ComEd, and will also establish Ventures as an intermediate holding company over Genco, to which generation assets of PECO and ComEd will be transferred, and over Exelon's nonutility subsidiaries.[28] In addition, Exelon, Ventures, and Energy Delivery will each register as a holding company under the Act after the Merger.

In the instant filing, Applicants seek authorization and approval with respect to ongoing financing activities through March 31, 2004, (''Authorization Period'' and other matters relating to the Merger.

*I. Summary*

Applicants seek authority for Exelon and the Subsidiaries with respect to: (1) The issuance of common stock, guarantees, preferred debt and other securities for cash and in connection with various acquisitions, (2) the issuance of 21 million shares of common stock under dividend reinvestment and stock-based management incentive and employee benefit plans, (3) the maintenance of existing debt and guarantees, (4) the payment of dividends out of capital or unearned surplus, (5) hedging transactions, (6) the establishment of a utility money pool and a nonutility money pool, (7) the retention, establishment and use of special-purpose financing entities, (8) changes in the capital stock of certain Subsidiaries in order to engage in financing transactions with a parent company and (9) the use of proceeds of securities issuances to invest in exempt wholesale generators (''EWGs'') and foreign utility companies (''FUCOs'') in amounts that exceed 50% of Exelon's consolidated retained earnings.

Applicants' effective cost of money on long-term debt borrowings under this authorization will not exceed the greater of (1) 350 basis points over the comparable term U.S. Treasury securities or (2) a gross spread over U.S. Treasuries that is consistent with similar securities of comparable credit quality and maturities issued by other companies. Applicants' effective cost of money on short-term debt borrowings under this authorization will not exceed the greater of (1) 350 basis points over the comparable term London Interbank Offered Rate (''LIBOR'') or (2) a gross spread over LIBOR that is consistent with similar securities of comparable credit quality and maturities issued by other companies. The dividend rate on any series of preferred securities will not exceed the greater of (1) 500 basis points over the yield to maturity of a U.S. Treasury security having a remaining term equal to the term of such series of preferred securities or (2) a rate that is consistent with similar securities of comparable credit quality and maturities issued by other companies. The maturity of indebtedness will not exceed fifty years. All preferred securities will be redeemed no later than fifty years after being issued.

The proceeds from the sale of securities in external financing transactions will be used for general corporate purposes, including the financing, in part, of the capital expenditures and working capital requirements of the Exelon system, for the acquisition, retirement or redemption of securities previously issued by Exelon or the Subsidiaries, and for authorized investments in rule 58 companies, EWGs, FUCOs, exempt

[27] *Unicom Corporation,* HCAR No. 26090 (July 22, 1994).

[28] Each of the entities that will be directly or indirectly owned subsidiaries of Exelon upon consummation of the Merger is referred to in this notice individually as a ''Subsidiary'' and collectively as ''Subsidiaries.'' ''Utility Subsidiaries'' includes ComEd, PECO, Genco, Commonwealth Edison Company of Indiana (which has no retail customers), PECO Energy Power Company, Susquehanna Power Company and Susquehanna Electric Company (the latter three are exclusively engaged in owning and operating an electric generation project, all of the power from which is sold at wholesale.) ''Nonutility Subsidiaries'' includes all other subsidiaries of Exelon and also includes other direct or indirect subsidiaries that Exelon may form after the Merger in accordance with a Commission order or with an applicable rule or order; provided, however, that for purposes of the requests described below with respect to the nonutility money pool, the term ''Nonutility Subsidiaries'' includes only Services and Enterprises.

telecommunications companies (''ETCs'') and for other lawful purposes.

*II Exelon External Financing*

A. Securities

Exelon requests authorization to obtain funds externally through sales of common stock, preferred securities, long-term debt and short-term debt securities. With respect to common stock, Exelon also requests authority to issue common stock, options, warrants or stock purchase rights to third parties in consideration for the acquisition by Exelon or a Nonutility Subsidiary of equity or debt securities of a company being acquired in accordance with an order of the Commission, under sections 32, 33 or 34 of the Act or rule 58 under the Act.[29] The aggregate amount of financing requested will not exceed $8 billion (''Exelon Financing Limit''.[30]

Common stock financings may be effected in accordance with underwriting agreements of a type generally standard in the industry. Public distributions may be pursuant to private negotiation with underwriters, dealers or agents as discussed below or effected through competitive bidding among underwriters. In addition, sales may be made through private placements or other non-public offerings to one or more persons. All common stock sales will be at rates or prices and under conditions negotiated or based upon or otherwise determined by, competitive capital markets.[31]

Preferred stock or other types of preferred securities may be issued in one or more series with such rights, preferences, and priorities as may be designated in the instrument creating each such series, as determined by Exelon's board of directors. Dividends or distributions on preferred securities will be made periodically and to the extent funds are legally available for such purpose, but may be made subject to terms which allow the issuer to defer dividend payments for specified periods. Preferred securities may be convertible or exchangeable into shares of Exelon common stock or indebtedness.

Exelon's long-term debt securities will be comprised of bonds, notes, medium-term notes or debentures under one or more indentures or long-term indebtedness under agreements with banks or other institutional lenders. Maturity dates, interest rates, redemption and sinking fund provisions, tender or repurchase and conversion features, if any, with respect to Applicants' long-term securities, as well as any associated placement, underwriting or selling agent fees, commissions and discounts, if any, will be established by negotiation or competitive bidding.

Exelon's short-term debt will replace pre-Merger letters or lines of credit or commercial paper and would provide financing for general corporate purposes working capital requirements and temporary financing of capital expenditures. Any short-term debt outstanding or credit facility of Unicom existing at the time of the Merger may be assumed by Exelon.[32] Exelon's short-term debt may include commercial paper, which would be sold at the discount rate or the coupon rate per annum prevailing at the date of issuance of commercial paper of comparable quality and maturities sold to commercial paper dealers generally. In addition, Exelon may, without counting against the Exelon Financing Limit, maintain back up lines of credit in connection with a commercial paper program in an aggregate amount not to exceed the amount of authorized commercial paper.

B. Hedging Transactions

Exelon requests authority to enter into, perform, purchase and sell financial instruments intended to reduce or manage the volatility of interest rates, including but not limited to interest rate swaps, caps, floors, collars and forward agreements, structured notes or transactions involving the purchase or sale of U.S. Treasury or Agency obligations or LIBOR based swap instruments for fixed periods and stated national amounts (''Hedge Instruments''). Exelon will not engage in speculative transactions unassociated with its financing needs and activities, and will only enter into agreements with counterparties having senior debt ratings, as published by a national rating agency, greater than or equal to ''BBB'' or an equivalent rating (''Approved Counterparties'').

Exelon and its subsidiaries also request authorization to enter into interest rate hedging transactions with respect to anticipated debt offerings (''Anticipatory Hedges''). Anticipatory Hedges would only be entered into with Approved Counterparties, and would be utilized to fix and/or limit the interest rate risk associated with any new issuance through (1) a forward sale of exchange-traded Hedge Instruments, (2) the purchase of put options on Hedge Instruments (''Put Options Purchase''), (3) a Put Options Purchase in combination with the sale of call options, (4) transactions involving the purchase or sale, including short sales of Hedge Instruments, or (5) some combination of the above and/or other derivative or cash transactions, including, but not limited to, structured notes, caps and collars, appropriate for the Anticipatory Hedges. The same limitations on the creditworthiness of counterparties described immediately above would also apply to Anticipatory Hedges.

*III. Subsidiary External Financing*

A. All Utility Subsidiaries

Rule 52 provides an exemption from the prior authorization requirements of the Act for most sales and issuances of securities by the Utility Subsidiaries.[33] Applicants have also requested, however, authority for certain Utility Subsidiaries to engage in external financings beyond the scope of the rule 52 exemption.

Applicants seek authority for ComEd, PECO and Genco to issue commercial paper and establish and borrow under credit lines in the aggregate amount of $2.7 billion outstanding at any one time during the Authorization Period (''Utility Financing Limit''). In addition, ComEd and PECO have existing financing arrangements in place which they propose to maintain.[34] ComEd, PECO and Genco may also, without counting against this limit, maintain back up lines of credit in connection with a commercial paper program in an aggregate amount not to exceed the

[29] Exelon common stock issued in consideration for the acquisition of a company under any of these circumstances will be valued, for purposes of determining compliance with the proposed aggregate financing limitation, at its market value as of the date of issuance (or, if appropriate, at the date of a binding contract providing for the issuance of common stock).

[30] Applicants state that Exelon will incur approximately $500 million in debt to finance the Merger, which it proposes to exclude from the calculation of indebtedness for purposes of the Exelon Financing Limit.

[31] Applicants note that a very small amount of ComEd common stock will not be held by Exelon. This stock has been and will be acquired on conversion of certain outstanding warrants or on conversion of ComEd convertible preferred stock. Unicom has extended a standing offer to these holders of ComEd common stock to exchange the stock for Unicom common stock. Exelon wishes to continue this program.

[32] These are described in Appendix A to the notice.

[33] In general, all securities issuances by ComEd must be approved by the Illinois Commerce Commission, other than indebtedness with a final maturity of less than one year, renewable for a period of not more than two years. Similarly, all securities issuances by PECO must be approved by the Pennsylvania Public Utility Commission, other than securities with a maturity of one year or less or having no fixed maturity but payable on demand. Issuances of securities by Genco are not subject to review by any state commission.

[34] These arrangements are described in Exhibit A to the notice.

amount of authorized commercial paper.

Additionally, to the extent not exempt under rule 52, the Utility Subsidiaries request authority to enter into and perform under Hedge Instruments and Anticipatory Hedges. These transactions will be entered into subject to the limitations and requirements applicable to Exelon's Hedge Instruments and Anticipatory Hedges.

B. Genco

Applicants request authority for Genco to issue common stock, preferred stock or other types of preferred securities, as well as such long-term debt securities as bonds, notes, medium-term notes or debentures under one or more indentures, or under agreements with banks or other institutional lenders, and to sell commercial paper and establish credit lines. The maturity dates, interest rates, redemption and sinking fund provisions and conversion features, if any, with respect to the long-term securities of Genco, as well as any associated placement, underwriting or selling agent fees, commissions and discounts, if any will be established by negotiation or competitive bidding. In addition, Genco may, without counting against the limits set forth above, maintain back up lines of credit in connection with a commercial paper program in an aggregate amount not to exceed the amount of authorized commercial paper.

The aggregate amount of common equity, preferred securities, long-term debt and short-term debt financing to be obtained by Genco during the Authorization Period (excluding indebtedness issued during the Authorization period to refund then outstanding indebtedness) will not exceed $5.5 billion (''Genco Financing Limitation''). Any issuance of securities by Genco under the requested authority will count against the Exelon Financing Limit, except for borrowings from associates where the lender's own borrowings count against the Exelon Financing Limit.

Applicants also request authority for Genco to assume approximately $369 million in pollution control loan obligations PECO issued in connection with facilities located at the generating stations to be transferred to Genco as part of the Merger. These assumptions of indebtedness will be in addition to the Genco Financing Limit.

*IV. Intrasystem Transactions*

A. Guaranties

Applicants request authority for Exelon to enter into guaranties, obtain letters of credit, enter into support or expense agreements or otherwise provide credit support with respect to the obligations of the Subsidiaries as may be appropriate or necessary to enable the Subsidiaries to carry on in the ordinary course of their respective businesses, and to enter into guaranties of third parties' obligations in the ordinary course of Exelon's business (''Exelon Guaranties'').[35] Applicants also request authority for Genco to enter into guarantees and other forms of credit support with respect to the obligations of its subsidiaries (''Genco Guaranties'') and for each Nonutility Subsidiary to provide guarantees and other forms of credit support to other Nonutility Subsidiaries (together with the Exelon Guaranties and the Genco Guaranties, ''Guaranties'').

The aggregate amount of the Guaranties will not exceed $4.5 billion outstanding at any one time (not taking into account obligations exempt pursuant to rule 45) (''Guaranty Limit''). Included in this amount are existing guaranties and other credit support mechanisms entered into by Unicom[36] which will be assumed by Exelon and those entered into by PECO[37] in favor of their respective Subsidiaries.

The issuance of any Guaranties will also be subject to the limitations of rule 53(a)(1) or rule 58(a)(1), as applicable. Applicants propose that each Subsidiary be charged a fee for each Guaranty provided on its behalf that is comparable to those obtainable by the beneficiary of the Guaranty from third parties.

B. Money Pools

Applicants request authority for Exelon and the Utility Subsidiaries to establish a money pool (''Utility Money Pool''). In addition, Applicants request authority for the Utility Subsidiaries, to the extent not exempted by rule 52, to make unsecured short-term borrowings from the Utility Money Pool, to contribute surplus funds to the Utility Money Pool, and to lend and extend credit to (and acquire promissory notes from) one another through the Utility Money Pool. In addition to the Utility Subsidiaries, Applicants request authority for existing utility related financing entities, referred to below, to participate in the Utility Money Pool as a result of their financing relationship with ComEd and PECO.

In addition, Exelon and the Nonutility Subsidiaries request authorization to establish a nonutility money pool (''Nonutility Money Pool''). The Nonutility Money Pool activities of all of the Nonutility Subsidiaries are exempt from the prior approval requirements of the Act under rule 52. Applicants request authorization of Exelon to contribute its surplus funds and to lend and extend credit to: (1) The Utility Subsidiaries through the Utility Money Pool and (2) the Nonutility Subsidiaries through the Nonutility Money Pool. The aggregate outstanding amount of borrowings that each of PECO, Genco and ComEd may incur under the Utility Money Pool will count against the Utility Financing Limit.

Utility Money Pool participants that borrow would borrow pro rata from each company that lends, in the proportion that the total amount loaned by each such lending company bears to the total amount then loaned through the Utility Money Pool. On any day when more than one fund source (*e.g.,* surplus treasury funds of Exelon and other Utility Money Pool participants (''Internal Funds'') and proceeds from external financing (''External Funds''), with different rates of interest, is used to fund loans through the Utility Money Pool, each borrower would borrow pro rata from each such fund source in the Utility Money Pool in the same proportion that the amount of funds provided by that fund source bears to the total amount of short-term funds available to the Utility Money Pool.

If only Internal Funds make up the funds available in the Utility Money Pool, the interest rate applicable and payable to or by Subsidiaries for all loans of such Internal Funds will be the rates for high-grade unsecured 30-day commercial paper sold through dealers by major corporations as quoted in The Wall Street Journal.

If only External Funds comprise the funds available in the Utility Money Pool, the interest rate applicable to loans of such External Funds would be equal to the lending company's cost for such External Funds (or, if more than one Utility Money Pool participant had made available External Funds on such day, the applicable interest rate would be a composite rate equal to the weighted average of the cost incurred by the respective Utility Money Pool participants for such External Funds).

In cases where both Internal Funds and External Funds are concurrently borrowed through the Utility Money Pool, the rate applicable to all loans comprised of such ''blended'' funds

[35] For example, as one of the founding members of the Midwest System Operator (''MISO''), Unicom issued guaranties to creditors on behalf of MISO to assist MISO's start-up operations.

[36] Existing guaranties of Unicom are described in Exhibit A to this notice.

[37] Existing PECO guaranties are described in Exhibit A to this notice.

would be a composite rate equal to the weighted average of (1) the cost of all Internal Funds contributed by utility Money Pool participants (as determined pursuant to the second-preceding paragraph above) and (2) the cost of all such External Funds (as determined pursuant to the immediately preceding paragraph above). In circumstances where Internal Funds and External Funds are available for loans through the Utility Money Pool, loans may be made exclusively from Internal Funds or External Funds, rather than from a ''blend'' of such funds, to the extent it is expected that such loans would result in a lower of cost of borrowings.

Funds not required by the Utility Money Pool to make loans (with the exception of funds required to satisfy the Utility Money Pool's liquidity requirements) would ordinarily be invested in one or more short-term investments including: (1) Interest-bearing accounts with banks; (2) obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities, including obligations under repurchase agreements; (3) obligations issued or guaranteed by any state or political subdivision, provided that such obligations are rated not less than ''A'' by a nationally recognized rating agency; (4) commercial paper rated not less than ''A–1'' or ''P–1'' or their equivalent by a nationally recognized rating agency; (5) money market funds; (6) bank certificates of deposit, (7) Eurodollar funds and (8) such other investments are permitted by Section 9(c) of the Act and rule 40 under the Act.

Each Applicant receiving a loan through the Utility Money Pool would be required to repay the principal amount of such loan, together with all interest accrued thereon, on demand and in any event not later than one year after the date of such loan. All loans made through the Utility Money Pool may be prepaid by the borrower without premium or penalty.

The Nonutility Money Pool will be operated on the same terms and conditions as the Utility Money Pool, except that Exelon funds made available to the Money Pools will be made available to the Utility Money Pool first and thereafter to the Nonutility Money Pool. Operation of the utility and Nonutility Money Pools, including record keeping and coordination of loans, will be handled by Exelon Service under the authority of the appropriate officers of the participating companies. Exelon Service will administer the Utility and Nonutility Money Pools on an ''at cost'' basis and will maintain separate records for each money pool.

C. Borrowings by Ventures and Exelon Energy Delivery

Ventures and Exelon Energy Delivery request authority to issue debt or equity securities to Exelon for the purpose of facilitating Exelon's additional investments in Genco, PECO, ComEd, and Enterprises. Amounts borrowed by Ventures and Exelon Energy Delivery from Exelon for this purpose would not count against the aggregate financing limit proposed for Exelon.

D. Other Borrowings

The Nonutility Subsidiaries may engage, from time to time, in other types of security financing with associates that are not exempt from prior Commission approval. In the limited circumstances where the Nonutility Subsidiary making the borrowing is not wholly owned by Exelon, directly or indirectly, authority is requested under the Act for Exelon or a Nonutility Subsidiary, as the case may be, to make such loans to such subsidiaries at interest rates and maturities designed to provide a return to the lending company of not less than its effective cost of capital. If such loans are made to a Nonutility Subsidiary, such company will not sell any services to any associate Nonutility Subsidiary unless such company falls within one of the categories of companies to which goods and services may be sold on a basis other than ''at cost,'' as described in the Merger Application.

*V. Other Transactions*

A. Financing Subsidiaries

Exelon and the Subsidiaries request authority to acquire, directly and indirectly, the equity securities of one or more corporation, trusts, partnerships or other entities (''Financing Subsidiaries'') created specifically for the purpose of facilitating the financing of the authorized and exempt activities of Exelon and the Subsidiaries through the issuance of long-term debt preferred securities or equity securities, to third parties and the transfer of the proceeds of such financings to Exelon or such Subsidiaries.[38]

The parent of a Financing Subsidiary may, if required, guarantee or enter into support or expense agreements in respect of the obligations of its Financing Subsidiaries. Any amounts issued by a Financing Subsidiary to third parties will be included in the proposed financing limit, if any, applicable to its immediate parent. However, any intrasystem borrowing by the parent of the proceeds of those issuances would not count against the proposed aggregate financing limitations, if any, applicable to the parent and a guaranty by the parent with respect to those issuances would not count against the Guaranty Limit.

PECO currently has in place Financing Subsidiaries related to its securitization bonds. Under the terms of PECO's settlement of its 1998 electric restructuring proceeding and the final order of the Pennsylvania Commission approving the settlement, issued on May 14, 1998, PECO is permitted to recover $5.26 billion in stranded costs over a twelve year period that began on January 1, 1999. PECO's stranded costs are collected through a non-bypassable transition charge (''Transition Charge'') which must be paid by all of PECO's transmission and distribution customers, regardless of whether the customers continue to purchase their electric capacity or energy from PECO.

The May 14, 1998 order authorized PECO to securitize up to $4 billion of its recoverable costs through the issuance of transition bonds. On March 16, 2000, the Pennsylvania Commission issued a second order authorizing PECO to securitize an additional $1 billion. In order to accomplish the approved securitization transactions, PECO created an independent special purpose entity named PECO Energy Transition Trust (''PETT'') for the special purpose of purchasing from PECO certain property, including rights to the Transition Charge (''Transition Property''), issuing the transition bonds, pledging its interest in the Transition Property and other collateral to the bond trustee to secure the transition bonds, and performing activities that are necessary and suitable to accomplish these purposes.

The transition bonds have been issued and, in accordance with the orders of the Pennsylvania Commission, PECO is utilizing the proceeds of the transition bonds to retire higher cost debt and buy back equity securities. The investment of the transition bonds is being accomplished through a series of intercompany loans, contributions and distributions involving nonutility subsidiaries of PECO. Interest payments and loan advances are being and will continue to be made on a quarterly basis among these nonutility subsidiaries exempt under rule 52. The last of these quarterly transactions is presently expected to take place in May of 2010.

[38] One of the special purpose subsidiaries already in existence at PECO or Unicom, such as PECO-Energy Transition Trust (discussed below) or ComEd Transitional Funding Trust, may be used for these purposes as well.

Applicants request authority for PECO to refinance and extend the maturity of these obligations to lower interest costs. No refinancing will extend the maturity of the transition bonds past March 1, 2011.

B. Changes in Capital Stock of Majority Owned Subsidiaries

It may happen that the sale by a Subsidiary of capital securities (*i.e,* common stock or preferred stock) may in some cases exceed the then-authorized capital stock of such Subsidiary. In addition, the Subsidiary may choose to use capital stock with no par value. Accordingly, request is made for authority to change the terms of any 50% or more owned Subsidiary's authorized capital stock capitalization or other equity interest by an amount deemed appropriate by Exelon or other intermediate parent company. This request for authorization is limited to Exelon's 50% or more owned Subsidiaries and will not affect the aggregate limits proposed in this application. A Subsidiary would be able to change the par value, or change between par value and no-par stock, without additional Commission approval.

C. Payment of Dividends

1. *Exelon and ComEd.* As a result of the application of the purchase method of accounting to the merger, the current retained earnings of ComEd will be recharacterized as additional paid-in-capital. In addition, the Merger will give rise to a substantial level of goodwill. In accordance with the Commission's Staff Accounting Bulletin No. 54, Topic 5J (''Staff Accounting Bulletin''), the goodwill will be ''pushed down'' to Unicom's subsidiaries, principally ComEd and reflected as additional paid-in-capital on ComEd's financial statements. As of the end of 1999, ComEd had a retained earnings balance of approximately $433 million. However, the effect of these accounting practices will be to leave ComEd with no retained earnings, the traditional source of dividend payment. In addition, any dividend by ComEd of amounts now recharacterized as capital would be deemed a return of capital to Exelon and not a distribution of earnings. Accordingly, Applicants request authority for Exelon and ComEd to pay dividends out of capital up to the amount of $500 million.

2. *Nonutility Subsidiaries.* The Nonutility Subsidiaries propose to pay dividends, from time to time through the Authorization Period, out of capital and unearned surplus (including revaluation reserve), to the extent permitted under state law.

D. EWGs and FUCOs

At March 31, 2000, the pro forma consolidated amount of Exelon's aggregate investment in EWGs and FUCOs, as those terms are defined in rule 53, was $151.4 million.[39] Applicants now request authority for Exelon to use up $5.5 billion of the proceeds of financings to acquire additional investments in EWGs and/or FUCOs. In addition, Exelon requests that the limit on the use of Genco employees imposed in rule 53(a)(3) in connection with EWGs and FUCOs not apply.[40]

Applicants note that pro forma consolidated retained earnings of Exelon as of March 31, 2000 were $14 million. Consequently, Exelon will not satisfy the safe harbor requirement of rule 53(a). Applicants state in this regard that Exelon's low level of retained earnings are due to extraordinary writeoffs related to industry restructuring and the expected recharacterization of ComEd's retained earnings as a result of the Merger.

E. Stock and Incentive Plans

Applicants propose for Exelon, from time to time during the Authorization Period, to issue up to 21 million shares of Exelon common stock under the employee benefit and incentive plans described below and under a dividend reinvestment plan Exelon anticipates establishing after the Merger.

Upon completion of the Merger, Exelon will assume all the obligations of Unicom under the Unicom Stock Plans, of PECO under the PECO Stock Plans, the outstanding employee stock options and stock appreciation rights granted under those plans and the agreements evidencing the grants of those options and rights. In addition, each employee or director benefit or compensation plan, program or arrangement using Unicom Common Stock or PECO Common Stock, other than the Unicom Stock Plans and the PECO Stock Plans, will provide for issuance or purchase in the open market only of Exelon Common Stock rather than Unicom Common Stock or PECO Common Stock, as the case may be, after the Merger. Further, Exelon anticipates that it will adopt the PECO Energy Company 1989 Long-Term Incentive Plan for purposes of making awards to employees of Exelon and its Subsidiaries following the Merger.

## Appendix A—Existing Debt and Guaranties

*Unicom Debt and Guaranties*

Unicorn is currently obligated under two notes to an associate having an outstanding aggregate principal amount of approximately $627 million as of March 31, 2000. Unicom also currently guaranties committed lines of bank credit available to a Nonutility Subsidiary for $400 million (from a group of 20 banks) which expire on December 15, 2000. In addition, as of March 31, 2000, Unicom has authorized guaranties of $802 million including guarantees relating to obligations of Unicom Thermal Technologies, Unicom Energy, Inc., Unicom Energy Ohio, Unicom Enterprises and the Midwest Independent System Operator. Further, ComEd and Unicom Investment, Inc. entered into an intercompany agreement relating to the sale of certain fossil generating stations by ComEd under which Unicom Investment executed a 12 year promissory note to ComEd for $2.5 billion

*Utility Subsidiary Debt and Guaranties*

As of March 31, 2000, ComEd has several issuances of debt outstanding, having various maturities up to 2023, including first mortgage bonds, sinking fund debentures, pollution control obligations, medium term notes, intercompany loans and purchase contract obligations, in amounts aggregating approximately $4.914 billion. ComEd also has a commercial paper program in place with outstanding principal debt aggregating approximately $122 million. ComEd Transitional Funding Trust has issued several series of transition bonds, with various maturities up to 2008, with an aggregate outstanding principal amount of approximately $3.0 billion. ComEd has various other subsidiaries which will also maintain existing financing arrangement in transactions Applicants state are exempt from Commission review under rule 52.

As of March 31, 2000, PECO has several issuances of debt outstanding, having various maturities up to 2014, including first mortgage bonds, pollution control debt and other secured obligations, sinking fund debt, and medium term notes, in amounts aggregating approximately $1.766 billion. In addition, PETT has issued several series of transition bonds having various maturities up to 2009, in an aggregate outstanding principal amount of approximately $4.9 billion. Further, Susquehanna owes: Approximately $60,000 under an intercompany note issued to PECO.

[39] Applicants currently have no FUCO investments. The only existing EWG investment is PECO's investment in AmerGen, which was recorded at $51.4 million at March 31, 2000. AmerGen, which is 50% owned by PECO, is an EWG that owns the Clinton Power Station in Illinois and the Three Mile Island Unit 1 Nuclear Generating Facility in Pennsylvania. As noted above, PECO also has issued letter agreements to provide funding up to a total $100 million to be available to AmerGen in connection with the operation and maintenance of all the commercial nuclear power reactors acquired or to be acquired by AmerGen.

[40] One of the conditions to the use of the safe harbor provisions of rule 53 is the requirement in rule 53(a)(3) that no more than 2% of a registered holding company's utility subsidiaries employees render services to the company's EWGs or FUCOs.

As of March 31, 2000, PECO has $110 million in outstanding guarantees or commitments, including a $100 million obligation in favor of AmerGen, an EWG, an $10 million in favor of its Exelon Infrastructure Services subsidiaries.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–24732 Filed 9–26–00; 8:45 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–43313; File No. 265–22]**

## Advisory Committee on Market Information; Establishment; Meeting

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice.

**SUMMARY:** The Chairman of the Securities and Exchange Commission (''Commission''), with the concurrence of the other members of the Commission, intends to establish the Securities and Exchange Commission Advisory Committee on Market Information (''Committee''), which will advise the Commission regarding issues relating to the public availability of market information in the equities and options markets. The first meeting of the Committee will be held on October 10, 2000, in the William O. Douglas Room, at the Commission's main offices, 450 Fifth Street, N.W., Washington, D.C., beginning at 1 p.m. The meeting will be open to the public, and the public is invited to submit written comments to the Committee.

**ADDRESSES:** Written comments should be submitted in triplicate and should refer to File No. 265–22. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commissions, 450 Fifth Street, N.W., Washington, D.C. 20549–0609.

**FOR FURTHER INFORMATION CONTACT:** Anitra Cassas, Attorney, Division of Market Regulation, at 202–942–0089; Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

**SUPPLEMENTARY INFORMATION:** In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., the Securities and Exchange Commission has directed publication of this notice that Chairman Arthur Levitt, with the concurrence of the other members of the Commission, intends to establish the ''Securities and Exchange Commission Advisory Committee on Market Information.'' Chairman Levitt certifies that he has determined that the creation of the Committee is necessary and in the public interest.

The Committee's charter directs the Committee to assist the Commission in evaluating issues relating to the public availability of market information in the equities and options markets, including: (1) The value of transparency to the markets; (2) the ramifications of electronic quote generation and decimalization for market transparency; (3) the merits of providing consolidated market information to intermediaries and customers; (4) alternative models for consolidating and disseminating information from multiple markets; (5) how market information fees should be determined, including the role of public disclosure of market information costs, fees, revenues, and other matters, and how the fairness and reasonableness of fees should be evaluated; and (6) appropriate governance structures for joint market information plans, as well as issues relating to plan administration and oversight.

To achieve the Committee's goals, members will be appointed that can effectively represent the varied interests affected by the range of issues to be considered. The Committee's membership may include, among other, persons who can represent investors, markets, broker-dealers, vendors, and other market participants, as well as the public at large. The Commission expects that the Committee's members will represent a variety of viewpoints and have varying experience, and that the Committee will fairly balanced in terms of points of view, backgrounds and tasks. The Chairman of the Committee will be Joel Seligman, Dean of the Washington University School of Law.

The Committee will conduct its operations in accordance with the provisions of the Federal Advisory Committee Act. The duties of Committee will be solely advisory. Determinations of action to be taken and policy to be expressed with respect to matters upon which the Advisory Committee provides advice or recommendations shall be made solely by the Commission.

The Committee will meet at such intervals as are necessary to carry out its functions. It is expected that meetings of the full Committee generally will occur no more frequently than six (6) times; meetings of subgroups of the full Advisory Committee will likely occur more frequently. The Commission will provide necessary support services to the Committee.

The Committee will terminate on September 15, 2001 unless, prior to such time, its charter is renewed in accordance with the Federal Advisory Committee Act, or unless the Chairman, with the concurrence of the other members of the Commission, determines that continuance of the Committee is no longer in the public interest.

Fifteen days after publication of this notice in the **Federal Register,** a copy of the charter of the Committee will be filed with the Chairman of the Commission, the Senate Committee on Banking, Housing, and Urban Affairs, and the House Committee on Commerce. A copy of the charter will also be furnished to the Library of Congress and placed in the Commission's Public Reference Room for public inspection.

Furthermore, upon establishment of the Committee, and in accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10a, notice is hereby given that the first meeting of the Committee will be held on October 10, 2000 in the Willian O. Douglas Room at the Commission's main offices, 450 Fifth Street, NW., Washington, DC, beginning at 1 p.m. The meeting will be open to the public. The purpose of this meeting will be to discuss general organizational matters, to plan the progression of the Committee's work, and to begin discussion of the issues relating to the public availability of market information in the equities and options markets.

Dated: September 20, 2000.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 00–24798 Filed 9–26–00; 8:45 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–43305; File No. SR–Amex–00–36]**

## Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the American Stock Exchange LLC Creating an Options Principal Membership Seat Upgrade Program

September 19, 2000.

### I. Introduction

On June 30, 2000, the American Stock Exchange LLC (''Exchange'' or ''Amex''), submitted to the Securities and Exchange Commission (''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 creating an options principal membership seat upgrade program. The proposed rule change was published for comment in the **Federal Register** on August 7, 2000.[3] The Commission received no comments on the proposal. This order approves the proposal.

## II. Description of the Proposal

The Exchange believes that the recent increase in the number of securities listed on the Exchange, especially options and Exchange-traded funds, has led to a greater demand for specialists and brokers to handle the increased volume. Specialists and brokers are required to be regular members of the Exchange. To accommodate the growing need for more specialists and brokers, the Exchange has proposed a voluntary Options Principal Membership (''OPM'') Seat Upgrade Program (''Program''), with the potential for upgrading 203 options principal memberships into regular memberships.

The one-time fee to upgrade an OPM membership to a regular membership under the proposed Program will be $30,000 or $36,000, depending on whether the OPM owner elects to participate in the Program within 120 days of the effective date of the Program.[4]

The Program would be in effect for 18 months. At the end of the 18 month period, the Program would terminate unless the Exchange elects to continue it.[5] Fund proceeds, less administrative costs to the Exchange, would be distributed equally to regular seat owners of record at the time of distribution (excluding regular seat owners who upgraded their OPM seats). Interest on fund deposits would accrue to the regular members.

## III. Discussion

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5),[7] in that it is designed to facilitate securities transactions and to remove impediments to and perfect the mechanism of a free and open market.[8] The Commission believes that the proposed rule change will enable the Exchange to respond to the growing demand for more specialists and brokers to handle increased volume on the Exchange, which should help to facilitate securities transactions and remove impediments to a free and open market. In addition, the Commission believes the Program may help to enhance the depth and liquidity of the Amex market by bringing additional capital and market participants to the trading floor. Finally, the Commission believes that the Program should assist public customers in getting better executions of their orders by providing them with additional firms through which orders to the Amex can be routed.

## IV. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–Amex–00–36) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–24733 Filed 9–26–00; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42803 (July 31, 2000), 65 FR 48262.

[4] OPM owners that elect to upgrade to a regular membership within 240 days would be entitled to pay on a monthly basis for 12 months. Program participants who are delinquent in their installment payments by more than sixty days would forfeit all payments made to date and their seats would revert to OPM status. After 240 days from Program effectiveness, an OPM owner would be required to pay a lump sum payment of $36,000 at the time of election.

[5] At that time, the Exchange could consider changing the terms of the Program, including raising the cost of upgrading an OPM seat. The Commission notes and the Exchange acknowledges that it would be required to file a proposed rule change with the Commission pursuant to Section 19(b) of the Act if it decides to extend or make any changes to the Program. Telephone call between Ivonne Lugo, Assistant General Counsel, Amex, and Sonia Patton, Attorney, Division of Market Regulation (''Division''), Commission, on July 13, 2000.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] In approving this rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–43308; File No. SR-Amex-00–12]**

## Self-Regulatory Organizations; Order Approving Proposed Rule Change by the American Stock Exchange LLC Relating to Procedures for the Review of Initial Listing Decisions

September 20, 2000.

## I. Introduction

On February 28, 2000, the American Stock Exchange LLC (''Amex'' or ''Exchange'') 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 procedures for the review of initial listing determinations. The proposed rule change was published for comment in the **Federal Register** on July 13, 2000.[3] This order approves the proposed rule change.

## II. Description of the Proposal

Amex original listing criteria, set forth in Part 1 of the Amex Company Guide, provide quantitative and qualitative criteria for the original listing of securities on the Exchange. Section 101 of the Amex Company Guide currently provides that the approval of a listing application is a matter solely within the discretion of the Exchange. Thus, the Exchange currently has the discretion to list the securities of an applicant that may not satisfy each of the listing guidelines and to deny the listing of an applicant's securities that do satisfy those guidelines.[4]

Proposed Part 12 codifies the procedures for the review of Amex Staff listing determinations by a subcommittee of the Committee on Securities (as defined in Section 1204) and also sets forth the procedures with respect to appeals from the subcommittee to the Amex Adjudicatory Council (as defined in Section 1205) or the Amex Board of Governors. Under

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 43013 (July 13, 2000), 65 FR 43386.

[4] The Commission believes these provisions should be invoked by the Exchange only under circumstances that would be consistent with the public interest. Since investors rightfully presume that the companies listed on the Amex meet the quantitative and qualitative guidelines, these provisions should not be used by the Exchange as a way to permit issuers to bypass the numerical requirements for listing. The Commission would be concerned to find the Amex routinely approving listing for issuers that have not met the quantitative guidelines.

Section 1202, the Exchange will notify applicants of a decision to deny a application, citing the specific quantitative or qualitative standards in Part 1 of the Amex Company Guide that were not met. The Exchange will notify the applicant that, upon request, the applicant will be provided an opportunity for a hearing under these procedures. An applicant may request a written or oral hearing within 7 days of the date of the Staff's determination to deny the application.[5] Section 1203 specifies written materials that the applicant may submit in connection with a hearing.

Section 1204 provides that all hearings will be conducted before a subcommittee of the Committee on Securities (''Subcommittee'') consisting of at least two persons. Following the hearing, the Subcommittee must issue a written decision (''Subcommittee Decision'') citing specific grounds for the Subcommittee's determination. The Subcommittee will promptly provide its decision to the applicant and will also provide notice that the applicant may request review by the Adjudicatory Council[6] within 15 days of the date of the Subcommittee Decision.[7] The applicant will also be notified that the Adjudicatory Council may call for review of the Subcommittee Decision within 45 days, at the request of one or more of the Council's members, as provided in Section 1205.

The Adjudicatory Council will consider the written record and can hold additional hearings. It may also recommend that the Amex Board consider the matter. The Adjudicatory Council will set forth specific grounds for its decision and provide notice that the Amex Board may call the decision for review at any time before its next meeting which is at least 15 days after the decision. If the Amex Board conducts a discretionary review, the applicant will be provided with a written decision affirming, modifying, reversing, or remanding the Adjudicatory Council's decision.[8] The Board's decision constitutes final action of the Exchange and will take immediate effect unless it specifies to the contrary.[9]

Section 1207 describes the documents included in the written record. Section 1208 provides for the maintenance of the written record of review, as well as any documents excluded from the written record.

Section 1211 prohibits the Amex Staff or an applicant from making any communication relevant to the merits of a proceeding with anyone who is participating in or advising in the consideration of a matter unless the applicant and the appropriate Amex Staff have been provided notice and an opportunity to participate in the communication. The Exchange currently expects that Amex Staff generally will waive their rights under this provisions in the interest of providing a non-adversarial business forum for listing decisions.[10]

## III. Discussion

The Commission finds that the Exchange's proposal is consistent with the requirements of Section 6 of the Act,[11] and furthers the objectives of Section 6(b)(5)[12] in particular because 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change, by establishing procedures for the review of initial listing determinations, will provide clarity and transparency to issuers concerning the Amex's decisionmaking process. The new rules require the Exchange to notify applicants of a decision to deny listing and set forth the specific grounds for the determination at each level of review.

The proposed rules also provide a fair and independent review for issuers, with provisions detailing the maintenance of the record on review and prohibiting communications outside of the official proceeding. The Commission further notes that the proposed rules are modeled on the Nasdaq listing process.[13] Similar to the rules proposed herein, the rules of the National Association of Securities Dealers, Inc. codify the procedures for the review of initial listing determinations.[14]

## IV. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change, SR–Amex–00–12, be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–24735 Filed 9–26–00; 8:45 am]

BILLING CODE 8010–10–M

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–43309; File No. SR–NYSE–00–37]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Rescinding Parts of, or the Entire Text of, Exchange Rule 112A.10, Rule 321.25, Rule 392, Rule 393 and Rule 395, Which Reference Rescinded Exchange Rule 390 or Off-Board Trading Restrictions

September 20, 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 August 17, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this

[5] The Amex will not charge a hearing fee to appeal the Exchange Staff's listing determination. Telephone conservation between Michael Cavalier, Associate General Counsel, Amex, and Susie Cho, Attorney, Division of Market Regulation (''Division''), Commission, April 19, 2000.

[6] The Amex Adjudicatory Council, is established by the Amex Board pursuant to Article II, Section 6 of the Amex Constitution. The Council consists of six individuals, all of whom are nominated by the Amex Nominating Committee and elected by the regular and options principal members voting together as a single class. Three of the Council's members are Floor Governors and three are Public Governors.

[7] The Amex will not charge a hearing fee to appeal the Subcommittee's determination. Telephone conservation between Michael Cavalier, Associate General Counsel, Amex, and Susie Cho, Attorney, Division, Commission, April 19, 2000.

[8] *See* Section 1206(c).

[9] The Commission notes that any applicant aggrieved by a final action of the Amex may apply for review to the Commission in accordance with Section 19 of the Act.

[10] Although members of the Amex Staff may waive their rights under Section 1211, the Commission expects that the record on review will include all of the information used as the basis for the Amex's decision.

[11] 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).

[12] 15 U.S.C. 78f(b)(5).

[13] *See* NASD 4800 Series Rules.

[14] Securities Exchange Act Release No. 41367 (May 13, 1999), 64 FR 25942.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 proposed rule change rescinds parts of, or the entire text of, the following Exchange rules that reference rescinded Exchange Rule 390, or off-Board trading restrictions: Rule 112A.10, Rule 321.25, Rule 392, Rule 393 and Rule 395.[3]

**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 this proposed rule change is to rescind parts of, or the entire text of, Exchange Rules that either reference rescinded Exchange Rule 390, or restrict off-Board transactions. Rule 390 was the Exchange's off-Board trading rule, which prohibited Exchange members and their affiliates from effecting transactions in exchange-listed securities away from a national securities exchange. The Commission approved the rescission of Exchange Rule 390 on May 5, 2000.[4] The proposed rule change also rescinds Exchange Rules that restrict off-Board transactions in general because the rescission of Rule 390 permits members to execute orders in Exchange-listed securities in any marketplace at any time.

The following Rules meet the criteria described above, and are therefore, proposed to be deleted, in whole or in part: Rule 112A.10 (Reports by Off-Floor Traders, Form 82–P); Rule 321.25 (Formation or Acquisition of Subsidiaries—Off-Board transactions); Rule 392 (Notification Requirements for Offerings of Listed Securities); Rule 393 (Secondary Distributions); and Rule 395 (Off-Floor Transactions in Listed Rights).

*Rule 112A.10: Reports by Off-Floor Traders (Forms 82–P)*

This rule requires members or member organizations to send a weekly report on Form 82–P covering off-Floor trading, upon the request of the Exchange. Since Rule 390 has been rescinded, this practice is no longer in effect and the report is no longer needed.

*Rule 321.25: Formation or Acquisition of Subsidiaries—Off-Board Transactions*

Section .25 of Rule 321 requires subsidiaries of members or member organizations to obtain Exchange permission before effecting a transaction in a listed stock off the Floor of the Exchange. Since Rule 390 has been rescinded, such permission would no longer be needed before effecting a transaction in a listed stock off the Floor of the Exchange.

*Rule 392: Notification Requirements for Offerings of Listed Securities*

The reference in this Rule to ''secondary distributions pursuant to Rule 393'' is no longer necessary as the Exchange proposes to rescind Rule 393 (see below).

*Rule 393: Secondary Distributions*

Rule 393 requires the prior approval of the Exchange for member organizations to participate in an ''over-the-counter'' or ''off-board'' secondary distribution of a security admitted to dealing on the Exchange. With the rescission of Rule 390, members may execute order/transactions in Exchange-listed securities in any marketplace at any time. Therefore, the Exchange proposes to rescind this Rule as it is an off-Board transaction restriction.

*Rule 395: Off-Floor Transactions in Listed Rights*

Rule 395 mandates that members, member organizations, and affiliated persons not effect any transaction in any subscription right admitted to dealing on the Exchange, in the over-the-counter market, either as principal or agent (subject to certain exceptions). The rescission of Rule 390 necessitates the rescission of this Rule because it is a restriction against off-Floor transactions; Exchange Rule 390 no longer restricts members, member organizations, and affiliated persons from trading as principal or agent in the over-the-counter market in a covered security.

2. Statutory Basis

The Exchange believes the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)[5] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The rescission of Rule 390 as well as these related Exchange Rules, and the Exchange's request that the Commission adopt an industry-wide customer price protection rule, serve to support free and open markets and the national market system.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition 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, Participates or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of

[3] For purposes of this notice, the terms ''off-Floor'' and ''off-Board'' are used interchangeably.

[4] Securities Exchange Act Release No. 42758 (May 5, 2000); 65 FR 30175 (May 10, 2000) (SR–NYSE–99–48).

[5] 15 U.S.C. 78f(b)(5).

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 4 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 NYSE.

All submissions should refer to File No. SR–NYSE–00–37 and should be submitted by October 18, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–24736 Filed 9–26–00; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–43312; File No. SR–PCX–00–12]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. Relating to Disciplinary Jurisdiction of the Ethics and Business Conduct Committee

September 20, 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 March 26, 2000, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the PCX. On September 12, 2000, the PCX filed 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Cindy L. Sink, Senior Attorney, Regulatory Policy, PCX, to Jennifer L. Colihan, Attorney, Division of Market Regulation, Commission, dated September 11, 2000. In Amendment No. 1, the Exchange deleted the word ''exclusive'' from Article IV, Section 9(a) of the PCX Constitution as the Exchange did not intend the jurisdiction described in that Section to be exclusive to the Ethics and Business Conduct Committee (''EBCC'' or ''Committee''). Also, the Exchange represented that the proposed rule change was approved by the PCX membership on January 27, 2000. Lastly, the Exchange provided an example of where a Floor Trading Committee (''FTC'') may act as the disciplinary committee in place of the EBCC.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to broaden the jurisdiction of the EBCC to include the enforcement of rules and regulations relating to trading, order, decorum, health, safety, and welfare on the trading floors.

### 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 PCX 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

Currently, Article IV, Section 9(b) of the PCX Constitution, regarding the jurisdiction of the EBCC, states that ''The jurisdiction of this Committee shall not extend to the enforcement of rules and regulations of the Floor Trading Committees relating to trading, order, decorum, health, safety, and welfare on the trading floors, or to hearings held by and sanctions imposed by such committees relating to such matters.'' The Exchange now proposes to expand the disciplinary jurisdiction of the EBCC to include the enforcement of rules and regulations relating to trading, order, decorum, health, safety, and welfare on the trading floors by deleting this provision from the PCX Constitution.

Currently, these rules and regulations are within the exclusive jurisdiction of the FTCs. It is intended that the EBCC will be used as the primary disciplinary committee at the Exchange and the FTCs will retain jurisdiction to hear disciplinary matters, if necessary. For example, it may be appropriate to take a case to an FTC rather than the EBCC if the case involves technical issues. In such a case, having the expertise of Floor Officials would be appropriate.[4]

The Exchange proposes this change to centralize disciplinary actions with one committee at the Exchange. The Exchange believes that having one disciplinary committee will better assure consistency in the decisions rendered. Moreover, the Exchange notes that, unlike the EBCC, the members of the FTCs are Floor Officials on the trading floors.

In that regard, the Exchange believes that in the process of adjudicating disciplinary cases that arise on the trading floor, it is less likely that the members of the EBCC will have personal knowledge of the relevant incident of a Floor Official ruling relating to the incident. Therefore, the Exchange believes that making the EBCC, in general, the sole disciplinary committee will result in a more objective disciplinary process at the PCX.

2. Basis

The Exchange believes the proposed rule change is consistent with section 6(b)[5] of the Act, in general, and furthers the objectives of section 6(b)(5),[6] in particular, in that it is designed to regulate communications to and from the Exchange's Options Trading Floor in a manner that promotes just and equitable principles of trade and protects investors and the public interest. The proposal is also consistent with section 6(b)(6)[7] of the Act in that it is designed to assure that Exchange members and persons associated with Exchange members are appropriately disciplined for violations of the Act, the rules and regulations thereunder, and the rules of the Exchange.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[4] An example of a situation where an FTC may act as the disciplinary committee is a ''Marking the Close'' trading violation. That is, an incident involves a market maker changing the quotes at the close to not accurately reflect the market to improve the market maker's position. *See* Amendment No. 1, *supra* note 3.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(6).

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will—

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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, DC 20549–0609. Copies of the submission. all subsequent amendments, all written statement 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 availabe for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–00–12 and should be submitted by October 18, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00–24734 Filed 9–26–00; 8:45 am]

BILLING CODE 8010–01–M

[8] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Licensee No. 03/73–0220]**

### Meridian Venture Partners II, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Meridian Venture Partners II, L.P., 259 Radnor Chester Road, Suite 140, Radnor, PA 19087, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the ''Act''), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') rules and regulations (13 CFR 107.730 (2000)). Meridian Venture Partners II, L.P. proposes to provide equity/debt financing to Dorland Data Networks, L.P., 1500 Walnut Street, Suite 1000, Philadelphia, PA 19102. The purpose of the financing is to provide additional working capital and to reduce debt.

The financing is brought within the purview of Sec. 107.730(a)(1) of the Regulations because Meridian Venture Partners, an Associate of Meridian Venture Partners II, L.P., currently owns greater than 10 percent of Dorland Data Networks, L.P., and therefore, Dorland Data Networks, L.P., is considered an Associate of Meridian Venture Partners II, L.P. as defined in Sec. 107.50 or the regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

Dated: September 20, 2000.

**Don A. Christensen,**

*Associate Administrator for Investment.*

[FR Doc. 00–24817 Filed 9–26–00; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

### Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that TD Javelin Capital Fund II, LP (''TD Javelin II''), 2850 Cahaba Road, Suite 240, Birmingham, Alabama 35223, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), and TD Lighthouse Capital Fund, LP (''TD Lighthouse'', and together with TD Javelin II the ''Funds''), 303 Detroit Street, Suite 301, Ann Arbor, Michigan 48104, a Federal Licensee under the Act, in connection with the financing of a small concern, have sought an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') rules and regulations (13 CFR 107.730 (2000)). The Funds propose to provide equity financing to Supplypro, Inc. (''Supplypro''), 6215 Ferris Square, San Diego, California 92121. The financing is contemplated for product development and working capital.

The financing is brought within the purview of Sec. 107.730 (a)(1) of the Regulations because Tullis-Dickerson Capital Focus II, LP, and TD Origen Capital Fund, LP, Associates of the Funds, currently own greater than 10 percent of Supplypro, and therefore Supplypro is considered an Associate of each of TD Javelin II and TD Lighthouse as defined in Sec. 107.50 of the regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

Dated: September 19, 2000.

**Don A. Christensen,**

*Associate Administrator for Investment.*

[FR Doc. 00–24818 Filed 9–26–00; 8:45 am]

BILLING CODE 8025–01–M

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3296]**

### State of Maryland

Allegany County and the contiguous counties of Garrett and Washington in Maryland; Hampshire, Mineral, and Morgan Counties in West Virginia; and Bedford, Fulton, and Somerset Counties in Pennsylvania constitute a disaster area as a result of damages caused by flooding that occurred on September 11, 2000. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 17, 2000 and for economic injury until the close of business on June 18, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

| | Percent |
|---|---|
| For Physical Damage: | |
| HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE | 7.375 |
| HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE | 3.687 |
| BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE | 8.000 |
| BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE | 4.000 |
| OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE | 6.750 |
| For Economic Injury: | |
| BUSINESSES AND SMALL AGRICULTURAL CO-OPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE | 4.000 |

The numbers assigned to this disaster for physical damage are 329606 for Maryland, 329706 for West Virginia, and 329806 for Pennsylvania. For economic injury the numbers are 9I8500 for Maryland, 9I8600 for West Virginia, and 9I8700 for Pennsylvania.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 18, 2000.

**Fred P. Hochberg,**

*Acting Administrator.*

[FR Doc. 00–24816 Filed 9–26–00; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

### Region II Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region II Advisory Council located in the geographical area of Buffalo, New York, will hold a public meeting at 10:00 a.m. on October 27, 2000, at Fleet Bank of New York, 10 Fountain Plaza, 9th floor boardroom, Buffalo, New York to discuss matters that may be presented by members of the Advisory Council, staff of the U.S. Small Business Administration or others present.

For further information, write or call:

**Franklin J. Sciortino,**

*District Director, U.S. Small Business Administration, 111 West Huron Street, Suite 1311, Buffalo, New York 14202, (716) 551–4301.*

[FR Doc. 00–24815 Filed 9–26–00; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

**[Dockets OST–00–7168 and OST–00–7197]**

### Application of TIE Aviation, Inc. d/b/a Trans International Express for Issuance of a Foreign Charter Certificate and Pendente Lite Exemption

**AGENCY:** Department of Transportation.

**ACTION:** Notice of order to show cause (Order 2000–9–20).

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding that TIE Aviation, Inc. d/b/a Trans International Express has failed to demonstrate a reasonable operating proposal and (2) denying it a certificate of public convenience and necessity to engage in foreign charter all-cargo transportation and *pendente lite* exemption.

**DATES:** Persons wishing to file objections should do so no later than October 4, 2000.

**ADDRESSES:** Objections and answers to objections should be filed in Dockets OST–00–7168 and OST–00–7197 and addressed to the Department of Transportation Dockets (SVC–124, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathy L. Cooperstein, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2337.

Dated: September 20, 2000.

**A. Bradley Mims,**

*Deputy Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 00–24859 Filed 9–26–00; 8:45 am]

BILLING CODE 4910–62–U

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Acceptance of Noise Exposure Maps and Request for Review of Noise Compatibility Program for Dillingham Airfield, Mokuleia, Hawaii

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the State of Hawaii, Department of Transportation for the Dillingham Airfield under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Dillingham Airfield under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before March 15, 2001.

**EFFECTIVE DATE:** The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is September 14, 2000. The public comment period ends November 14, 2000.

**FOR FURTHER INFORMATION CONTACT:** David J. Welhouse, Airport Planner, Honolulu Airports District Office, Federal Aviation Administration, P.O. Box 50244, Honolulu, Hawaii 96850, Telephone: (808) 541–1243. Comments on the proposed noise compatibility program should also be submitted to the above office.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA finds that the noise exposure maps submitted for Dillingham Airfield are in compliance with applicable requirements of Part 150, effective September 14, 2000. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before March 15, 2001. This notice also announces the availability of this program for public review and comment.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility

program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The State of Hawaii, Department of Transportation, submitted to the FAA on December 3, 1998 (original submittal) and April 12, 2000 (revised pages), noise exposure maps, descriptions and other documentation which were produced during the preparation of the Dillingham Airfield Noise Compatibility Study dated October, 1998, Revised March, 2000. It was requested that the FAA review this material as the noise exposure maps, as described in Section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under Section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the state of Hawaii, Department of Transportation. The specific maps under consideration are Figures 4–1, ''2000 (Existing) Base Year Noise Exposure Map'' and 5–1, ''2005 (Five Year) Noise Exposure Map,'' in the submission. The FAA has determined that these maps for Dillingham Airfield are in compliance with applicable requirements. This determination is effective on September 14, 2000. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Dillingham Airfield, also effective on September 14, 2000. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before March 15, 2001.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, D.C. 20591

Federal Aviation Administration, Western-Pacific Region, Airports Division, AWP–600, 15000 Aviation Blvd., Room 3012, Hawthorne, California 90261

Federal Aviation Administration, Honolulu Airports District Office, 300 Ala Moana Boulevard, Room 7–128, Honolulu, Hawaii 96813

State of Hawaii, Department of Transportation, Airports Division, Honolulu International Airport, 400 Rodgers Boulevard, Suite 700, Honolulu, Hawaii 96819

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California, on September 14, 2000.

**Herman C. Bliss,**

*Manager, Airports Division, AWP–600, Western-Pacific Region.*

[FR Doc. 00–24739 Filed 9–26–00; 8:45 am]

**BILLING CODE 4910–13–M**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Aging Transport Systems Rulemaking Advisory Committee; Meeting

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice announces a public meeting of the FAA's Aging Transport Systems Rulemaking Advisory Committee.

**DATES:** The meeting will be held October 11–12, 2000, beginning at 9 a.m. on October 11. Arrange for oral presentations by October 4.

**ADDRESSES:** The meeting will be at the Bessie Coleman Conference Center, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Terry K. Stubblefield, Office of Rulemaking, ARM–208, FAA, 800 Independence Avenue, SW, Washington, DC 20591, Telephone (202) 267–7624, FAX (202) 267–5075. Alternate Contact: Brenda D. Courtney, ARM–200, Telephone (202) 267–3327.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of a meeting of the Aging Transport Systems Rulemaking Advisory Committee in the Bessie Coleman Conference Center, Federal Aviation administration, 800 Independence Ave., SW., Washington, DC.

The agenda will include:

- Opening remarks
- Working group reports
- Review Task 1—Intrusive Inspections Report
- Review Task 3—Maintenance Criteria
- Review Task 4—Standard Wire Practice Improvements
- Review Task 5—Review Air Carrier Training
- Report by ATA on the status of implementing ATSRAC-recommended wire codes

If the Aging Transport Systems Rulemaking Advisory Committee

approves of the draft working group reports for Tasks 1, 3, 4 and 5, they will be forwarded to the FAA as formal recommendations.

Attendance is open to the interested public but will be limited to the space available. The public must make arrangements by October 4, 2000, to present oral statements at the meeting. The public may present written statements to the committee an any time by providing 20 copies to the Executive Director, or by bringing the copies to him at the meeting. Public statements will only be considered if time permits. In addition, sign and oral interpretation as well as a listening device can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on September 21, 2000.

**Anthony F. Fazio,**

*Director, Office of Rulemaking.*

[FR Doc. 00–24868 Filed 9–26–00; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at General Mitchell International Airport, Milwaukee, WI and To Use the Revenue at General Mitchell International Airport and Lawrence J. Timmerman, Milwaukee, WI

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose a PFC at General Mitchell International Airport and to use the revenue at General Mitchell International Airport and Lawrence J. Timmerman under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before October 27, 2000.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to C. Barry Bateman, Airport Director of the General Mitchell International Airport, Milwaukee, WI at the following address: 5300 S. Howell Ave., Milwaukee, WI 53207–6189.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Milwaukee County under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Sandra E. DePottey, Program Manager, Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 55450, 612–713–4363. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose a PFC at General Mitchell International Airport and to use the revenue at General Mitchell International Airport and Lawrence J. Timmerman under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On September 6, 2000 the FAA determined that the application to impose and use the revenue from a PFC submitted by Milwaukee County was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 5, 2000.

The following is a brief overview of the application.

*PFC application number:* 06–00–C–00–MKE.

*Level of the proposed PFC:* $3.00.

*Proposed charge effective date:* June 1, 2004.

*Proposed charge expiration date:* July 1, 2006.

*Total estimated PFC revenue:* $22,667,375.00.

*Brief description of proposed projects:*

**Impose and Use General Mitchell**

Rehabilitate taxiway A and A3, reconstruct perimeter road, rehabilitate runway 7R/25L, C concourse stem and 6 gate expansion (design), acquire flight information display and paging system, master plan update, terminal apron joint repair, seal coating runway 71/25R and runway 13/31, conduct electrical master plan study, rehabilitate taxiway B from R to G, construct abrasive storage building, upgrade security system, install runway 1L/19R centerline and touchdown zone lighting, C concourse taxiway expansion, baggage claim remodeling (design), rehabilitate taxiway M at B, construct maintenance storage building, construct hush house noise suppressor structure (design). Impose and Use Lawrence J. Timmerman: payment rehabilitation. Impose Only General Mitchell: C concourse stem and 6 gate expansion (construction). Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators filing FAA from 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Milwaukee County.

Issued in Des Plaines, Illinois, on September 14, 2000.

**Benito De Leon,**

*Manager, Planning and Programing Branch, Airports Division, Great Lakes Region.*

[FR Doc. 00–24740 Filed 9–26–00; 8:45am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at General Mitchell International Airport, Milwaukee, WI

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at General Mitchell International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

**DATES:** Comments must be received on or before October 27, 2000.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to C. Barry Bateman, Airport Director of the General Mitchell International Airport, Milwaukee, WI at

the following address: 5300 S. Howell Ave., Milwaukee, WI 53207–6189.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Milwaukee County under section 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Sandra E. DePottey, Program Manager, Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 55450, 612–713–4363. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at General Mitchell International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On September 6, 2000 the FAA determined that the application to use the revenue from a PFC submitted by Milwaukee County was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 5, 2000.

The following is a brief overview of the application.

*PFC application number:* 00–05–U–00–MKE.

*Level of the PFC:* $3.00.

*Actual charge effective date:* April 1, 1999.

*Estimated charge expiration date:* June 1, 2004.

*Total approved net PFC revenue:* $64,972,000.00.

*Brief description of proposed projects:* Surface movement guidance control system-construction and school/church sound insulation phase II.

*Class or classes of air carriers which the public agency has requested not be required to collect PFCs:* Air taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Milwaukee County.

Issued in Des Plaines, Illinois, on September 14, 2000.

**Benito De Leon,**

*Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.*

[FR Doc. 00–24741 Filed 9–26–00; 8:45 am]

**BILLING CODE 4910–13–M**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Request To Amend an Approved Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Golden Triangle Regional Airport, Columbus, Mississippi

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent to rule on a request to amend an approved PFC application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the request to amend the approved application to impose and use the revenue from a PFC at Golden Triangle Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before October 27, 2000.

**ADDRESSES:** Comments on this request may be mailed or delivered in triplicate to the FAA at the following address: Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, Mississippi 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Nick Ardillo, Executive Director of the Golden Triangle Regional Airport Authority at the following address: 2080 Airport Road, Columbus, MS 39701.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Golden Triangle Regional Airport Authority under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** David Shumate, Program Manager, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9882. The request may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the request to amend the application to impose the revenue from and use the revenue from a PFC at Golden Triangle Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 31, 2000, the FAA received the request to amend the application to impose the revenue from and use the revenue from a PFC submitted by Golden Triangle Regional Airport Authority within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the amendment, no later than December 29, 2000.

The following is a brief overview of the request.

*PFC Application Amendment No.:* 92–01–C–01–GTR.

*Proposed increase in the PFC level:* From $3.00 to $4.50.

*Proposed charge effective date for new level:* April 1, 2001

*Proposed charge expiration date for new level:* April 1, 2004

*Total approved PFC Revenue:* $1,693,211

*Brief description of approved project:* Renovate Terminal Building

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Golden Triangle Regional Airport Authority.

Issued in Jackson, Mississippi, on September 14, 2000.

**Wayne Atkinson,**

*Manager, Jackson Airports District Office Southern Region.*

[FR Doc. 00–24738 Filed 9–26–00; 8:45 am]

**BILLING CODE 4910–13–M**

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

**[Docket No. FHWA–2000–7957]**

### Agency Information Collection Activities; Request for Comments; Clearance of a New Information Collection: Highway Corridor Management Research

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information

collection involving activities that States are using for highway corridor management. Highway corridor management encompasses land acquisition, land owner agreements, land-use regulations, driveway management, and real property income agreements. Public agencies use corridor management to implement comprehensive plans, and minimize land use conflicts. The primary purpose of corridor management is to provide for future road construction, and to protect existing road safety and capacity. The Paperwork Reduction Act requires this notice to be published in the **Federal Register**.

**DATES:** Please submit comments by November 27, 2000.

**ADDRESSES:** You may mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590; telefax comments to 202/493–2251; or submit electronically at *http://dmses.dot.gov/submit*. All comments should include the docket number in this notice's heading. All comments may be examined and copied at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you desire a receipt, you must include a self-addressed stamped envelope or postcard or, if you submit your comments electronically, you may print the acknowledgment page.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lannie M. Graham, 202–366–2039, Office of Real Estate Services, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* Highway Corridor Management Research.

*Background:* The Transportation Equity Act for the 21st Century provides funding for expansion of selected Interstate corridors, such as I–69 which is a planned uniform connection between Michigan and Texas. The recently published FHWA regulations in 23 CFR Part 710 allow States to acquire real property in advance of road construction as long as specific performance criteria are met. In addition, 23 U.S.C. 156 requires States to charge fair market value for use of highway real property. FHWA proposes to send questionnaires to State, metropolitan, and local public agency officials to request information that will be used to document how transportation agencies are coordinating legislative allowances, financial capabilities, and management opportunities to successfully implement corridor management procedures.

The FHWA surveys will collect both historical information and the current status of State and local highway corridor activities. Multiple case studies may be conducted in situations where States have multiple case examples. The collected information will be compiled for presentation at FHWA education workshops, conferences, and distributed through electronic means such as the Internet, CD–ROMs, video tapes, and audio recordings.

*Respondents:* Approximately 25 per State will include State, metropolitan, and local public agency officials associated with corridor management activities in the 50 States.

*Frequency:* This is a one-time survey conducted at multiple sites over a three-year period. A one-time, followup, survey may be required in selected circumstances.

*Estimated Average Burden per Response:* 45 minutes.

*Estimated Total Annual Burden:* 950 hours.

**Public Comments Invited**

You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burdens could be minimized, including use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**Electronic Access**

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at telephone number 202–512–1661. Internet users may reach the **Federal Register's** home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara*.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: September 21, 2000.

**James R. Kabel,**

*Chief, Management Programs and Analysis Division.*

[FR Doc. 00–24743 Filed 9–26–00; 8:45 am]

BILLING CODE 4910–22–U

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Agency Information Collection Activities: Submission for OMB Review

**AGENCY:** Federal Highway Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for review and comment. We published a Federal Register Notice with a 60-day public comment period on this information collection on May 5, 2000 (65 FR 26269). We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Please submit comments by October 27, 2000.

**ADDRESSES:** You may send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burdens could be minimized, including the use of electronic technology, without reducing the quality of the collected information. A comment to OMB is most effective if OMB receives it within 30 days of publication of this Notice.

**FOR FURTHER INFORMATION CONTACT:** Ms. Claretta Duren, (202) 366–4636, Infrastructure Core Business Unit, Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2125–0033 (Expiration Date: November 30, 2000).

*Title:* Statement of Materials and Labor Used by Contractor on Highway Construction Involving Federal Funds.

*Abstract:* The Federal Highway Administration (FHWA) compiles data on Federal-aid highway construction contracts of $1 million or more and located on the National Highway System to establish highway construction usage factors. These usage factors quantify materials used, such as cement and bitumen, and the amount of aggregates produced and purchased by the contractor. Also quantified are the total labor hours utilized and associated gross earnings. Provisions in 23 CFR 635.126 facilitate the FHWA's efforts to compile this data, which is submitted to the FHWA by contractors and State Departments of Transportation on Form FHWA–47, Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds. FHWA's estimates of current material usage and cost distribution on Federal-aid highway construction contracts are used by materials suppliers, highway contractors, engineers, economists and others to plan for future needs of the highway construction program and to document information on the usage of materials and labor in highway construction.

*Affected Public:* Federal-aid highway construction contractors and Departments of Transportation for the 50 States, Puerto Rico and the District of Columbia.

*Estimated Total Annual Burden Hours:* 8,450. There are an estimated 1,300 required reports annually. Approximately 433 contractors submit an average of 3 forms per year which require an average of 5 hours to complete. The estimated burden hours for the contractors to complete Part B of the form is 6,500 (433 contractors × 15 hours each) or (1,300 projects × 5 hours each). In addition, 52 Transportation Departments, including Puerto Rico and the District of Columbia, complete Part A on an average of 25 forms annually, requiring approximately one and one half (1.5) hours each. The estimated burden hours for the Transportation Departments is 1,950 (52 × 25 forms × 1.5 hours each).

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: September 21, 2000.

**James R. Kabel,**

*Chief, Management Programs and Analysis Division.*

[FR Doc. 00–24742 Filed 9–26–00; 8:45 am]

BILLING CODE 4910–22–U

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

**The New York, Susquehanna and Western Railway Corporation (Waiver Petition Docket Number FRA–2000–7414)**

The New York, Susquehanna and Western Railway Corporation (NYSW) seeks a waiver of compliance from the provisions of the *Track Safety Standards,* 49 CFR 213.237(a), regarding the continuous search of rail for internal defects. The NYSW operates infrequent seasonal passenger excursion trains over portions of three separate low tonnage main lines which are classified as Class 3 track and therefore, due to the operation of passenger trains, require a yearly inspection for internal rail defects.

The NYSW is petitioning for a waiver which would allow them to schedule inspections for internal rail defects on a tonnage based frequency, which would be the requirement of the *Track Safety Standards* absent any passenger train operation over these specific portions of track. The petitioner cites the low volume of traffic, the virtual non-existent history of train derailments over these track segments, and the NYSW's policy of performing visual track inspections prior to the operation of each passenger excursion trains as arguments in favor of relief.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number 2000–7414) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov.*

Issued in Washington, D.C. on September 21, 2000.

**Edward R. English,**

*Director, Office of Safety, Assurance and Compliance.*

[FR Doc. 00–24715 Filed 9–26–00; 8:45 am]

BILLING CODE 4910–06–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 33407]**

### Dakota, Minnesota & Eastern Railroad Corporation Construction Into the Powder River Basin

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of availability of Draft Environmental Impact Statement and notice of public meetings.

**SUMMARY:** The Dakota, Minnesota & Eastern Railroad Corporation (DM&E) has filed an application with the Surface Transportation Board (Board) for authority to construct and operate new rail line facilities in east-central Wyoming, southwest South Dakota, and south-central Minnesota. The project, known as the Powder River Basin Expansion Project, involves approximately 280.9 miles of new rail line construction and would extend DM&E's existing rail line from Wall, South Dakota west to coal mines in Wyoming's Powder River Basin. Additionally, DM&E proposes to rebuild approximately 597.8 miles of existing rail line along its current system to standards acceptable for operation of unit coal trains. The project would require actions by a number of Federal agencies, including the Board, the U.S. Department of Agriculture Forest Service (USFS), the U.S. Department of the Interior Bureau of Land Management (BLM), the U.S. Army Corps of Engineers (COE), the U.S. Department of the Interior Bureau of Reclamation

(Reclamation), and the U.S. Coast Guard (Coast Guard).

The Board, through its Section of Environmental Analysis (SEA) and in cooperation with USFS, BLM, COE, Reclamation, and the Coast Guard, has published a Draft Environmental Impact Statement (Draft EIS) for the Powder River Basin Expansion Project. This Draft EIS is a preliminary analysis of the potential environmental impacts of the DM&E proposal and its reasonable and feasible alternatives, including the No-Action Alternative. SEA emphasizes that the conclusions and recommended environmental mitigation measures in this Draft EIS are preliminary, and invites public and agency comments on all aspects of the Draft EIS. SEA is providing a 90-day public comment period on the Draft EIS. Comments must be postmarked by the close of the comment period, which is January 5, 2001. Information on how to submit comments is set forth below.

SEA, working with the five cooperating agencies, will make its final recommendations on the project, including environmentally preferable alternative(s) and environmental mitigation, to the Board in the Final EIS, after considering all public comments on the Draft EIS and conducting further environmental analysis, agency consultations, and site visits, as appropriate. The Final EIS will be issued after public comments have been received, reviewed, and fully evaluated. Notice of availability of the Final EIS will be published in the **Federal Register**.

Following issuance of the Final EIS, the Board will make its final decision regarding this project and any environmental conditions it might impose. When considering whether to grant final approval of the proposed transaction, the Board will consider the potential environmental effects and the cost of any environmental mitigation it might impose on the project. In reaching its final decision in this proceeding, the Board will take into account the full environmental record, including the Draft EIS, the Final EIS, and all public and agency comments received. The cooperating agencies will issue their decisions based on the same environmental record.

**FOR FURTHER INFORMATION CONTACT:** Victoria Rutson, Project Manager, Surface Transportation Board, Powder River Basin Expansion Project, 1–877–404–3044; U.S. Department of Agriculture Forest Service: Wendy Schmitzer, (307) 358–4690; U.S. Department of the Interior Bureau of Land Management: Bill Carson, (307) 746–4453; U.S. Army Corps of Engineers: Jerry Folkers, (402) 221–4173 (Omaha District) and Timothy Fell, (651) 290–5360 (St. Paul District); U.S. Department of the Interior Bureau of Reclamation: Kenneth Parr, (605) 394–9757; U.S. Coast Guard: Bruce McLaren, (314) 539–33724. [TDD/TDY for hearing impaired: 1–800–877–8339.]

**SUPPLEMENTARY INFORMATION:**

## Public Availability

In addition to mailing the document to over 2,500 interested parties, SEA has distributed the Draft EIS to over 80 public libraries in the project area and asked that the entire Draft EIS be made publicly available in their reference section. To obtain the name of the library nearest you that has received the Draft EIS, please call the toll-free Environmental Hotline at 1–877–404–3044 and leave your name, address, and telephone number. The entire Draft EIS is also available on the Board's website (http://www.stb.dot.gov) by clicking on the ''Decisions'' button and searching by Service date (September 27, 2000) or Docket Number (FD 33407). The Draft EIS will be listed as Environmental Document under the ''TYPE'' category. Because of the size of the document—over 2000 pages and several volumes—distribution of the entire Draft EIS has been limited to key governmental agencies, parties of record, and those who requested the entire document in response to SEA's postcard mailing in June 2000.

## Public Comment

Written comments on the Draft EIS must be submitted by January 5, 2001. For comments over five pages long, please send an original and ten copies. For comments five pages long and less, an original alone may be submitted. Please send all comments to the following address: Office of the Secretary, Case Control Unit, STB Finance Docket No. 33407, Surface Transportation Board, 1925 K Street NW, Washington, D.C. 20423–0001.

In the lower left-hand corner of the envelope, please include the following: Attention: Victoria Rutson, Environmental Project Manager, Environment Filing.

SEA is also requesting comments on other documents set forth in Appendices to the Draft EIS, specifically, the Biological Assessment, the Programmatic Agreement and Identification Plan, and the Memorandum of Agreement. Comments on these documents are also due by January 5, 2001 and should be submitted to the Board according to the instructions above.

Regarding the Forest Plan Amendments, which are also set forth in the Executive Summary and in Appendix L to the Draft EIS, the National Forest Management Act, 36 CFR 219.10(e), requires consistency between projects being proposed and National Forest Land and Resource Management Plans (Forest Plans). Accordingly, USFS evaluated two existing Forest Plans (Nebraska and Medicine Bow Forest Plans) for consistency with standards and guidelines of those plans as well as the Draft National Grasslands Plan Revision (Preferred Alternative 3). Based on the identification of its Preferred Alternative, Alternative C, USFS has determined that if Alternative C is selected for implementation, then Alternative C will not be consistent with any of the Forest Plans above, and plan amendments must be proposed. You are invited to comment on these proposed Forest Plan Amendments and may send written comments to Ms. Wendy Schmitzer, USFS Project Coordinator, Douglas Ranger District, 2250 East Richards Street, Douglas, Wyoming, 82633, or call (307) 358–1634. You may e-mail comments on the Forest Plan Amendments to: wschmitzer@fs.fed.us.

SEA anticipates that DM&E will submit two permit applications under Section 404 of the Clean Water Act to the COE by the publication date of this Notice. Comments on DM&E's Section 404 Permit Application relating to Minnesota should be sent to: Mr. Timothy Fell, U.S. Army Corps of Engineers, St. Paul District, 190 5th Street East, St. Paul, MN 55101–1638. Comments on DM&E's Section 404 Permit Application relating to Wyoming and South Dakota should be sent to: Mr. Jerry Folkers, U.S. Army Corps of Engineers, Omaha District, 215 North 17th Street, Omaha, NE 68102–4978. The COE has made the Applications available for review at various locations. For the location nearest you that has the Section 404 Application relating to Minnesota, please contact Mr. Fell at (651) 290–5360. For the location nearest you that has the Section 404 Application relating to South Dakota and Wyoming, please contact Mr. Folkers at (402) 221–4173.

## Public Meetings

In addition to receiving written comments on the Draft EIS, SEA will host 12 public meetings at the locations and on the dates and times listed below. At each meeting, SEA and the participating cooperating agencies will give a brief presentation. Then members of the public will have the opportunity to speak. All public meetings will

follow the same format and agenda. SEA will have a transcriber available at each meeting to ensure that oral comments are accurately recorded. In some locations, two meetings will be held (an afternoon and an evening session). Both the afternoon and evening meetings will follow the same format and agenda; it is not necessary to attend both meetings.

Douglas, WY
Best Western Douglas Inn, 1450 Riverbend Drive, Douglas, WY 82633, Monday, October 30, 2000, 6–10 p.m.

Newcastle, WY
The Fountain Inn, 2 Fountain Plaza, Newcastle, WY 82701, Wednesday, November 1, 2000, 1–4 p.m. and 6–10 p.m.

Rapid City, SD
Rushmore Plaza Civic Center, 444 Mount Rushmore Road North, Rapid City, SD 57701, Thursday, November 2, 2000, 6–10 p.m.

Pierre, SD
Best Western Kings Inn, 200 South Pierre, Pierre, SD 57501, Monday, November 13, 2000, 1–4 p.m. and 6–10 p.m.

Brookings, SD
Brookings Inn, 2500 East 5th Street, Brookings, SD 57006, Tuesday, November 14, 2000, 1–4 p.m. and 6–10 p.m.

Mankato, MN
Best Western Hotel and Restaurant, 1111 Range Street, North Mankato, MN 56003, Wednesday, November 15, 2000, 1–4 p.m. and 6–10 p.m.

Rochester, MN
Mayo Civic Center, 30 Civic Center Drive South East, Rochester, MN 55904, Thursday, November 16, 2000, 1–4 p.m. and 6–10 p.m.

SEA will also conduct a meeting specifically for interested Tribes and Tribal organizations, as part of the formal government-to-government consultation process on the Draft EIS.

**Pre-Registration for Public Meetings**

Persons wanting to speak at a public meeting are strongly urged to pre-register by calling the toll-free Environmental Hotline for this project at 1–877–404–3044 and leave their name, telephone number, the name of any group, business, or agency affiliation, if applicable, and the date and time of the meeting at which they wish to speak. The deadline for pre-registration for all meetings is October 20, 2000.

Persons will be called to speak at each meeting in the order in which they pre-registered. Those wishing to speak but that did not pre-register will be accommodated at each meeting as time allows. Those wishing to speak at more than one meeting will also be accommodated as time allows and after all others have had an opportunity to participate. As SEA would like as many persons as possible to participate and given that there will be a limited amount of time at each meeting, all speakers are strongly encouraged to prepare summary oral comments, and submit detailed comments in writing. SEA also encourages groups of individuals with similar comments to designate a representative to speak for them.

By the Board, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 00–24852 Filed 9–26–00; 8:45 am]

BILLING CODE 4915–00–P

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 33932]**

### ParkSierra Corp., Arizona & California Railroad Company Limited Partnership, and California Northern Railroad Company, L.P.-Corporate Family Transaction Exemption

ParkSierra Corp. (ParkSierra), Arizona & California Railroad Company Limited Partnership (ARZC), and California Northern Railroad Company, L.P. (CFNR) have filed a verified notice of exemption. The exempt transaction involves the contribution of all of ARZC's and CFNR's assets to ParkSierra in exchange for shares of common stock of ParkSierra.[1] Upon consummation of the transaction, ParkSierra will assume the common carrier obligations of ARZC and CFNR, and ARZC, CFNR, and PSAP each will continue to provide railroad service as a d/b/a and separate operating division of ParkSierra.[2]

The transaction is/was expected to be consummated on or after September 20, 2000.

The transaction is intended to simplify the organizational structure of ParkSierra, ARZC, and CFNR and to create administrative efficiencies.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

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 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 reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33932, 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 Rose-Michele Weinryb, Esq., Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW., Fifth Floor, Washington, DC 20036–1609.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 20, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 00–24692 Filed 9–26–00; 8:45 am]

BILLING CODE 4915–00–P

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[1] ParkSierra, a noncarrier, is the sole general partner of ARZC and CFNR, both Class III rail carriers. In addition to owning rail lines in the States of Arizona and California, ARZC owns rail lines in the State of Washington that are operated by an operating division of ARZC d/b/a Puget Sound & Pacific Railroad (PSAP). CFNR operates in the State of California. None of the rail lines of ARZC, CFNR, or PSAP connect to each other.

[2] Redacted versions of the trackage rights agreements between the parties were filed with the verified notice of exemption. Also, full versions of the trackage rights agreements, as required by 49 CFR 1180.6(a)(7)(ii), were filed under seal. A motion for protective order was filed on September 13, 2000. That motion was granted and a protective order in this proceeding was served on September 20, 2000.

# Corrections

**Federal Register**

Vol. 65, No. 188

Wednesday, September 27, 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.

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6872–7]**

### Proposed CERCLA Prospective Purchaser Agreement; Master Metals, Inc., Superfund Site; City of Cleveland, Cuyahoga County, OH

*Correction*

In notice document 00–24045 appearing on page 56577 in the issue of Tuesday, September 19, 2000, make the following correction:

On page 56577, in the second column, in the **DATES** section, ''September 19, 2000'' should read ''October 19, 2000''.

[FR Doc. C0–24045 Filed 9–26–00; 8:45 am]

**BILLING CODE 1505–01–D**

Federal Register

Wednesday,
September 27, 2000

# Part II

# Department of the Interior

## Fish and Wildlife Service

## 50 CFR Part 20

## Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting Regulations; Final Rule

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 20**

**RIN 1018–AG08**

## Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting Regulations

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Fish and Wildlife Service (hereinafter Service or we) prescribes final late-season frameworks from which States may select season dates, limits, and other options for the 2000–01 migratory bird hunting seasons. These late seasons include most waterfowl seasons, the earliest of which generally commence on or about October 1, 2000. The effect of this final rule is to facilitate the selection of hunting seasons by the States to further the annual establishment of the late-season migratory bird hunting regulations. State selections will be published in the **Federal Register** as amendments to §§ 20.101 through 20.107, and § 20.109 of title 50 CFR part 20.

**DATES:** This rule takes effect on September 27, 2000.

**ADDRESSES:** States should send their season selections to: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240. You may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Andrew, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

**SUPPLEMENTARY INFORMATION:**

### Regulations Schedule for 2000

On April 25, 2000, we published in the **Federal Register** (65 FR 24260) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 20, 2000, we published in the **Federal Register** (65 FR 38400) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 2000–01 duck hunting season. The June 20 supplement also provided detailed information on the 2000–01 regulatory schedule and announced the Service Migratory Bird Regulations Committee and Flyway Council meetings.

On June 21–22, 2000, we held meetings that reviewed information on the current status of migratory shore and upland game birds and developed 2000–01 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as the information related to the development and selection of the regulatory packages for the 2000–01 regular waterfowl seasons. On July 31, we published in the **Federal Register** (65 FR 46840) a third document specifically dealing with the proposed frameworks for early-season regulations. The July 31 supplement also established the final regulatory alternatives for the 2000–01 duck hunting season.

On August 2–3, 2000, we held meetings, as announced in the April 25 and June 20 **Federal Register**, to review the status of waterfowl. On August 22, 2000, we published a fourth document (65 FR 51174) that dealt specifically with proposed frameworks for the 2000–01 late-season migratory bird hunting regulations. On August 23, 2000, we published a fifth document in the **Federal Register** (65 FR 51496) containing final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico, and the Virgin Islands selected early-season hunting dates, hours, areas, and limits for the 2000–01 season. On September 1, 2000, we published in the **Federal Register** (65 FR 53492) a sixth document consisting of a final rule amending subpart K of title 50 CFR part 20 to set hunting seasons, hours, areas, and limits for early seasons. This document establishes final frameworks for late-season migratory bird hunting regulations for the 2000–01 season.

### Population Status and Harvest

A brief summary of information on the status and harvest of waterfowl excerpted from various reports was included in the August 22 supplemental proposed rule. For more detailed information on methodologies and results, complete copies of the various reports are available at the address indicated under the caption **ADDRESSES** or from our website at http://migratorybirds.fws.gov.

### Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the April 25 **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The supplemental proposed rule, which appeared in the June 20 **Federal Register**, defined the public comment period for the proposed regulatory alternatives for the 2000–01 duck hunting season. The public comment period for the proposed regulatory alternatives ended July 7, 2000, and the public comment period for late-season issues ended on September 8, 2000. Written comments received through September 8, 2000, relating to the proposed late-season frameworks are summarized and discussed below in the order used in the April 25 proposed rule. Only the numbered items pertaining to late seasons for which written comments were received are included. Consequently, the issues do not follow in direct numerical or alphabetical order. We also received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below.

*1. Ducks*

Categories used to discuss issues related to duck harvest management are: (A) Harvest Strategy Considerations, (B) Regulatory Alternatives, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. The categories correspond to previously published issues/discussion, and only those containing substantial recommendations are discussed below.

A. General Harvest Strategy

*Council Recommendations:* Beginning with the 2000–01 season, the Atlantic, Mississippi, Central, and Pacific Flyway Councils, in a joint recommendation, recommended that the appropriate regulatory alternative for duck-hunting seasons in the Atlantic Flyway be based on the status of eastern mallards and an objective to maximize long-term harvest. The Flyway Councils also recommended that the regulatory choice for all other Flyways be based on the

status of midcontinent mallards and an objective to maximize long-term harvest, while maintaining population size above the goal of the North American Waterfowl Management Plan. Finally, the Flyway Councils recommended further evaluation of the implications of this recommendation for other mallard stocks and for other duck species.

*Written Comments:* The South Carolina Department of Natural Resources and the New Jersey Division of Fish and Wildlife supported the Service's decision concerning eastern mallards in the Atlantic Flyway. South Carolina also supported further assessment of the consequences of this decision for mallard population segments of concern, and for other duck species.

*Service Response:* Since implementation of Adaptive Harvest Management (AHM) in 1995, the regulatory choice for all Flyways has been based exclusively on the status of midcontinent mallards. This year, we proposed two alternatives for modifying the current AHM protocol to account for eastern mallards. Both alternatives allow for a different regulatory choice in the Atlantic Flyway than in the remainder of the country. The first alternative involves a regulatory choice in the Atlantic Flyway based on the status of both eastern and midcontinent mallards. The second alternative involves a regulatory choice in the Atlantic Flyway that is based exclusively on the status of eastern mallards. Both alternatives are expected to increase the frequency of liberal regulations in the Atlantic Flyway, because eastern mallard biology and the associated harvest-management objective suggest allowable harvest rates that are higher than those for midcontinent mallards.

We support the second alternative for the 2000–01 hunting season; i.e., that the regulatory choice in the Atlantic Flyway should be based exclusively on the status of eastern mallards, and that the regulatory choice for the remaining Flyways should be based exclusively on the status of midcontinent mallards. We make this recommendation, however, with the clear understanding that there must be further assessment of the consequences of this decision for mallard population segments of concern, and for other duck species. The move to Flyway-specific regulations is perhaps the most significant change in duck harvest management since the advent of the Flyway system. And the decisions we make relative to eastern mallards have important implications for how we modify AHM to account for western mallards and for other species such as pintails and wood ducks. Therefore, we suggest that the AHM Working Group continue to place a high priority on its investigations into multiple-stock management.

B. Regulatory Alternatives

*Council Recommendations:* The Upper-Region Regulations Committee of the Mississippi Flyway Council, and the Atlantic, Central, and Pacific Flyway Councils recommended adopting the ''liberal'' alternative for the 2000–01 duck hunting season.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended adoption of the ''liberal'' alternative, except that they recommend the framework opening and closing dates in all regulations packages be the Saturday nearest September 23 and the Sunday nearest January 28, with no penalties in days.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council, and the Atlantic, Central, and Pacific Flyway Councils recommended, in a joint recommendation, that the Flyway Councils and the Service develop, through the AHM Working Group, by July 2002, (1) a revised set of guidelines for making changes to AHM regulatory options (packages), and (2) a schedule for when changes to AHM packages will next be considered.

*Written Comments:* The Wildlife Management Institute supported the proposed regulations.

An individual from South Carolina requested a January 31 framework closing date, and an individual from Mississippi requested a February 15 framework closing date.

An individual from California supported not increasing season lengths or bag limits.

*Service Response:* The set of regulatory alternatives for this year, including specification of season lengths, bag limits, and framework dates, was finalized in the July 31 **Federal Register**. In establishing these alternatives, we reiterated our desire to maintain current framework-date specifications through the 2002–03 hunting season, or until such time that the Flyway Councils can develop an approach that adequately addresses the concerns of the Service and a majority of States. Based on discussions to date, we are not optimistic that such an approach is forthcoming in the short term. Therefore, we support the joint Flyway Council recommendation, in which the AHM Working Group is charged with developing a set of guidelines and schedule for reviewing the current set of regulatory alternatives by July 2002. These guidelines should consider all facets of the regulatory alternatives, including the desire by some States to extend framework dates beyond October 1–January 20.

For the 2000–01 hunting season, we selected the ''liberal'' regulatory alternative (as described in the July 31 supplemental proposed rule) for all Flyways, based on 10.5 million midcontinent mallards, 2.4 million ponds in Prairie Canada, and 890,000 eastern mallards.

C. Zones and Split Seasons

*Council Recommendations:* The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council, and the Atlantic, Central, and Pacific Flyway Councils, in a joint recommendation, recommended that the Service allow three zones, with two-way splits in each zone, as an additional option for duck season configurations in 2001–2005. In addition, the Flyway Councils recommend that States with existing grandfathered status be allowed to retain that status and that Alaska be granted greater flexibility to modify its zone and split configurations, without loss of grandfathered status, than is permissible under the current guidelines. Finally, the Committees and Councils recommended that no changes be made regarding the current status and guidelines for the High Plains Management Unit.

*Written Comments:* The Illinois Department of Natural Resources and the Wisconsin Department of Natural Resources expressed disappointment with the Service's decision to maintain the existing zone and split-season guidelines. Illinois and Wisconsin supported the joint Flyway Council recommendation allowing three zones, with two-way splits in each zone, as an additional option for duck season configurations in 2001–2005.

The LaCrosse County Conservation Alliance of Wisconsin and several individuals from Wisconsin supported the creation of a third zone in Wisconsin and the ability to split the season.

*Service Response:* Zones and split seasons are ''special regulations'' designed to distribute hunting opportunities and harvests according to temporal, geographic, and demographic variability in waterfowl populations. These regulations are not intended to substantially change the pattern of harvest distribution among States within a Flyway, nor should these options detrimentally change the harvest distribution pattern among species or populations at either the State or Flyway level. Most States began to

experiment with zoning after formal evaluation criteria were put into place in 1977. By 1985, 36 States used zones or 3-way split seasons for duck seasons. To address the proliferations in these seasons, in 1985 we placed a moratorium on further use of these special regulations until a review could be completed. In 1990, we completed a comprehensive review of these special regulations. This review of over 40 assessments of splits and zones had equivocal results. The vast majority of these experiments failed to provide evidence of significant impacts on duck populations. However, we found that most studies were inconclusive because of poor selection and unreliable estimation of response variables, lack of statistical tests to differentiate between real and perceived changes, and an inability to establish adequate experimental controls.

Based on this review, we established a long-term strategy for the use of zones and split options. The purpose of this strategy was to limit both the number of options and the frequency that modifications could be made. These controls or guidelines were deemed necessary to preserve and enhance our ability to regulate and evaluate harvest pressure on ducks. Changes in seasons would be limited to 5-year intervals, with the first ''open season'' in 1991, the second in 1996, and the third will be next year.

When the zone/split-season guidelines were established in 1990, most States with zone/split arrangements were using one of the three options established. Some States, however, had completed experiments with different zone/split arrangements and had fulfilled the reporting requirements for these experiments. These arrangements included three, four, and five zones with two-way splits in each zone. These States were offered a one-time chance to grandfather those arrangements, with the provision that if they ever wanted to change them, their zoning arrangement would have to conform to one of the three options offered under the guidelines.

In 1996, the guidelines were modified to allow greater flexibility in season structures within the three options established in 1990. We maintain that the current guidelines achieve their intended objectives, while allowing States sufficient flexibility to address differences in physiography, climate, etc., and therefore, believe that the guidelines need not be changed.

D. Special Seasons/Species Management

i. Black Ducks

*Council Recommendations:* The Atlantic Flyway Council recommended that all Atlantic Flyway States be allowed to offer one black duck in the daily bag limit for up to 60 days, provided each State achieve a minimum 25 percent harvest reduction from the 1977–81 base period.

*Written Comments:* An individual from Delaware expressed concern about population trends of interior nesting and wintering black ducks in the Mississippi Flyway and questioned the continued harvest of these birds.

*Service Response:* We believe that the current level of harvest reduction on black ducks, achieved since the 1983 Environmental Assessment, should be maintained as a conservation measure. The harvest strategy has been supported and maintained for many years by the Atlantic Flyway Council and, in the absence of a revised strategy, is consistent with our objective to improve the status of black duck populations. Black ducks continue to be a species of concern and remain below the population objective. We believe that a conservative approach to harvesting black ducks is appropriate until an international harvest strategy is agreed upon between Canada and the United States. We would encourage the Atlantic and Mississippi Flyway Councils to work cooperatively with the Service and Canada to develop and implement an international harvest strategy as soon as possible.

Regarding the Mississippi Flyway, we recognize the problems associated with interior breeding and wintering black ducks and continue to monitor their status. These concerns will be considered within the international harvest strategy currently being developed.

ii. Canvasbacks

*Council Recommendations:* All four Flyway Councils recommended a daily bag limit of one canvasback in the 2000–01 hunting season as prescribed by the Canvasback Harvest Strategy.

*Service Response:* We continue to support the harvest strategy adopted in 1994. However, harvest data collected since the implementation of the strategy indicate that observed harvests in the United States and Canada tend to be higher than those currently used in the population model, some of which were based on data collected several decades ago. We believe that more contemporary estimates would better reflect current harvest pressure. Therefore, as we stated last year and consistent with our April proposal (65 FR 24264), we have replaced the old harvest values with the average of harvests observed during the 1994–97 hunting seasons. Even when accounting for the higher harvest levels, current population and habitat status suggest that a daily bag limit of one canvasback per day during the 2000–01 season will result in a harvest within levels allowed by the strategy. We will continue to monitor the harvest strategy performance.

iii. Pintails

*Council Recommendations:* All four Flyway Councils recommended a daily bag limit of one pintail in the 2000–01 hunting season as prescribed by the Interim Pintail Harvest Strategy.

*Service Response:* We recommend the continued use of the interim harvest strategy for a fourth year. Considering the current status of the population (2.9 million breeding birds) and the expected recruitment rate (0.76), the strategy prescribes a bag limit of one pintail for all Flyways under the liberal alternative.

iv. Scaup

*Council Recommendations:* The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council, and the Atlantic and Central Flyway Councils recommended a daily bag limit of three scaup for the 2000–01 hunting season.

The Pacific Flyway Council recommended a daily bag limit of four scaup in the Pacific Flyway for the 2000–01 hunting season.

*Service Response:* In 1999, we restricted the daily bag limit of scaup to three in the Atlantic, Mississippi, and Central Flyways and to four in the Pacific Flyway and indicated we would work with the Flyway Councils to develop a scaup harvest management strategy. Only limited progress toward a strategy has been made, and further technical work is needed; it is too early to judge the effects of the harvest restriction with only 1 year's data. This year, we propose to continue the restrictions put in place last year and ask the Flyway Councils to direct their technical committees to continue dialog with us, building toward a consensus strategy to guide harvest management.

*4. Canada Geese*

*Council Recommendations:* The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended a number of changes in season lengths, bag limits, zones, and quotas for Canada geese in Wisconsin, Michigan, Indiana, and Illinois, primarily to allow a small increase in

the harvest of Mississippi Valley Population (MVP) Canada geese.

The Lower-Region Regulations Committee of the Mississippi Flyway Council also recommended several changes in season lengths, quotas, etc., primarily to allow a small increase in the harvest of MVP Canada geese. The Committee also recommended a 23-day season statewide in Arkansas, a 7-day increase in the west zone. The previous 16-day season and the remainder of the State closure were self-imposed by the State. All of these changes are based on improved population status and current management plans. The Committee further recommended that in Tennessee, in lieu of tagging in the Kentucky/Barkley Lakes Zone, all geese harvested must be taken to designated check stations and checked officially.

The Pacific Flyway Council made several recommendations for Canada geese. The Council recommended that the Flyway-wide prohibition of take of Aleutian Canada geese be removed if the Service completes the delisting process. Existing special management areas in Oregon and California, closed to take of Canada geese to protect Aleutians and reduce the harvest of cackling geese, will be maintained until a population objective and harvest strategy are established by the Council. The Council also recommended that, in a Service-approved investigation, the State must obtain quantitative information on hunter compliance (mandatory check stations) of those regulations aimed at reducing the take of dusky Canada geese. Lastly, the Council recommended some minor modifications to the cackling Canada goose frameworks.

*Service Response:* We concur with the recommended changes in the Mississippi Flyway. Most of these changes are based on the improved population status of MVP geese and are consistent with the current management plan.

Regarding the recommendation from the Pacific Flyway Council on Aleutian Canada geese, since delisting is not final at this time, we do not see how the removal of all restrictions on the take of Aleutian Canada geese could be accomplished this year. In addition, administrative concerns would also need to be addressed. We note, however, that we support the general intent of this recommendation, which is not to increase the harvest level of Aleutian Canada geese, but to remove the take prohibition in those portions of the affected States where Aleutian Canada geese are only infrequently encountered. However, we do not believe that the changes can be accommodated during this regulations cycle. We also appreciate the timely and efficient manner in which the Pacific Flyway has completed the management plan for this species. This plan will serve as an excellent road-map to the future for this species.

Regarding dusky Canada geese, we understand the importance of maintaining hunting opportunities in the dusky Canada goose quota zones in Washington and Oregon. Additionally, we recognize this is a shared responsibility and one the States and Federal Government have actively supported since the inception of the quota zones. However, we want to be clear about the need to monitor the harvest for any goose season to be held in this area. We believe that both the Flyway Council and the Service are in agreement that monitoring is a necessary condition of these seasons, based on the recommendation submitted by the Pacific Flyway Council. We intend to continue to work with the Pacific Flyway Council and the affected States to avoid season closures. However, States must agree to promptly close all goose seasons in this zone should monitoring programs be eliminated for any reason.

We concur with the recommended framework modifications for cackling Canada geese.

C. Special Late Seasons

*Council Recommendations:* The Atlantic Flyway Council recommended a change to the southern boundary of the late season Coastal zone boundary in Massachusetts and a change to the boundary of the late season special Canada goose southern zone in New Jersey.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the experimental late season for Canada geese in the Central Michigan Goose Management Unit be continued for 1 year to allow completion of data analysis and additional data collection.

*Service Response:* We concur with all the recommended changes.

*5. White-Fronted Geese*

*Council Recommendations:* The Central Flyway Council recommended that the season length for Mid-continent White-fronted geese in the East Tier be 95 days, except for the Eastern Goose Zone of Texas where it would be unchanged (86 days).

*Service Response:* We believe that equitable hunting opportunity between the Mississippi Flyway and the East Tier of the Central Flyway is appropriate because Mid-continent white-fronted geese are managed as one population. This equitable approach is consistent with the ''base regulations'' identified in the cooperative management plan. Finally, in the absence of any guidance for liberalizations, we believe that this level of liberalization should be viewed as the ''liberal alternative'' beyond the ''base regulations'' identified in the management plan for these harvest areas. Thus, we do not support the proposed increase of 9 days.

*7. Snow and Ross' Geese*

*Council Recommendations:* The Atlantic Flyway Council recommended that following the close of the duck season, New Jersey be allowed additional splits in the coastal zone snow goose season to accommodate a special hunt at Forsythe National Wildlife Refuge impoundments. They further recommended that the experimental seasons established last year in Maryland and Delaware be allowed to continue for another year.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council, and the Atlantic and Central Flyway Councils, recommended that baiting regulations for light geese, when all other waterfowl, except falconry, seasons are closed and during the Light Goose Conservation Order during the 2000–01 season (prior to completion of the Environmental Impact Statement [EIS]), be the same as those currently implemented for doves.

*Service Response:* We endorse the request by New Jersey to allow additional split seasons in their coastal zone following the close of their duck season. Last year, we approved an increase in the number of split seasons in Delaware and Maryland for the 1999–00 season to provide temporary relief. We agreed to explore its effectiveness in reducing agricultural damage and wetland degradation by requiring an evaluation prior to this year's approval. Also, we asked both States to seek landowner support by allowing hunters access on their fields to hunt snow geese. We believe that New Jersey should be afforded the same opportunity to determine the effectiveness of this measure to reduce wetland degradations and agricultural damages. This provision is experimental and granted for 1 year only, pending an evaluation. We further support the request from Maryland and Delaware to continue a multiple split season format for another year on an experimental basis in lieu of an evaluation report.

Regarding baiting regulations for light geese, baiting regulations for the ''light goose only'' portions of the regular

season and the Light Goose Conservation Order were covered under special rules published February 1999. Although these original rules were withdrawn in May 1999, they were subsequently reinstated without change by Congress and signed into law in November 1999. Known as the Arctic Tundra Habitat Emergency Conservation Act, this law ensures that population control measures for Mid-continent light geese will remain in place without change during the preparation of the EIS. However, the provisions of the February 1999 Conservation Order specified area closures and did not include any changes to the current baiting regulations. Additionally, the Act passed in November reinstated the February 1999 Conservation Order rather than enabling a conservation order. Because of this, changes to the Conservation-Order provisions cannot be made until after the completion of the EIS. Therefore, we believe that changes in baiting regulations for light geese should more appropriately be addressed in the comprehensive EIS process that is currently under way.

*8. Swans*

*Council Recommendations:* The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council, and the Atlantic, Central, and Pacific Flyway Councils, in a joint recommendation, asked that States with Eastern Population (EP) tundra swan hunting seasons be allowed to issue a second swan permit to interested resident and nonresident hunters from permits remaining after the initial drawing.

The Pacific Flyway Council recommended no change, with one exception, from last year's frameworks for tundra swan seasons in the Pacific Flyway. The single change proposed is for a 1-week extension in season framework dates in Utah.

*Written Comments:* The Trumpeter Swan Society (TTSS) voiced concerns about the lack of interim management strategies to address the longstanding winter distribution problems facing the Rocky Mountain Population (RMP) of trumpeter swans. TTSS also questioned the plan to include the Bear River National Wildlife Refuge in Utah in the area open to tundra swan hunting during the three-year experiment. Additionally, TTSS requested clarification of the objectives for the three-year experiment proposed for Utah. In the discussion related to these issues, TTSS made numerous statements and assertions that relate to the past history and the present understanding of the management situation for RMP trumpeter swans in the Pacific Flyway.

The Biodiversity Legal Foundation (BLF) suggested that their recent petition to list a portion of the RMP of trumpeter swans as an endangered or threatened species (under the distinct population segment guidelines) be considered in the decision to allow swan hunting in Utah. The BLF pointed to the drought conditions that have existed throughout much of the west this year as posing an increased risk to trumpeter swans throughout the region and therefore the limited harvest of trumpeter swans proposed for the tundra swan seasons in Utah particularly, should not be permitted. The BLF also raised a number of issues pertaining to specific hunting practices on Bear River National Wildlife Refuge.

The Fund for Animals (The Fund) and the BLF, in a joint subsequent letter, reiterated many of the points made by the BLF and added several comments regarding the Service's role and responsibility under various legislation for migratory bird conservation. The BLF in a subsequent letter indicated a general concern over trumpeter swan conservation efforts and conflicts with swan hunting in the contiguous U.S., including the Central and Atlantic Flyways. The BLF pointed out that tundra swan seasons were occurring in the Central and Atlantic Flyways without requiring trumpeter swan monitoring programs. The BLF believes that all trumpeter swans in the contiguous U.S. should be designated as threatened or endangered and that they must receive special protection and nurturing.

Seven hundred and twenty-two individuals wrote to object to the hunting of trumpeter swans.

*Service Response:* We support the Joint Flyway Recommendation that would allow States with EP tundra swan seasons to issue a second hunting permit to hunters, if permits from the initial drawing were unused. This issuance of a second permit would be allowed only if there are no outstanding requests for additional permits and with the concurrence of participating States. In accordance with the Flyways' approved Hunt Plan, any unused portion of these permits is available for temporary redistribution to participating States upon request. Issuance of a second permit to a hunter by a State is subject to evaluation to determine success rates and must be identified in the State's annual report to the Service.

Regarding the general swan seasons in the Pacific Flyway, we recently addressed this issue in an environmental assessment to reconcile conflicting strategies for managing two swan species in the Pacific Flyway. The assessment evaluated the following strategies: (1) To enhance the winter distribution of the less abundant RMP trumpeter swans (*Cygnus buccinator*) by severely restricting or eliminating tundra swan (*C. columbianus*) hunting, or both, in portions of the Pacific Flyway currently open to tundra swan hunting; and (2) to optimize hunting of the more numerous and widely distributed Western Population (WP) of tundra swans in the Pacific Flyway by not further restricting hunting seasons to benefit the winter distribution of trumpeter swans. The preferred alternative identified in the EA proposed a balance between these two competing strategies by continuing on an operational basis a general swan season in portions of Montana and Nevada and proposing a new 3-year experiment in Utah. The experimental hunt in Utah would be based on further reductions in the swan season that would allow the continued taking of any species of swan (*Cygnus sp.*) subject to: (1) A limited, but biologically acceptable, quota on the take of trumpeter swans, and (2) modification of the already limited take and restricted seasons on tundra swans to enhance the likelihood that trumpeter swans would be successful in expanding their winter range; and (3) a program to monitor the effectiveness of this action. We would continue with our participation in the State-Federal effort to enhance the winter distribution of trumpeter swans.

More specifically, implementation of the preferred alternative would allow us to continue to establish a hunting season on all swan species in designated portions of Montana and Nevada, within the Pacific Flyway. Current constraints imposed upon these swan hunting seasons would be continued, and specific areas open to swan hunting in Montana and Nevada would remain. Additionally, we would continue to require the monitoring of swan harvests, by mail in Montana, and by examination in Nevada, with appropriate provisions for season closure to be implemented by States should assigned quotas of trumpeter swans be reached.

In Utah, we would continue the area and time restrictions imposed since 1995 while also implementing further limitations on areas where tundra swan hunting is allowed. More specifically, we would close all lands north of the Bear River National Wildlife Refuge (Bear River NWR) to all swan hunting in Utah, reduce the quota on allowable take of trumpeter swans in Utah from 15 to 10, and reduce the number of tundra swan permits issued in Utah from 2,750

to 2,000. We would also extend the framework closing date from the first to the second Sunday in December.

In the EA, comments identified the potential impact of harvest in Utah as the main issue regarding appropriate management action needed to address the winter distribution problem of RMP trumpeter swans. These comments indicated that there is a wide disparity of opinion on the actual impact of this limited harvest on the redistribution of RMP trumpeter swans. Given the uncertainty and disparate views on this particular issue, the preferred alternative establishes a new 3-year experiment to assess the impacts of these further restrictions in Utah. During this time, we would request the States, through the Pacific Flyway Council, other Federal agencies, and interested non-governmental organizations, to participate with the Service in development of a comprehensive implementation plan for addressing specific issues regarding RMP trumpeter swan management in this region. We will complete our portion of this implementation plan during 2001, and will request the other cooperators to complete their portions no later than July 2002. This plan and results from the new 3-year experiment will serve as the basis for our evaluation of this new experiment.

Additionally, we will assume a leadership role in attempting to enhance trumpeter swan status and breeding distribution within the Pacific Flyway, through increased efforts directed at establishment of breeding trumpeter swans in suitable habitats throughout the Pacific Flyway. We would continue to support cooperative efforts to address the winter distribution issues by working with the States and other partners. We would also support limited winter capture and translocation on a case-by-case basis when circumstances developed that seemed to warrant such activity. We do not plan to employ winter translocations as the main method to address the winter distribution problem of RMP trumpeter swans, but rather as a method to limit risk to swans from direct over-winter mortality, if necessary.

While we recognize that the Pacific Flyway Council does not believe adequate data exist to support the restrictions in Utah, others believe the data support even greater restrictions within the States. We urge the Council to view the next 3-year experimental period in Utah as an opportunity to improve this situation. We trust the Council will work with us to complete this plan and begin to implement actions that will help address this problem so that we are not faced with a similar situation in 3 years.

Regarding the comments by TTSS, BLF, The Fund, and others, we have responded to the general question of swan hunting and tundra swan hunting related to the increasing number of trumpeter swans in our recent EA. In general, we continue to support tundra swan hunting and trumpeter swan restoration efforts. We do not view these activities as mutually exclusive and, as indicated, do not view the occasional harvest of a trumpeter swan in existing tundra swan seasons as sufficient reason for suspension of tundra swan hunting. Conversely, we remain committed to limiting the take of trumpeter swans in these seasons and modifying these seasons to protect trumpeter swan populations, but not individuals. We want to make clear that trumpeter swans in North America have been increasing steadily both in numbers and geographic distribution during the past several decades. Further, we have recognized three populations of trumpeter swans for management purposes in North America and each of these populations is following this same trend of steady numeric increases during the past several decades. We have acknowledged and discussed in considerable detail in all documents pertaining to this issue the fact that these general population trends do not apply equally to all components of the three recognized populations.

With regard to specific points raised by TTSS, we note that our current EA does contain three strategies for addressing some of the management challenges faced by RMP trumpeter swans. These actions include: (1) Continued hazing and habitat modification to make the current wintering concentration area less attractive; (2) active reintroduction of trumpeter swans throughout the Pacific Flyway to both enhance numbers and develop new migration pathways as have been recently accomplished with releases in Wyoming and (3) cessation of the winter feeding program at Red Rock Lakes National Wildlife Refuge. Beyond these actions, we do not believe interim strategies should be employed without benefit of completing the proposed implementation plan. We believe the proposed implementation plan will provide additional activities that will constructively address this situation and plan to implement these strategies as soon as possible. However, we do not believe interim actions in advance of the proposed plan are likely to improve the current situation.

Objectives for the 3-year experimental season proposed for Utah are to: (1) Determine if closing additional areas in Utah to swan hunting increases the number of trumpeter swans passing through the State, and (2) determine the temporal and geographic distribution of trumpeter swans that are taken in the modified tundra swan season. We note that the new area proposed for closure is the area where the majority of (non-translocated) trumpeter swans were harvested during the past 5-year experiment. We believe that the limited evidence available at this point suggests that trumpeter and tundra swans may well use slightly different habitats when present in Utah and thus further experimentation is warranted to evaluate this possibility.

Additionally, we do not agree with the position that tundra swan hunting activities at Bear River NWR have precluded either consideration or actual use of habitats, on the refuge or elsewhere in Utah, to help address the winter distribution of RMP trumpeter swans. Releases at Fish Springs National Wildlife Refuge in Utah were conducted and failed due to disease problems, not hunting activities, during the past 5-year experiment. Like all National Wildlife Refuges with hunting programs, Bear River NWR contains substantial areas of habitat that are not open to hunting and provides sanctuary throughout the season. In addition, we note that most of the State has been closed to all swan hunting. Tundra swans have not altered their migratory behavior through Utah since the reinstitution of hunting in 1962 and we do not necessarily see a direct connection between hunting activities and migratory behavior in swans. We are skeptical that small numbers of trumpeter swans moving to and through Utah will ever lead to a meaningful shift in the winter distribution of RMP trumpeter swans, unless other management strategies are also employed that lead to increased dispersal. We would also note that, as desirable as it is to all concerned parties believe it is that the existing concentration be altered, no mechanism to accomplish this is apparent, and most efforts that have been tried to date have met with limited success at best. The reality of the situation is that we do not know how to ''make'' these swans migrate to Utah, or to any other area. This reality is the basis for our preferred approach of establishing new trumpeter swan breeding concentrations with alternative migratory strategies. We believe this approach is one that has proven successful with swans and other waterfowl species throughout North America in the past. Further, we question the degree of threat posed by

the current limited winter distribution to RMP trumpeter swans in general. We note that only one die-off has occurred during the past twelve years, and the RMP of trumpeter swans has continued to increase throughout this period.

Many of the comments by the BLF and The Fund are addressed above. However, three specific points are not: (1) The possibility that a portion of the RMP trumpeter swans should be considered as a distinct population segment and would qualify for protection under the Endangered Species Act; (2) that current drought conditions existing throughout much of the western U.S. have created an emergency situation that would preclude the limited trumpeter swan harvest proposed for Utah this year; and (3) that the Service has failed to adequately explain how they have determined the proposed regulations are consistent with trumpeter swan conservation.

With regard to the first point, we have not historically recognized the group of trumpeter swans nesting in the tristate region of Montana, Wyoming, and Idaho as a distinct and separate manageable entity within RMP trumpeter swans. The information provided by the BLF will be evaluated along with other existing information under our normal procedures for dealing with listing petitions under the Endangered Species Act. Should this review result in an alteration of current Service policy, we would reevaluate our current season proposal in light of the findings of such a review. At this point, we cannot prejudge this action, and therefore will proceed based on the current assessment and definition of trumpeter swan populations, one that does not recognize this group as a separate entity. The RMP of trumpeter swans is increasing at a rate of 6 percent a year and currently numbers about 3,500, the highest level since the beginning of monitoring. In addition, despite a decline that was primarily associated with the cessation of winter feeding in 1992 in the area identified by the BLF as a separate entity, numbers in this region remained relatively stable during the preceding 5-year experiment (1995–2000). This allowed a limited harvest of trumpeter swans in Montana, Utah, and Nevada. Based on the experience of the past 5 years, we do not believe that the continuation of hunting, with further restrictions both in area and total swan harvest in Utah, poses a threat to RMP trumpeter swans, nor would these regulations pose a serious jeopardy to the proposed distinct population segment, should the review find that this group should be so designated.

With regard to the current drought situation in the West, we recognize once more that waterfowl distributions and migratory behavior are often impacted by weather events. Migratory birds are among the most resilient groups of animals in their ability to react to such changing conditions. We see no imminent threat in this year's conditions that would lead us to view this situation as more serious than in previous years. The controls put in place on the seasons will result in season closure if 10 trumpeter swans are harvested in Utah. Should weather events result in an unexpected mass movement of trumpeter swans into the open hunt area, we believe that the 10 bird closure limit will ensure that no harm is suffered by the population as a whole.

With regard to the last point, we believe that in both our evaluation report of the 5-year experiment and the EA on this subject, we have carefully considered the possible population impacts of the limited harvest of trumpeter swans. Clearly, the fact that numbers of RMP trumpeter swans continued to increase during the 5-year experiment supports our position that such limited harvest poses no risk to the population as a whole. Additionally, the component of RMP trumpeter swans nesting in the Montana, Wyoming, and Idaho area remained relatively stable during this period, suggesting no negative impact of the limited harvest. If we assume that the various components of the population would be proportionally distributed in any harvest, we would estimate that only about two trumpeter swans from this region would likely be included in the annual harvest, even if the quotas were reached in both Utah and Nevada. We do not believe such an annual loss poses a risk to the population, or to any segment within the population, that has been suggested to date.

Finally, we continue to support conservation programs that promote trumpeter swan restoration to portions of their historic range in the contiguous U.S. Current trumpeter swan restoration programs in the Central and Mississippi Flyways are being guided by the Cooperative Management Plan for the Interior Population of trumpeter swans. This plan acknowledges potential conflict with tundra swan hunting programs; however, incidental take of trumpeter swans has not been shown to negatively impact ongoing restoration programs. The most recent population status information indicates an average annual growth rate of 15 percent, which is consistent with the growth objectives established for this population. Tundra swan hunting programs, including annual permit allocation and monitoring requirements in both Flyways are consistent with guidelines established in the Cooperative Management Plan for the Eastern Population of Tundra Swans. Trumpeter swans are protected in all hunt areas in the Central and Atlantic Flyways.

The comments regarding refuge-specific hunting practices are not applicable to this rulemaking and have been forwarded to the Bear River Refuge for consideration.

Copies of the evaluation, the EA, and the Finding of No Significant Impact are available at the address indicated under the caption **ADDRESSES** or from our website at http://migratorybirds.fws.gov.

## NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). Additionally, issues pertaining to swan hunting in the Pacific Flyway were covered under a separate NEPA document, ''Swan Hunting in the Pacific Flyway,'' issued July 12, 2000, with a Finding of No Significant Impact issued July 23, 2000. Copies are available from the address indicated under the caption **ADDRESSES**.

## Endangered Species Act Consideration

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and concluded that the regulations are not likely to adversely affect any endangered or

threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed and the final frameworks reflect any such modifications. Our biological opinions resulting from its Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and DMBM, at the address indicated under the caption **ADDRESSES**.

**Executive Order (E.O.) 12866**

This rule was reviewed by the Office of Management and Budget (OMB). The migratory bird hunting regulations are economically significant and are annually reviewed by OMB under E.O. 12866. As such, a cost/benefit analysis was prepared in 1998 and is further discussed below under the heading Regulatory Flexibility Act. Copies of the cost/benefit analysis are available upon request from the address indicated under the caption **ADDRESSES**.

**Regulatory Flexibility Act**

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $429 million and $1,084 million at small businesses. The Analysis is available upon request from the address indicated under the caption **ADDRESSES**.

**Small Business Regulatory Enforcement Fairness Act**

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we plan to make the rule effective immediately under the exemption contained in 5 U.S.C. 808(1).

**Paperwork Reduction Act**

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 9/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned clearance number 1018–0023 (expires 7/30/2003). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of harvest, and the portion it constitutes of the total population.

A Federal 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.

**Unfunded Mandates Reform Act**

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not ''significantly or uniquely'' affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

**Civil Justice Reform—Executive Order 12988**

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

**Takings Implication Assessment**

In accordance with E.O. 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges, and, therefore, reduces restrictions on the use of private and public property.

**Federalism Effects**

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Regulations Promulgation**

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918),

as amended, (16 U.S.C. 703–711), we prescribe final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season and option selections from these officials, we will publish in the **Federal Register** a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the conterminous United States for the 2000–01 season.

**List of Subjects in 50 CFR Part 20**

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2000–01 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a-j.

Dated: September 15, 2000.

**Stephen C. Saunders,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

**Final Regulations Frameworks for 2000–01 Late Hunting Seasons on Certain Migratory Game Birds**

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department has approved the following frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl and coots between the dates of September 1, 2000, and March 10, 2001.

**General**

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

**Flyways and Management Units**

*Waterfowl Flyways*

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

**Management Units**

High Plains Mallard Management Unit—roughly defined as that portion of the Central Flyway which lies west of the 100th meridian.

Definitions: For the purpose of hunting regulations listed below, the collective terms ''dark'' and ''light'' geese include the following species:

Dark geese—Canada geese, white-fronted geese, brant, and all other goose species except light geese.

Light geese—snow (including blue) geese and Ross' geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to late-season regulations are contained in a later portion of this document.

Area-Specific Provisions: Frameworks for open seasons, season lengths, bag and possession limits, and other special provisions are listed below by Flyway.

Compensatory Days in the Atlantic Flyway: In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

**Atlantic Flyway**

*Ducks, Mergansers, and Coots*

*Outside Dates:* Between October 1 and January 20.

*Hunting Seasons and Duck Limits:* 60 days and daily bag limit of 6 ducks, including no more than 4 mallards (2 hens), 3 scaup, 1 black duck, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 2 wood ducks, 2 redheads, 1 canvasback, and 4 scoters.

*Closures:* The season on harlequin ducks is closed.

*Sea Ducks:* Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

*Merganser Limits:* The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser.

*Coot Limits:* The daily bag limit is 15 coots.

*Lake Champlain Zone, New York:* The waterfowl seasons, limits, and shooting hours shall be the same as those selected for the Lake Champlain Zone of Vermont.

*Zoning and Split Seasons:* Delaware, Florida, Georgia, Maryland, North Carolina, Rhode Island, South Carolina, and Virginia may split their seasons into three segments; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, and West Virginia may select hunting seasons by zones and may split their seasons into two segments in each zone.

**Canada Geese**

Season Lengths, Outside Dates, and Limits: Specific regulations for Canada geese are shown below by State. Unless specified otherwise, seasons may be split into two segments. In areas within States where the framework closing date for Atlantic Population (AP) goose seasons overlaps with special late season frameworks for resident geese, the framework closing date for AP goose season is January 14.

**Connecticut**

*North Atlantic Population (NAP) Zone:* A 40-day season may be held between October 1 and December 15 with a 2-bird daily bag limit.

*Atlantic Population (AP) Zone:* A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

*South Zone:* A special experimental season may be held between January 15 and February 15, with a 5-bird daily bag limit.

**Delaware:** A 6-day season may be held concurrent with the duck season between November 15 and January 20 with a 1-bird daily bag limit (tagging required to harvest). The harvest of Canada geese is limited to 2,100.

**Florida:** A 70-day season may be held between November 15 and February 15, with a 5-bird daily bag limit.

**Georgia:** In specific areas, a 70-day season may be held between November 15 and February 15, with a 5-bird daily bag limit.

**Maine:** A 40-day season may be held Statewide between October 1 and December 15 with a 2-bird daily bag limit.

**Maryland**

*Southern James Bay Population (SJBP) Zone:* A 40-day season may be held between November 15 and January 14, with a 2-bird daily bag limit. The season may be split 3-ways. Additionally, an experimental season may be held from January 15 to February 15, with a 5-bird daily bag limit.

*AP Zone:* A 6-day season may be held concurrent with the duck season between November 15 and January 20 with a 1-bird daily bag limit (tagging required to harvest). The harvest of Canada geese is limited to 12,200.

**Massachusetts**

*NAP Zone:* A 40-day season may be held between October 1 and December 15 with a 2-bird daily bag limit. Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

*AP Zone:* A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

**New Hampshire:** A 40-day season may be held statewide between October 1 and December 15 with a 2-bird daily bag limit.

**New Jersey**

*Statewide:* A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

*Special Late Goose Season Area:* An experimental season may be held in designated areas of North and South New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

**New York**

*SJBP Zone:* A 70-day season may be held between November 1 and January 30, with a 2-bird daily bag limit.

*NAP Zone:* A 40-day season may be held between October 1 and December 31 with a 2-bird daily bag limit.

*Special Late Goose Season Area:* An experimental season may be held between January 15 and February 15, with a 5-bird daily bag limit in designated areas of Chemung, Delaware, Tioga, Broome, Sullivan, Westchester, Nassau, Suffolk, Orange, Dutchess, Putnam, and Rockland Counties.

*AP Zone:* A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

**North Carolina:** A 46-day season may be held between October 1 and November 15, with a 2-bird daily bag limit Statewide, except for the Northeast Hunt Unit and Northampton County.

**Pennsylvania**

*SJBP Zone:* A 40-day season may be held between November 15 and January 14, with a 2-bird daily bag limit.

*AP Zone:* A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

*Special Late Goose Season Area:* An experimental season may be held from January 15 to February 15 with a 5-bird daily bag limit.

*Pymatuning Zone:* A 35-day season may be held between October 1 and January 20, with a 1-bird daily bag limit.

**Rhode Island:** A 40-day season may be held between October 1 and December 15 with a 2-bird daily bag limit. An experimental season may be held in a designated area from January 15 to February 15, with a 5-bird daily bag limit.

**South Carolina:** In designated areas, a 70-day season may be held during November 15 to February 15, with a 5-bird daily bag limit.

**Vermont:** A 15-day season may be held concurrent with the duck season between November 1 and January 20 with a 1-bird daily bag limit.

**Virginia**

*SJBP Zone:* A 40-day season may be held between November 15 and January 14, with a 2-bird daily bag limit. Additionally, an experimental season may be held between January 15 and February 15, with a 5-bird daily bag limit.

*AP Zone:* A 6-day season may be held concurrent with the duck season between November 15 and January 20 with a 1-bird daily bag limit.

*Back Bay Area:* Season is closed.

**West Virginia:** A 70-day season may be held between October 1 and January 31, with a 3-bird daily bag limit.

**Light Geese**

*Season Lengths, Outside Dates, and Limits:* States may select a 107-day season between October 1 and March 10, with a 15-bird daily bag limit and no possession limit. States may split their seasons into three segments, except in Delaware, Maryland, and New Jersey, where, following the completion of their duck season, and until March 10, Delaware and Maryland may split the remaining portion of the season to hunt on Mondays, Wednesdays, Fridays, and Saturdays only, and New Jersey may split the remaining portion of the season to hunt on Mondays, Thursdays, Fridays, and Saturdays only.

**Brant**

*Season Lengths, Outside Dates, and Limits:* States may select a 50-day season between October 1 and January 20, with a 2-bird daily bag limit. States may split their seasons into two segments.

**Mississippi Flyway**

*Ducks, Mergansers, and Coots*

*Outside Dates:* Between the Saturday nearest October 1 (September 30) and the Sunday nearest January 20 (January 21). Seasons in Alabama, Mississippi, and Tennessee may extend to January 31.

*Hunting Seasons and Duck Limits:* 60 days (51 days in Alabama, Mississippi, and Tennessee), with a daily bag limit of 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 3 scaup, 1 black duck, 1 pintail, 2 wood ducks, 1 canvasback, and 2 redheads.

*Merganser Limits:* The daily bag limit is 5, only 1 of which may be a hooded merganser. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only one of which may be a hooded merganser.

*Coot Limits:* The daily bag limit is 15 coots.

*Zoning and Split Seasons:* Alabama, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons by zones.

In Alabama, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Ohio, Tennessee, and Wisconsin, the season may be split into two segments in each zone.

In Minnesota and Arkansas, the season may be split into three segments.

**Geese**

*Split Seasons:* Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Mississippi Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation, by each participating State.

*Season Lengths, Outside Dates, and Limits:* States may select seasons for light geese not to exceed 107 days with 20 geese daily between the Saturday nearest October 1 (September 30) and March 10; for white-fronted geese not to exceed 86 days with 2 geese daily or 107 days with 1 goose daily between the Saturday nearest October 1 (September 30) and the Sunday nearest February 15 (February 18); and for brant not to exceed 70 days with 2 brant daily or 107 days with 1 brant daily between the

Saturday nearest October 1 (September 30) and January 31. There is no possession limit for light geese. Specific regulations for Canada geese and exceptions to the above general provisions are shown below by State. Except as noted below, the outside dates for Canada geese are the Saturday nearest October 1 (September 30) and January 31.

**Alabama**

In the Southern James Bay Population (SJBP) Goose Zone, the season for Canada geese may not exceed 35 days. Elsewhere, the season for Canada geese may extend for 70 days in the respective duck-hunting zones. The daily bag limit is 2 Canada geese.

**Arkansas**

The season for Canada geese may extend for 23 days. The season may extend to February 15. The daily bag limit is 2 Canada geese.

**Illinois**

The total harvest of Canada geese in the State will be limited to 127,000 birds. The possession limit is 10 Canada geese.

(a) North Zone—The season for Canada geese will close after 91 days or when 21,500 birds have been harvested in the Northern Illinois Quota Zone, whichever occurs first. The daily bag limit is 3 Canada geese.

(b) Central Zone—The season for Canada geese will close after 91 days or when 24,700 birds have been harvested in the Central Illinois Quota Zone, whichever occurs first. The daily bag limit is 3 Canada geese.

(c) South Zone—The harvest of Canada geese in the Southern Illinois and Rend Lake Quota Zones will be limited to 32,900 and 4,650 birds, respectively. The season for Canada geese in each zone will close after 91 days or when the harvest limit has been reached, whichever occurs first. The daily bag limit is 3 Canada geese. In the Southern Illinois Quota Zone, if any of the following conditions exist after December 20, the State, after consultation with the Service, will close the season by emergency order with 48 hours notice:

(1) Average body weights of adult female geese less than 3,200 grams as measured from a weekly sample of a minimum of 50 geese.

(2) Starvation or a major disease outbreak resulting in observed mortality exceeding 5,000 birds in 10 days, or a total mortality exceeding 10,000 birds.

In the remainder of the South Zone, the season may extend for 91 days or until both the Southern Illinois and Rend Lake Quota Zones have been closed, whichever occurs first. The daily bag limit is 3 Canada geese.

**Indiana**

The total harvest of Canada geese in the State will be limited to 28,300 birds. The daily bag limit is 2 Canada geese.

(a) Posey County—The season for Canada geese will close after 65 days or when the Canada goose harvest at Hovey Lake Fish and Wildlife Area exceeds 1,500 birds, whichever occurs first.

(b) Remainder of the State—The season for Canada geese will extend for 65 days, except in the SJBP Zone, where the season may not exceed 35 days.

**Iowa**

The season may extend for 70 days. The daily bag limit is 2 Canada geese.

**Kentucky**

(a) Western Zone—The season for Canada geese may extend for 61 days (76 days in Fulton County), and the harvest will be limited to 23,800 birds. Of the 23,800-bird quota, 15,470 birds will be allocated to the Ballard Reporting Area and 4,520 birds will be allocated to the Henderson/Union Reporting Area. If the quota in either reporting area is reached prior to completion of the 61-day season, the season in that reporting area will be closed. If the quotas in both the Ballard and Henderson/Union reporting areas are reached prior to completion of the 61-day season, the season in the counties and portions of counties that comprise the Western Goose Zone (listed in State regulations) may continue for an additional 7 days, not to exceed a total of 61 days (76 days in Fulton County). The season in Fulton County may extend to February 15. The daily bag limit is 2 Canada geese.

(b) Pennyroyal/Coalfield Zone—The season may extend for 35 days. The daily bag limit is 2 Canada geese.

(c) Remainder of the State—The season may extend for 50 days. The daily bag limit is 2 Canada geese.

**Louisiana**

The season for Canada geese may extend for 9 days. During the season, the daily bag limit is 1 Canada goose and 2 white-fronted geese with an 86-day white-fronted goose season or 1 white-fronted goose with a 107-day season. Hunters participating in the Canada goose season must possess a special permit issued by the State.

**Michigan**

The total harvest of Canada geese in the State will be limited to 73,200 birds.

(a) North Zone—The framework opening date for all geese is September 16, and the season for Canada geese may extend for 18 days. The daily bag limit is 2 Canada geese.

(b) Middle Zone—The framework opening date for all geese is September 16, and the season for Canada geese may extend for 18 days. The daily bag limit is 2 Canada geese.

(c) South Zone. (1) Allegan County GMU—The Canada goose season will close after 25 days or when 1,100 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(2) Muskegon Wastewater GMU—The Canada goose season will close after 25 days or when 350 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese.

(3) Saginaw County GMU—The Canada goose season will close after 50 days or when 2,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(4) Tuscola/Huron GMU—The Canada goose season will close after 50 days or when 750 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(5) Remainder of the South Zone—The framework opening date for all geese is September 16, and the season for Canada geese may extend for 18 days. The daily bag limit is 2 Canada geese.

(d) Southern Michigan GMU—A special Canada goose season may be held between January 6 and February 4. The daily bag limit is 5 Canada geese.

(e) Central Michigan GMU—An experimental special Canada goose season may be held between January 6 and February 4. The daily bag limit is 5 Canada geese.

**Minnesota**

(a) West Zone. (1) West Central Zone—The season for Canada geese may extend for 30 days. In the Lac Qui Parle Zone, the season will close after 30 days or when 16,000 birds have been harvested, whichever occurs first. Throughout the West Central Zone, the daily bag limit is 1 Canada goose.

(2) Remainder of West Zone—The season for Canada geese may extend for 40 days. The daily bag limit is 1 Canada goose.

(b) Northwest Zone—The season for Canada geese may extend for 40 days. The daily bag limit is 1 Canada goose.

(c) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese.

(d) Special Late Canada Goose Season—An experimental special

Canada goose season of up to 10 days may be held in December, except in the West Central and Lac Qui Parle Goose zones. During the special season, the daily bag limit is 5 Canada geese, except in the Southeast Goose Zone, where the daily bag limit is 2.

**Mississippi**

The season for Canada geese may extend for 70 days. The daily bag limit is 3 Canada geese.

**Missouri**

(a) Swan Lake Zone—The season for Canada geese may extend for 70 days, with no more than 30 days occurring after November 30. The season may be split into 3 segments. The daily bag limit is 2 Canada geese.

(b) Southeast Zone—The season for Canada geese may extend for 70 days. The season may be split into 3 segments, provided that at least 1 segment occurs prior to December 1. The daily bag limit is 3 Canada geese through October 31, and 2 Canada geese thereafter.

(c) Remainder of the State—

(1) North Zone—The season for Canada geese may extend for 70 days, with no more than 30 days occurring after November 30. The season may be split into 3 segments, provided that 1 segment of at least 9 days occurs prior to October 15. The daily bag limit is 3 Canada geese through October 31, and 2 Canada geese thereafter.

(2) Middle Zone—The season for Canada geese may extend for 70 days, with no more than 30 days occurring after November 30. The season may be split into 3 segments, provided that 1 segment of at least 9 days occurs prior to October 15. The daily bag limit is 3 Canada geese through October 31, and 2 Canada geese thereafter.

(3) South Zone—The season for Canada geese may extend for 70 days. The season may be split into 3 segments, provided that at least 1 segment occurs prior to December 1. The daily bag limit is 3 Canada geese through October 31, and 2 Canada geese thereafter.

**Ohio**

The season for Canada geese may extend for 70 days in the respective duck-hunting zones, with a daily bag limit of 2 Canada geese, except in the Lake Erie SJBP Zone, where the season may not exceed 30 days and the daily bag limit is 1 Canada goose. A special experimental Canada goose season of up to 22 days, beginning the first Saturday after January 10, may be held in selected areas of the State. During the special season, the daily bag limit is 2 Canada geese.

**Tennessee**

(a) Northwest Zone—The season for Canada geese will close after 76 days or when 8,900 birds have been harvested, whichever occurs first. The season may extend to February 15. A 6,400-bird harvest quota will be monitored in the Reelfoot Quota Zone. The remaining 2,500 quota will be assigned to the area outside the Reelfoot Zone. If the quota in the Reelfoot Quota Zone is reached prior to completion of the 76-day season, the season in the entire Northwest Zone will close. The daily bag limit is 2 Canada geese.

(b) Southwest Zone—The season for Canada geese may extend for 61 days, and the harvest will be limited to 1,000 birds. The daily bag limit is 2 Canada geese.

(c) Kentucky/Barkley Lakes Zone—The season for Canada geese will close after 50 days or when 1,800 birds have been harvested, whichever occurs first. All geese harvested must be taken to a designated check station and checked. The daily bag limit is 2 Canada geese. In lieu of the quota and checking requirement above, the State may select either a 50-day season with a 1-bird daily bag limit or a 35-day season with a 2-bird daily bag limit for this Zone.

(d) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese.

**Wisconsin**

The total harvest of Canada geese in the State will be limited to 83,900 birds.

(a) Horicon Zone—The framework opening date for all geese is September 16. The harvest of Canada geese is limited to 39,600 birds. The season may not exceed 95 days. All Canada geese harvested must be tagged. The daily bag limit is 2 Canada geese, and the season limit will be the number of tags issued to each permittee.

(b) Collins Zone—The framework opening date for all geese is September 16. The harvest of Canada geese is limited to 1,300 birds. The season may not exceed 68 days. All Canada geese harvested must be tagged. The daily bag limit is 2 Canada geese, and the season limit will be the number of tags issued to each permittee.

(c) Exterior Zone—The framework opening date for all geese is September 23. The harvest of Canada geese is limited to 38,500 birds, with 500 birds allocated to the Mississippi River Subzone. The season may not exceed 94 days, except in the Mississippi River Subzone, where the season may not exceed 80 days. The daily bag limit is 2 Canada geese. In that portion of the Exterior Zone outside the Mississippi River Subzone, the progress of the harvest must be monitored, and the season closed, if necessary, to ensure that the harvest does not exceed 38,500 birds.

*Additional Limits:* In addition to the harvest limits stated for the respective zones above, an additional 4,500 Canada geese may be taken in the Horicon Zone under special agricultural permits.

*Quota Zone Closures:* When it has been determined that the quota of Canada geese allotted to the Northern Illinois, Central Illinois, Southern Illinois, and Rend Lake Quota Zones in Illinois; Posey County in Indiana; the Ballard and Henderson-Union Subzones in Kentucky; the Allegan County, Muskegon Wastewater, Saginaw County, and Tuscola/Huron Goose Management Units in Michigan; the Lac Qui Parle Zone in Minnesota; the Northwest and Kentucky/Barkley Lakes (if applicable) Zones in Tennessee; and the Exterior Zone in Wisconsin will have been filled, the season for taking Canada geese in the respective zone (and associated area, if applicable) will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

**Central Flyway**

*Ducks, Mergansers, and Coots*

*Outside Dates:* Between September 30 and January 21.

*Hunting Seasons and Duck Limits:*

(1) High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway which lies west of the 100th meridian): 97 days and a daily bag limit of 6 ducks, including no more than 5 mallards (no more than 2 of which may be hens), 1 mottled duck, 1 canvasback, 1 pintail, 2 redheads, 3 scaup, and 2 wood ducks. The last 23 days may start no earlier than the Saturday nearest December 10 (December 9).

(2) Remainder of the Central Flyway: 74 days and a daily bag limit of 6 ducks, including no more than 5 mallards (no more than 2 of which may be hens), 1 mottled duck, 1 canvasback, 1 pintail, 2 redheads, 3 scaup, and 2 wood ducks.

*Merganser Limits:* The daily bag limit is 5 mergansers, only 1 of which may be a hooded merganser. In States that include mergansers in the duck daily bag limit, the daily limit may be the

same as the duck bag limit, only one of which may be a hooded merganser.

*Coot Limits:* The daily bag limit is 15 coots.

*Zoning and Split Seasons:* Kansas (Low Plains portion), Montana, Nebraska (Low Plains portion), New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

In Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, the regular season may be split into two segments.

In Colorado, the season may be split into three segments.

**Geese**

*Split Seasons:* Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

*Outside Dates:* For dark geese, seasons may be selected between the outside dates of the Saturday nearest October 1 (September 30) and the Sunday nearest February 15 (February 18). For light geese, outside dates for seasons may be selected between the Saturday nearest October 1 (September 30) and March 10. In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions consistent with the experimental late-winter snow goose hunting strategy endorsed by the Central Flyway Council in July 1999, are required.

*Season Lengths and Limits:*

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 20 with no possession limit.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada geese (or any other dark goose species except white-fronted geese) not to exceed 95 days with a daily bag limit of 3. Additionally, in the Eastern Goose Zone of Texas, an alternative season of 107 days with a daily bag limit of 1 Canada goose may be selected. For white-fronted geese, these States may select either a season of 86 days with a bag limit of 2 or a 107-day season with a bag limit of 1.

In South Dakota, for Canada geese in the Big Stone Power Plant Area of Dark Goose Unit 1, the daily bag limit is 3 until November 30 and 2 thereafter.

In Colorado, Montana, New Mexico and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 107 days. The daily bag limit for Canada geese (or any other dark goose species except white-fronted geese) is 5. The daily bag limit for white-fronted geese is 1.

**Pacific Flyway**

*Ducks, Mergansers, Coots, and Common Moorhens*

Hunting Seasons and Duck Limits: Concurrent 107 days and daily bag limit of 7 ducks and mergansers, including no more than 2 female mallards, 1 pintail, 4 scaup, 2 redheads, and 1 canvasback.

The season on coots and common moorhens may be between the outside dates for the season on ducks, but not to exceed 107 days.

*Coot and Common Moorhen Limits:* The daily bag and possession limits of coots and common moorhens are 25, singly or in the aggregate.

*Outside Dates:* Between the Saturday nearest October 1 (September 30) and the Sunday nearest January 20 (January 21).

*Zoning and Split Seasons:* Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington may select hunting seasons by zones.

Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington may split their seasons into two segments.

Colorado, Montana, New Mexico, and Wyoming may split their seasons into three segments.

*Colorado River Zone, California*: Seasons and limits shall be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

**Geese**

*Season Lengths, Outside Dates, and Limits:* Except as subsequently noted, 100-day seasons may be selected, with outside dates between the Saturday nearest October 1 (September 30), and the Sunday nearest January 20 (January 21), and the basic daily bag limits are 3 light geese and 4 dark geese, except in California, Oregon, and Washington, where the dark goose bag limit does not include brant.

*Split Seasons*: Unless otherwise specified, seasons for geese may be split into up to 3 segments. Three-way split seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

*Brant Season*—A 16-consecutive-day season may be selected in Oregon and Washington, and a 30-consecutive-day season may be selected in California. In these States, the daily bag limit is 2 brant and is in addition to dark goose limits.

*Closures*: There will be no open season on Aleutian Canada geese in the Pacific Flyway. The States of California, Oregon, and Washington must include a statement on the closure for that subspecies in their respective regulations leaflet. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

**Arizona:** The daily bag limit for dark geese is 3.

**California**

Northeastern Zone—White-fronted geese and cackling Canada geese may be taken only during the first 44 days of the goose season. The daily bag limit is 3 geese and may include no more than 2 dark geese; including not more than 1 cackling Canada goose.

Colorado River Zone—The seasons and limits must be the same as those selected in the adjacent portion of Arizona (South Zone).

Southern Zone—The daily bag limit for dark geese is 3 geese.

Balance-of-the-State Zone—A 79-day season may be selected. Limits may not include more than 3 geese per day, of which not more than 2 may be white-fronted geese and not more than 1 may be a cackling Canada goose. Three areas in the Balance-of-the-State Zone are restricted in the hunting of certain geese:

(1) In the Counties of Del Norte and Humboldt, there will be no open season for Canada geese, except for the Special September Canada goose hunt in Humboldt County.

(2) In the Sacramento Valley Special Management Area (West), the season on white-fronted geese must end on or before December 14, and, in the Sacramento Valley Special Management Area (East), there will be no open season for Canada geese.

(3) In the San Joaquin Valley Special Management Area, there will be no open season for Canada geese.

**Colorado:** The daily bag limit for dark geese is 3 geese.

**Idaho**

Northern Unit—The daily bag limit is 4 geese, including 4 dark geese, but not more than 3 light geese.

Southwest Unit and Southeastern Unit—The daily bag limit on dark geese is 4.

**Montana**: West of Divide Zone and East of Divide Zone—The daily bag limit of dark geese is 4.

**Nevada**: The daily bag limit for dark geese is 3 except in the Lincoln and Clark County Zone, where the daily bag limit of dark geese is 2.

**New Mexico:** The daily bag limit of dark geese is 3.

**Oregon**: Except as subsequently noted, the dark goose daily bag limit is 4, including not more than 1 cackling Canada goose.

Lake County Zone—The daily dark goose bag limit may not include more than 2 white-fronted geese.

Western Zone—In the Special Canada Goose Management Area, except for designated areas, there will be no open season on Canada geese. In the designated areas, individual quotas will be established that collectively will not exceed 165 dusky Canada geese. See section on quota zones. In those designated areas, the daily bag limit of dark geese is 4 and may include 4 cackling Canada geese.

**Utah**: The daily bag limit for dark geese is 3 geese.

**Washington:** The daily bag limit is 4 geese, including 4 dark geese but not more than 3 light geese.

West Zone—In the Lower Columbia River Special Goose Management Area, except for designated areas, there will be no open season on Canada geese. In the designated areas, individual quotas will be established that collectively will not exceed 85 dusky Canada geese. See section on quota zones. In this area, the daily bag limit of dark geese is 4 and may include 4 cackling Canada geese.

**Wyoming:** The daily bag limit is 4 dark geese.

*Quota Zones*: Seasons on dark geese must end upon attainment of individual quotas of dusky Canada geese allotted to the designated areas of Oregon and Washington. The September Canada goose season, the regular goose season, any special late dark goose season, and any extended falconry season, combined, must not exceed 107 days, and the established quota of dusky Canada geese must not be exceeded. Hunting of dark geese in those designated areas will only be by hunters possessing a State-issued permit authorizing them to do so. In a Service-approved investigation, the State must obtain quantitative information on hunter compliance of those regulations aimed at reducing the take of dusky Canada geese and eliminating the take of Aleutian Canada geese. If the monitoring program cannot be conducted, for any reason, the season must immediately close. In the designated areas of the Washington Quota Zone, a special late dark goose season may be held between the Saturday following the close of the general goose season and March 10. The daily bag limit may not include Aleutian Canada geese. In the Special Canada Goose Management Area of Oregon, the framework closing date is extended to the Sunday closest to March 1 (March 4). In the Special Canada Goose Management Area of Oregon, the framework closing date is extended to the Sunday closest to March 1 (Feb. 28). Regular dark goose seasons may be split into 3 segments within the Oregon and Washington quota zones. The 3-way split seasons are considered experimental for the next 3 years. An evaluation of the 3-way split seasons is required and must be submitted by July 2002.

**Swans**

In designated areas of Utah, Nevada, and the Pacific Flyway portion of Montana, an open season for taking a limited number of swans may be selected. Permits will be issued by States and will authorize each permittee to take no more than 1 swan per season. The season may open no earlier than the Saturday nearest October 1 (September 30). The States must implement a harvest-monitoring program to measure the species composition of the swan harvest. In Utah and Nevada, the harvest-monitoring program must require that all harvested swans or their species-determinant parts be examined by either State or Federal biologists for the purpose of species classification. All States should use appropriate measures to maximize hunter compliance in providing bagged swans for examination or, in the case of Montana, reporting bill-measurement and color information. All States must achieve at least an 80-percent compliance rate, or subsequent permits will be reduced by 10 percent. All States must provide to the Service by June 30, 2001, a report covering harvest, hunter participation, reporting compliance, and monitoring of swan populations in the designated hunt areas. These seasons will be subject to the following conditions:

In Utah, no more than 2,000 permits may be issued. The season must end no later than the second Sunday in December (December 10) or upon attainment of 10 trumpeter swans in the harvest, whichever occurs earliest.

In Nevada, no more than 650 permits may be issued. The season must end no later than the Sunday following January 1 (January 7) or upon attainment of 5 trumpeter swans in the harvest, whichever occurs earliest.

In Montana, no more than 500 permits may be issued. The season must end no later than December 1.

**Tundra Swans**

In the Central Flyway portion of Montana, and in North Carolina, North Dakota, South Dakota (east of the Missouri River), and Virginia, an open season for taking a limited number of tundra swans may be selected. Permits will be issued by States that authorize the take of no more than 1 tundra swan per permit. A second permit may be issued to hunters from unused permits remaining after the first drawing. The States must obtain harvest and hunter participation data. These seasons will be subject to the following conditions:

**In the Atlantic Flyway**

—The season will be experimental.
—The season may be 90 days, from October 1 to January 31.
—In North Carolina, no more than 5,000 permits may be issued.
—In Virginia, no more than 600 permits may be issued.

**In the Central Flyway**

—The season may be 107 days and must occur during the light goose season.
—In the Central Flyway portion of Montana, no more than 500 permits may be issued.
—In North Dakota, no more than 2,000 permits may be issued.
—In South Dakota, no more than 1,500 permits may be issued.

**Area, Unit, and Zone Descriptions**

*Ducks (Including Mergansers) and Coots*

**Atlantic Flyway**

**Connecticut**

*North Zone*: That portion of the State north of I–95.

*South Zone:* Remainder of the State.

**Maine**

*North Zone:* That portion north of the line extending east along Maine State Highway 110 from the New Hampshire and Maine border to the intersection of Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of Interstate Highway 95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the United States border.

*South Zone:* Remainder of the State.

**Massachusetts**

*Western Zone:* That portion of the State west of a line extending south from the Vermont border on I–91 to MA 9, west on MA 9 to MA 10, south on MA

10 to U.S. 202, south on U.S. 202 to the Connecticut border.

*Central Zone:* That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

*Coastal Zone:* That portion of Massachusetts east and south of the Central Zone.

**New Hampshire**

*Coastal Zone:* That portion of the State east of a line extending west from the Maine border in Rollinsford on NH 4 to the city of Dover, south to NH 108, south along NH 108 through Madbury, Durham, and Newmarket to NH 85 in Newfields, south to NH 101 in Exeter, east to NH 51 (Exeter-Hampton Expressway), east to I–95 (New Hampshire Turnpike) in Hampton, and south along I–95 to the Massachusetts border.

*Inland Zone:* That portion of the State north and west of the above boundary.

**New Jersey**

*Coastal Zone:* That portion of the State seaward of a line beginning at the New York border in Raritan Bay and extending west along the New York border to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware border in Delaware Bay.

*North Zone:* That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania border in the Delaware River.

*South Zone:* That portion of the State not within the North Zone or the Coastal Zone.

**New York**

*Lake Champlain Zone:* The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

*Long Island Zone:* That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

*Western Zone:* That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border.

*Northeastern Zone:* That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

*Southeastern Zone:* The remaining portion of New York.

**Pennsylvania**

*Lake Erie Zone:* The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

*Northwest Zone:* The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

*North Zone:* That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

*South Zone:* The remaining portion of Pennsylvania.

**Vermont**

*Lake Champlain Zone:* The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

*Interior Zone:* The remaining portion of Vermont.

**West Virginia**

*Zone 1 :* That portion outside the boundaries in Zone 2.

*Zone 2 (Allegheny Mountain Upland):* That area bounded by a line extending south along U.S. 220 through Keyser to U.S. 50; U.S. 50 to WV 93; WV 93 south to WV 42; WV 42 south to Petersburg; WV 28 south to Minnehaha Springs; WV 39 west to U.S. 219; U.S. 219 south to I–64; I–64 west to U.S. 60; U.S. 60 west to U.S. 19; U.S. 19 north to I–79, I–79 north to U.S. 48; U.S. 48 east to the Maryland border; and along the border to the point of beginning.

**Mississippi Flyway**

**Alabama**

*South Zone:* Mobile and Baldwin Counties.

*North Zone:* The remainder of Alabama.

**Illinois**

*North Zone:* That portion of the State north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I–280 to I–80, then east along I–80 to the Indiana border.

*Central Zone:* That portion of the State south of the North Zone to a line extending east from the Missouri border along the Modoc Ferry route to Modoc Ferry Road, east along Modoc Ferry Road to Modoc Road, northeasterly along Modoc Road and St. Leo's Road to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, east along I–70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to I–70, then east along I–70 to the Indiana border.

*South Zone:* The remainder of Illinois.

**Indiana**

*North Zone:* That portion of the State north of a line extending east from the Illinois border along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio border.

*Ohio River Zone:* That portion of the State south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, east along State Road 62 to State 56, east along State 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border.

*South Zone:* That portion of the State between the North and Ohio River Zone boundaries.

**Iowa**

*North Zone:* That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59

to Interstate Highway 80, then east along I–80 to the Illinois border.

*South Zone:* The remainder of Iowa.

**Kentucky**

*West Zone:* All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

*East Zone:* The remainder of Kentucky.

**Louisiana**

*West Zone:* That portion of the State west of a line extending south from the Arkansas border along Louisiana Highway 3 to Bossier City, east along Interstate Highway 20 to Minden, south along Louisiana 7 to Ringgold, east along Louisiana 4 to Jonesboro, south along U.S. Highway 167 to Lafayette, southeast along U.S. 90 to Houma, then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass.

*East Zone:* The remainder of Louisiana.

*Catahoula Lake Area:* All of Catahoula Lake, including those portions known locally as Round Prairie, Catfish Prairie, and Frazier's Arm. See State regulations for additional information.

**Michigan**

*North Zone:* The Upper Peninsula.

*Middle Zone:* That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

*South Zone:* The remainder of Michigan.

**Mississippi**

*Zone 1:* Hancock, Harrison, and Jackson Counties.

*Zone 2:* The remainder of Mississippi.

**Missouri**

*North Zone:* That portion of Missouri north of a line running west from the Illinois border along Interstate Highway 70 to U.S. Highway 54, south along U.S. 54 to U.S. 50, then west along U.S. 50 to the Kansas border.

*South Zone:* That portion of Missouri south of a line running west from the Illinois border along Missouri Highway 34 to Interstate Highway 55; south along I–55 to U.S. Highway 62, west along U.S. 62 to Missouri 53, north along Missouri 53 to Missouri 51, north along Missouri 51 to U.S. 60, west along U.S. 60 to Missouri 21, north along Missouri 21 to Missouri 72, west along Missouri 72 to Missouri 32, west along Missouri 32 to U.S. 65, north along U.S. 65 to U.S. 54, west along U.S. 54 to Missouri 32, south along Missouri 32 to Missouri 97, south along Missouri 97 to Dade County NN, west along Dade County NN to Missouri 37, west along Missouri 37 to Jasper County N, west along Jasper County N to Jasper County M, west along Jasper County M to the Kansas border.

*Middle Zone:* The remainder of Missouri.

**Ohio**

*North Zone:* The Counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking (excluding the Buckeye Lake Area), Muskingum, Guernsey, Harrison and Jefferson and all counties north thereof.

*Ohio River Zone:* The Counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia and Meigs.

*South Zone:* That portion of the State between the North and Ohio River Zone boundaries, including the Buckeye Lake Area in Licking County bounded on the west by State Highway 37, on the north by U.S. Highway 40, and on the east by State 13.

**Tennessee**

*Reelfoot Zone:* All or portions of Lake and Obion Counties.

*State Zone:* The remainder of Tennessee.

**Wisconsin**

*North Zone:* That portion of the State north of a line extending east from the Minnesota border along State Highway 77 to State 27, south along State 27 and 77 to U.S. Highway 63, and continuing south along State 27 to Sawyer County Road B, south and east along County B to State 70, southwest along State 70 to State 27, south along State 27 to State 64, west along State 64/27 and south along State 27 to U.S. 12, south and east on State 27/U.S. 12 to U.S. 10, east on U.S. 10 to State 310, east along State 310 to State 42, north along State 42 to State 147, north along State 147 to State 163, north along State 163 to Kewaunee County Trunk A, north along County Trunk A to State 57, north along State 57 to the Kewaunee/Door County Line, west along the Kewaunee/Door County Line to the Door/Brown County Line, west along the Door/Brown County Line to the Door/Oconto/Brown County Line, northeast along the Door/Oconto County Line to the Marinette/Door County Line, northeast along the Marinette/Door County Line to the Michigan border.

*South Zone:* The remainder of Wisconsin.

**Central Flyway**

**Kansas**

*High Plains Zone:* That portion of the State west of U.S. 283.

*Low Plains Early Zone:* That portion of the State east of the High Plains Zone and west of a line extending south from the Nebraska border along KS 28 to U.S. 36, east along U.S. 36 to KS 199, south along KS 199 to Republic County Road 563, south along Republic County Road 563 to KS 148, east along KS 148 to Republic County Road 138, south along Republic County Road 138 to Cloud County Road 765, south along Cloud County Road 765 to KS 9, west along KS 9 to U.S. 24, west along U.S 24 to U.S. 281, north along U.S. 281 to U.S. 36, west along U.S. 36 to U.S. 183, south along U.S. 183 to U.S. 24, west along U.S. 24 to KS 18, southeast along KS 18 to U.S. 183, south along U.S. 183 to KS 4, east along KS 4 to I–135, south along I–135 to KS 61, southwest along KS 61 to KS 96, northwest on KS 96 to U.S. 56, west along U.S. 56 to U.S. 281, south along U.S. 281 to U.S. 54, then west along U.S. 54 to U.S. 283.

*Low Plains Late Zone:* The remainder of Kansas.

**Montana (Central Flyway Portion)**

*Zone 1:* The Counties of Blaine, Carbon, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, Wibaux, and Yellowstone.

*Zone 2:* The remainder of Montana.

**Nebraska**

*High Plains Zone:* That portion of the State west of highways U.S. 183 and U.S. 20 from the South Dakota border to Ainsworth, NE 7 and NE 91 to Dunning, NE 2 to Merna, NE 92 to Arnold, NE 40 and NE 47 through Gothenburg to NE 23, NE 23 to Elwood, and U.S. 283 to the Kansas border.

*Low Plains Zone 1:* That portion of the State east of the High Plains Zone and north and west of a line extending from the South Dakota border along NE 26E

Spur to NE 12, west on NE 12 to the Knox/Boyd County line, south along the county line to the Niobrara River and along the Niobrara River to U.S. 183 (the High Plains Zone line). Where the Niobrara River forms the boundary, both banks will be in Zone 1.

*Low Plains Zone 2:* That portion of the State east of the High Plains Zone and bounded by designated highways and political boundaries starting on U.S. 73 at the Kansas border, north to NE 67, north to U.S. 75, north to NE 2, west to NE 43, north to U.S. 34, east to NE 63, north and west to U.S. 77, north to NE 92, west to U.S. 81, south to NE 66, west to NE 14, south to U.S. 34, west to NE 2, south to I–80, west to Hamilton/Hall County line (Gunbarrel Road), south to Giltner Road; west to U.S. 34, west to U.S. 136, east on U.S. 136 to NE 10, south to the State line, west to U.S. 283, north to NE 23, west to NE 47, north to U.S. 30, east to NE 14, north to NE 52, northwesterly to NE 91, west to U.S. 281, north to NE 91 in Wheeler County, west to U.S. 183, north to northerly boundary of Loup County, east along the north boundaries of Loup, Garfield, and Wheeler County, south along the east Wheeler County line to NE 70, east on NE 70 from Wheeler County to NE 14, south to NE 39, southeast to NE 22, east to U.S. 81, southeast to U.S. 30, east along U.S. 30 to U.S. 75, north along U.S. 75 to the Washington/Burt County line; then east along the county line to the Iowa border.

*Low Plains Zone 3:* The area east of the High Plains Zone, excluding Low Plains Zone 1, north of Low Plains Zone 2.

*Low Plains Zone 4:* The area east of the High Plains Zone and south of Zone 2.

**New Mexico (Central Flyway Portion)**

*North Zone:* That portion of the State north of I–40 and U.S. 54.

*South Zone:* The remainder of New Mexico.

**North Dakota**

*High Plains Unit:* That portion of the State south and west of a line from the South Dakota border along U.S. 83 and I–94 to ND 41, north to U.S. 2, west to the Williams/Divide County line, then north along the County line to the Canadian border.

*Low Plains:* The remainder of North Dakota.

**Oklahoma**

*High Plains Zone:* The Counties of Beaver, Cimarron, and Texas.

*Low Plains Zone 1:* That portion of the State east of the High Plains Zone and north of a line extending east from the Texas border along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I–40, east along I–40 to U.S. 177, north along U.S. 177 to OK 33, west along OK 33 to I–35, north along I–35 to U.S. 60, west along U.S. 60 to U.S. 64, west along U.S. 64 to OK 132, then north along OK 132 to the Kansas border.

*Low Plains Zone 2:* The remainder of Oklahoma.

**South Dakota**

*High Plains Unit:* That portion of the State west of a line beginning at the North Dakota border and extending south along U.S. 83 to U.S. 14, east along U.S. 14 to Blunt-Canning Road in Blunt, south along Blunt-Canning Road to SD 34, east to SD 47, south to I–90, east to SD 47, south to SD 49, south to Colome and then continuing south on U.S. 183 to the Nebraska border.

*North Zone:* That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along US 212 to SD 15, then north along SD 15 to Big Stone Lake at the Minnesota border.

*South Zone:* That portion of Gregory County east of SD 47, Charles Mix County south of SD 44 to the Douglas County line, south on SD 50 to Geddes, east on the Geddes Hwy. to U.S. 281, south on U.S. 281 and U.S. 18 to SD 50, south and east on SD 50 to Bon Homme County line, the Counties of Bon Homme, Yankton, and Clay south of SD 50, and Union County south and west of SD 50 and I–29.

*Middle Zone:* The remainder of South Dakota.

**Texas**

*High Plains Zone:* That portion of the State west of a line extending south from the Oklahoma border along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

*Low Plains North Zone:* That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana border at Orange, Texas.

*Low Plains South Zone:* The remainder of Texas.

**Wyoming (Central Flyway Portion)**

*Zone 1:* The Counties of Converse, Goshen, Hot Springs, Natrona, Platte, Washakie, and that portion of Park County south of T58N and not within the boundary of the Shoshone National Forest.

*Zone 2:* The remainder of Wyoming.

**Pacific Flyway**

**Arizona—Game Management Units (GMU) as follows:**

*South Zone:* Those portions of GMUs 6 and 8 in Yavapai County, and GMUs 10 and 12B–45.

*North Zone:* GMUs 1–5, those portions of GMUs 6 and 8 within Coconino County, and GMUs 7, 9, 12A.

**California**

*Northeastern Zone:* That portion of the State east and north of a line beginning at the Oregon border; south and west along the Klamath River to the mouth of Shovel Creek; south along Shovel Creek to Forest Service Road 46N10; south and east along FS 46N10 to FS 45N22; west and south along FS 45N22 to U.S. 97 at Grass Lake Summit; south and west along U.S. 97 to I–5 at the town of Weed; south along I–5 to CA 89; east and south along CA 89 to the junction with CA 49; east and north on CA 49 to CA 70; east on CA 70 to U.S. 395; south and east on U.S. 395 to the Nevada border.

*Colorado River Zone:* Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east seven miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

*Southern Zone:* That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

*Southern San Joaquin Valley Temporary Zone:* All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

*Balance-of-the-State Zone:* The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

**Idaho**

*Zone 1:* Includes all lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of ID 37 and ID 39.

*Zone 2:* Includes the following Counties or portions of Counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of ID 75, south and east of U.S. 93, and between ID 75 and U.S. 93 north of U.S. 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou except the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties.

*Zone 3:* Includes the following Counties or portions of Counties: Ada; Blaine between ID 75 and U.S. 93 south of U.S. 20 and that additional area between ID 75 and U.S. 93 north of U.S. 20 within the Silver Creek drainage; Boise; Canyon; Cassia except within the Minidoka National Wildlife Refuge; Elmore except the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of ID 37 and ID 39 except that portion within the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties.

**Nevada**

*Lincoln and Clark County Zone:* All of Clark and Lincoln Counties.

*Remainder-of-the-State Zone:* The remainder of Nevada.

**Oregon**

*Zone 1:* Clatsop, Tillamook, Lincoln, Lane, Douglas, Coos, Curry, Josephine, Jackson, Linn, Benton, Polk, Marion, Yamhill, Washington, Columbia, Multnomah, Clackamas, Hood River, Wasco, Sherman, Gilliam, Morrow and Umatilla Counties.

*Columbia Basin Mallard Management Unit:* Gilliam, Morrow, and Umatilla Counties.

*Zone 2:* The remainder of the State.

**Utah**

*Zone 1:* All of Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Unitah, Utah, Wasatch, and Weber Counties and that part of Toole County north of I–80.

*Zone 2:* The remainder of Utah.

**Washington**

*East Zone:* All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

*Columbia Basin Mallard Management Unit:* Same as East Zone.

*West Zone:* All areas to the west of the East Zone.

**Geese**

**Atlantic Flyway**

**Connecticut**

*NAP Zone:* Statewide, except for Hartford and Litchfield Counties west of the Connecticut River.

*AP Zone:* Remainder of the State.

*South Zone:* Same as for ducks.

*North Zone:* Same as for ducks.

**Maryland**

*SJBP Zone:* Allegheny, Carroll, Frederick, Garrett, Washington counties and the portion of Montgomery County south of Interstate 270 and west of Interstate 495 to the Potomac River.

*AP Zone:* Remainder of the State.

**Massachusetts**

*NAP Zone:* Central Zone (same as for ducks) and that portion of the Coastal Zone that lies north of route 139 from Green Harbor.

*AP Zone:* Remainder of the State.

*Special Late Season Area:* That portion of the Coastal Zone (see duck zones) that lies north of Route 14, east of St. George Road, and east of the Powder Point Bridge.

**New Hampshire**

Same zones as for ducks.

**New Jersey**

North—that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94: then west along Route 94 to the tollbridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point.

South—that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

**New York**

*Special Late Season Area for Canada Geese:* that area of Chemung County lying east of a continuous line extending south along State Route 13 from the Schuyler County line to State Route 17 and then south along Route 17 to the New York-Pennsylvania boundary; all of Tioga and Broome Counties; that area of Delaware, Sullivan, and Orange Counties lying southwest of a continuous line extending east along State Route 17 from the Broome County line to U.S. Route 209 at Wurtsboro and then south along Route 209 to the New York-Pennsylvania boundary at Port Jervis, excluding areas on or within 50 yards of the Delaware River between the confluence of the West Branch and East Branch below Hancock and the mouth of the Shingle Kill (3 miles upstream from Port Jervis); that area of Orange, Rockland, Dutchess, Putnam and Westchester Counties lying southeast of a continuous line extending north along Route 17 from the New York-New Jersey boundary at Suffern to Interstate Route 87, then north along Route 87 to Interstate Route 84, then east along Route 84 to the northern boundary of Putnam County, then east along that boundary to the New York-Connecticut boundary; that area of Nassau and Suffolk Counties lying north of State Route 25A and west of a continuous line extending northward from State Route

25A along Randall Road (near Shoreham) to North Country Road, then east to Sound Road and then north to Long Island Sound and then due north to the New York-Connecticut boundary.

*Long Island (NAP) Zone:* Same as Long Island Duck Zone.

*Southwest (SJBP) Zone:* all of Allegany, Cattaraugus, and Chautaugua Counties; that area of Erie, Wyoming and Niagara Counties lying south and west of a continuous line extending from the Rainbow Bridge below Niagara Falls, north along the Robert Moses Parkway to US Route 62A, then east along Route 62A to US Route 62, then southeast along US Route 62 to Interstate Route 290, then south along Route 290 to Exit 50 of the NYS Thruway, then east along I–90 to State Route 98, then south along State Route 98 to the Cattaraugus County line; and that area of Steuben and Chemung Counties lying south of State Route 17.

*AP Zone:* Remainder of the State.

**North Carolina**

*Regular Season for Canada Geese:* Statewide, except for Northampton County and the Northeast Hunt Unit—Counties of Bertie, Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

**Pennsylvania**

*SJBP Zone:* Area from the New York State line west of U.S. Route 220 to intersection of I–180, west of I–180 to intersection of SR 147, west of SR 147 to intersection of U.S. Route 322, west of U.S. Route 322 to intersection of I–81, west of I–81 to intersection of I–83, west of I–83 to I–283, west of I–283 to SR 441, west of SR 441 to U.S. Route 30, west of U.S. Route 30 to I–83, west of I–83 to Maryland State line, except for the Pymatuning Zone.

*Pymatuning Zone:* Area south of SR 198 from the Ohio State line to the intersection of SR 18, to the intersection of US Route 322/SR 18, to the intersection of SR 3013, then south to the Crawford/Mercer County line.

*Special Late Season Area for Canada Geese:* Same as SJBP Zone and the area from New York State line east of U.S. Route 220 to intersection of I–180, east of I–180 to intersection of SR 147, east of SR 147 to intersection of U.S. Route 322, east of Route 322 to intersection of I–81, north of I–81 to intersection of I–80, north of I–80 to New Jersey State line.

*AP Zone:* Remainder of the State.

**Rhode Island**

*Special Area for Canada Geese:* Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

**South Carolina**

*Canada Goose Area:* Statewide except for Clarendon County and that portion of Lake Marion in Orangeburg County and Berkeley County.

**Vermont**

Same zones as for ducks.

**Virginia**

*SJBP Zone and Special Late Season Area for Canada Geese:* All areas west of I–95.

*Back Bay Area:* The waters of Back Bay and its tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Binson Inlet Lake (formerly known as Lake Tecumseh) and Red Wing Lake and the marshes adjacent thereto.

*AP Zone:* Remainder of the State.

**West Virginia**

Same zones as for ducks.

**Mississippi Flyway**

**Alabama**

*Same zones as for ducks, but in addition:*

*SJBP Zone:* That portion of Morgan County east of U.S. Highway 31, north of State Highway 36, and west of U.S. 231; that portion of Limestone County south of U.S. 72; and that portion of Madison County south of Swancott Road and west of Triana Road.

**Arkansas**

*East Zone:* Arkansas, Ashley, Chicot, Clay, Craighead, Crittenden, Cross, Desha, Drew, Greene, Independence, Jackson, Jefferson, Lawrence, Lee, Lincoln, Lonoke, Mississippi, Monroe, Phillips, Poinsett, Prairie, Pulaski, Randolph, St. Francis, White, and Woodruff Counties.

*West Zone:* Baxter, Benton, Boone, Carroll, Cleburne, Conway, Crawford, Faulkner, Franklin, Fulton, Izard, Johnson, Madison, Marion, Newton, Pope, Searcy, Sharp, Stone, Van Buren, and Washington Counties, and those portions of Logan, Perry, Sebastian, and Yell Counties lying north of a line extending east from the Oklahoma border along State Highway 10 to Perry, south on State 9 to State 60, then east on State 60 to the Faulkner County line.

**Illinois**

*Same zones as for ducks, but in addition:*

*North Zone:*

*Northern Illinois Quota Zone:* The Counties of McHenry, Lake, Kane, DuPage, and those portions of LaSalle and Will Counties north of Interstate Highway 80.

*Central Zone:*

*Central Illinois Quota Zone:* The Counties of Grundy, Woodford, Peoria, Knox, Fulton, Tazewell, Mason, Cass, Morgan, Pike, Calhoun, and Jersey, and those portions of LaSalle and Will Counties south of Interstate Highway 80.

*South Zone:*

*Southern Illinois Quota Zone:* Alexander, Jackson, Union, and Williamson Counties.

*Rend Lake Quota Zone:* Franklin and Jefferson Counties.

**Indiana**

*Same zones as for ducks, but in addition:*

*SJBP Zone:* Jasper, LaGrange, LaPorte, Starke, and Steuben Counties, and that portion of the Jasper-Pulaski Fish and Wildlife Area in Pulaski County.

**Iowa**

Same zones as for ducks.

**Kentucky**

*Western Zone:* That portion of the State west of a line beginning at the Tennessee border at Fulton and extending north along the Purchase Parkway to Interstate Highway 24, east along I–24 to U.S. Highway 641, north along U.S. 641 to U.S. 60, northeast along U.S. 60 to the Henderson County line, then south, east, and northerly along the Henderson County line to the Indiana border.

*Ballard Reporting Area:* That area encompassed by a line beginning at the northwest city limits of Wickliffe in Ballard County and extending westward to the middle of the Mississippi River, north along the Mississippi River and along the low-water mark of the Ohio River on the Illinois shore to the Ballard-McCracken County line, south along the county line to Kentucky Highway 358, south along Kentucky 358 to U.S. Highway 60 at LaCenter; then southwest along U.S. 60 to the northeast city limits of Wickliffe.

*Henderson-Union Reporting Area:* Henderson County and that portion of Union County within the Western Zone.

*Pennyroyal/Coalfield Zone:* Butler, Daviess, Ohio, Simpson, and Warren Counties and all counties lying west to the boundary of the Western Goose Zone.

**Michigan**

*Same zones as for ducks, but in addition:*

*South Zone:*

*Tuscola/Huron Goose Management Unit (GMU):* Those portions of Tuscola and Huron Counties bounded on the south by Michigan Highway 138 and Bay City Road, on the east by Colwood and Bay Port Roads, on the north by Kilmanagh Road and a line extending directly west off the end of Kilmanagh Road into Saginaw Bay to the west boundary, and on the west by the Tuscola-Bay County line and a line extending directly north off the end of the Tuscola-Bay County line into Saginaw Bay to the north boundary.

*Allegan County GMU:* That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly ½ mile along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

*Saginaw County GMU:* That portion of Saginaw County bounded by Michigan Highway 46 on the north; Michigan 52 on the west; Michigan 57 on the south; and Michigan 13 on the east.

*Muskegon Wastewater GMU:* That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

*Special Canada Goose Seasons:*

*Southern Michigan GMU:* That portion of the State, including the Great Lakes and interconnecting waterways and excluding the Allegan County GMU, south of a line beginning at the Ontario border at the Bluewater Bridge in the city of Port Huron and extending westerly and southerly along Interstate Highway 94 to I–69, westerly along I–69 to Michigan Highway 21, westerly along Michigan 21 to I–96, northerly along I–96 to I–196, westerly along I–196 to Lake Michigan Drive (M–45) in Grand Rapids, westerly along Lake Michigan Drive to the Lake Michigan shore, then directly west from the end of Lake Michigan Drive to the Wisconsin border.

*Central Michigan GMU:* That portion of the South Zone north of the Southern Michigan GMU, excluding the Tuscola/Huron GMU, Saginaw County GMU, and Muskegon Wastewater GMU.

**Minnesota**

*West Zone:* That portion of the state encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa border, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I–94 to the North Dakota border.

*West Central Zone:* That area encompassed by a line beginning at the intersection of State Trunk Highway (STH) 29 and U.S. Highway 212 and extending west along U.S. 212 to U.S. 59, south along U.S. 59 to STH 67, west along STH 67 to U.S. 75, north along U.S. 75 to County State Aid Highway (CSAH) 30 in Lac qui Parle County, west along CSAH 30 to the western boundary of the State, north along the western boundary of the State to a point due south of the intersection of STH 7 and CSAH 7 in Big Stone County, and continuing due north to said intersection, then north along CSAH 7 to CSAH 6 in Big Stone County, east along CSAH 6 to CSAH 21 in Big Stone County, south along CSAH 21 to CSAH 10 in Big Stone County, east along CSAH 10 to CSAH 22 in Swift County, east along CSAH 22 to CSAH 5 in Swift County, south along CSAH 5 to U.S. 12, east along U.S. 12 to CSAH 17 in Swift County, south along CSAH 17 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 40, east along STH 40 to STH 29, then south along STH 29 to the point of beginning.

*Lac qui Parle Zone:* That area encompassed by a line beginning at the intersection of U.S. Highway 212 and County State Aid Highway (CSAH) 27 in Lac qui Parle County and extending north along CSAH 27 to CSAH 20 in Lac qui Parle County, west along CSAH 20 to State Trunk Highway (STH) 40, north along STH 40 to STH 119, north along STH 119 to CSAH 34 in Lac qui Parle County, west along CSAH 34 to CSAH 19 in Lac qui Parle County, north and west along CSAH 19 to CSAH 38 in Lac qui Parle County, west along CSAH 38 to U.S. 75, north along U.S. 75 to STH 7, east along STH 7 to CSAH 6 in Swift County, east along CSAH 6 to County Road 65 in Swift County, south along County 65 to County 34 in Chippewa County, south along County 34 to CSAH 12 in Chippewa County, east along CSAH 12 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 7, southeast along STH 7 to Montevideo and along the municipal boundary of Montevideo to U.S. 212; then west along U.S. 212 to the point of beginning.

*Northwest Zone:* That portion of the state encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

*Special Canada Goose Seasons:*

*Southeast Zone:* That part of the State within the following described boundaries: beginning at the intersection of U.S. Highway 52 and the south boundary of the Twin Cities Metro Canada Goose Zone; thence along the U.S. Highway 52 to State Trunk Highway (STH) 57; thence along STH 57 to the municipal boundary of Kasson; thence along the municipal boundary of Kasson County State Aid Highway (CSAH) 13, Dodge County; thence along CSAH 13 to STH 30; thence along STH 30 to U.S. Highway 63; thence along U.S. Highway 63 to the south boundary of the State; thence along the south and east boundaries of the State to the south boundary of the Twin Cities Metro Canada Goose Zone; thence along said boundary to the point of beginning.

**Missouri**

*Same zones as for ducks but in addition:*

*North Zone:*

*Swan Lake Zone:* That area bounded by U.S. Highway 36 on the north, Missouri Highway 5 on the east, Missouri 240 and U.S. 65 on the south, and U.S. 65 on the west.

*Middle Zone:*

*Southeast Zone:* That portion of the State encompassed by a line beginning at the intersection of Missouri Highway (MO) 34 and Interstate 55 and extending south along I–55 to U.S. Highway 62, west along U.S. 62 to MO 53, north along MO 53 to MO 51, north along MO 51 to U.S. 60, west along U.S. 60 to MO 21, north along MO 21 to MO 72, east along MO 72 to MO 34, then east along MO 34 to I–55.

**Ohio**

*Same zones as for ducks but in addition:*

*North Zone:*

*Lake Erie SJBP Zone:* That portion of the State encompassed by a line beginning in Lucas County at the Michigan State line on I–75, and

extending south along I–75 to I–280, south along I–280 to I–80, east along I–80 to the Pennsylvania State line in Trumbull county, north along the Pennsylvania State line to SR 6 in Ashtabula county, west along SR 6 to the Lake/Cuyahoga county line, north along the Lake/Cuyahoga county line to the shore of Lake Erie.

**Tennessee**

*Southwest Zone:* That portion of the State south of State Highways 20 and 104, and west of U.S. Highways 45 and 45W.

*Northwest Zone:* Lake, Obion and Weakley Counties and those portions of Gibson and Dyer Counties not included in the Southwest Tennessee Zone.

*Kentucky/Barkley Lakes Zone:* That portion of the State bounded on the west by the eastern boundaries of the Northwest and Southwest Zones and on the east by State Highway 13 from the Alabama border to Clarksville and U.S. Highway 79 from Clarksville to the Kentucky border.

**Wisconsin**

*Horicon Zone:* That area encompassed by a line beginning at the intersection of State Highway 21 and the Fox River in Winnebago County and extending westerly along State 21 to the west boundary of Winnebago County, southerly along the west boundary of Winnebago County to the north boundary of Green Lake County, westerly along the north boundaries of Green Lake and Marquette Counties to State 22, southerly along State 22 to State 33, westerly along State 33 to U.S. Highway 16, westerly along U.S. 16 to Weyh Road, southerly along Weyh Road to County Highway O, southerly along County O to the west boundary of Section 31, southerly along the west boundary of Section 31 to the Sauk/Columbia County boundary, southerly along the Sauk/Columbia County boundary to State 33, easterly along State 33 to Interstate Highway 90/94, southerly along I–90/94 to State 60, easterly along State 60 to State 83, northerly along State 83 to State 175, northerly along State 175 to State 33, easterly along State 33 to U.S. Highway 45, northerly along U.S. 45 to the east shore of the Fond Du Lac River, northerly along the east shore of the Fond Du Lac River to Lake Winnebago, northerly along the western shoreline of Lake Winnebago to the Fox River, then westerly along the Fox River to State 21.

*Collins Zone:* That area encompassed by a line beginning at the intersection of Hilltop Road and Collins Marsh Road in Manitowoc County and extending westerly along Hilltop Road to Humpty Dumpty Road, southerly along Humpty Dumpty Road to Poplar Grove Road, easterly and southerly along Poplar Grove Road to County Highway JJ, southeasterly along County JJ to Collins Road, southerly along Collins Road to the Manitowoc River, southeasterly along the Manitowoc River to Quarry Road, northerly along Quarry Road to Einberger Road, northerly along Einberger Road to Moschel Road, westerly along Moschel Road to Collins Marsh Road, northerly along Collins Marsh Road to Hilltop Road.

*Exterior Zone:* That portion of the State not included in the Horicon or Collins Zones.

*Mississippi River Subzone:* That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois border in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota border.

*Rock Prairie Subzone:* That area encompassed by a line beginning at the intersection of the Illinois border and Interstate Highway 90 and extending north along I–90 to County Highway A, east along County A to U.S. Highway 12, southeast along U.S. 12 to State Highway 50, west along State 50 to State 120, then south along 120 to the Illinois border.

*Brown County Subzone:* That area encompassed by a line beginning at the intersection of the Fox River with Green Bay in Brown County and extending southerly along the Fox River to State Highway 29, northwesterly along State 29 to the Brown County line, south, east, and north along the Brown County line to Green Bay, due west to the midpoint of the Green Bay Ship Channel, then southwesterly along the Green Bay Ship Channel to the Fox River.

**Central Flyway**

**Colorado (Central Flyway Portion)**

*Northern Front Range Area:* All lands in Adams, Boulder, Clear Creek, Denver, Gilpin, Jefferson, Larimer, and Weld Counties west of I–25 from the Wyoming border south to I–70; west on I–70 to the Continental Divide; north along the Continental Divide to the Jackson-Larimer County Line to the Wyoming border.

*South Park/San Luis Valley Area:* Alamosa, Chaffee, Conejos, Costilla, Custer, Fremont, Lake, Park, Teller, and Rio Grande Counties and those portions of Hinsdale, Mineral, and Saguache Counties east of the Continental Divide.

*North Park Area:* Jackson County.

*Arkansas Valley Area:* Baca, Bent, Crowley, Kiowa, Otero, and Prowers Counties.

*Pueblo County Area:* Pueblo County.

*Remainder:* Remainder of the Central Flyway portion of Colorado.

*Eastern Colorado Late Light Goose Area:* that portion of the State east of Interstate Highway 25.

**Kansas**

*Light Geese*

*Unit 1:* That portion of Kansas east of a line beginning at the intersection of the Nebraska border and KS 99, extending south along KS 99 to I–70 to U.S. 75, south on U.S. 75 to U.S. 54, west on U.S. 54 to KS 99, and then south on KS 99 to the Oklahoma border.

*Unit 2:* The remainder of Kansas, laying west of Unit 1.

*Dark Geese*

*Marais des Cygnes Valley Unit:* The area is bounded by the Missouri border to KS 68, KS 68 to U.S. 169, U.S. 169 to KS 7, KS 7 to KS 31, KS 31 to U.S. 69, U.S. 69 to KS 239, KS 239 to the Missouri border.

*Southeast Unit:* That part of Kansas bounded by a line from the Kansas-Missouri State line west on US–160 to its junction with US–69, then north on US–69 to its junction with K–39, then west on K–39 to its junction with US–169, then south on US–169 to its junction with the Kansas-Oklahoma State line, then east on the Kansas-Oklahoma State line to its junction with the Kansas-Missouri State line, then north on the Kansas-Missouri State line to its junction with US–160, except Federal and State sanctuaries.

**Montana (Central Flyway Portion)**

*Sheridan County:* Includes all of Sheridan County.

*Remainder:* Includes the remainder of the Central Flyway portion of Montana.

**Nebraska**

*Dark Geese*

*North Unit:* Keya Paha County east of U.S. 183 and all of Boyd County, including the boundary waters of the Niobrara River, all of Knox County and that portion of Cedar County west of U.S. 81.

*Platte River Unit:* That area south and west of U.S. 281 at the Kansas/Nebraska border, north to Giltner Road (near Doniphan), east to NE 14, north to NE 91, west to U.S. 183, south to NE 92, west to NE 61, north to U.S. 2, west to the intersection of Garden, Grant, and Sheridan counties, then west along the northern border of Garden, Morrill, and

Scotts Bluff counties to the Wyoming border.

*Northcentral Unit:* That area north of the Southcentral Unit and west of U.S. 183.

*East Unit:* The remainder of Nebraska.

*Light Geese*

*Rainwater Basin Light Goose Area (West):* The area bounded by the junction of U.S. 283 and U.S. 30 at Lexington, east on U.S. 30 to U.S. 281, south on U.S. 281 to NE 4, west on NE 4 to U.S. 34, continue west on U.S. 34 to U.S. 283, then north on U.S. 283 to the beginning.

Rainwater Basin Light Goose Area (East): The area bounded by the junction of U.S. 281 and US 30 at Grand Island, north and east on U.S. 30 to NE 92, east on NE 92 to NE 15, south on NE 15 to NE 4, west on NE 4 to U.S. 281, north on U.S. 281 to the beginning.

*Remainder of State:* The remainder portion of Nebraska.

**New Mexico (Central Flyway Portion)**

*Dark Geese*

*Middle Rio Grande Valley Unit:* Sierra, Socorro, and Valencia counties.

*Remainder:* The remainder of the Central Flyway portion of New Mexico.

**South Dakota**

*Canada Geese*

*Unit 1:* Statewide except for Units 2, 3 and 4.

*Big Stone Power Plant Area:* That portion of Grant and Roberts Counties east of SD 15 and north of SD 20.

*Unit 2:* Brule, Buffalo, Campbell, Charles Mix, Dewey, Gregory, Hughes, Hyde, Lyman, Potter, Stanley, Sully, and Walworth Counties and that portion of Corson County east of South Dakota State Highway 65.

*Unit 3:* Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, and Roberts Counties.

*Unit 4:* Bennett County.

**Texas**

*West Unit:* That portion of the State laying west of a line from the international toll bridge at Laredo; north along I–35 and I–35W to Fort Worth; northwest along U.S. 81 and U.S. 287 to Bowie; and north along U.S. 81 to the Oklahoma border.

*East Unit:* Remainder of State.

**Wyoming (Central Flyway Portion)**

*Area 1:* Hot Springs, Natrona, and Washakie Counties, and that portion of Park County south of T58N.

*Area 2:* Converse and Platte County.

*Area 3:* Albany, Big Horn, Campbell, Crook, Fremont, Johnson, Laramie, Niobrara, Sheridan, and Weston Counties and those portions of Carbon County east of the Continental Divide and Park County north of T58N.

*Area 4:* Goshen County.

**Pacific Flyway**

**Arizona**

*GMU 1 and 27:* Game Management Units 1 and 27.

*GMU 22 and 23:* Game Management Units 22 and 23.

*Remainder of State:* The remainder of Arizona.

**California**

*Northeastern Zone:* That portion of the State east and north of a line beginning at the Oregon border; south and west along the Klamath River to the mouth of Shovel Creek; south along Shovel Creek to Forest Service Road 46N10; south and east along FS 46N10 to FS 45N22; west and south along FS 45N22 to U.S. 97 at Grass Lake Summit; south and west along U.S. 97 to I–5 at the town of Weed; south along I–5 to CA 89; east and south along CA 89 to the junction with CA 49; east and north on CA 49 to CA 70; east on CA 70 to U.S. 395; south and east on U.S. 395 to the Nevada border.

*Colorado River Zone:* Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east seven miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

*Southern Zone:* That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

*Balance-of-the-State Zone:* The remainder of California not included in the Northeastern, Southern, and the Colorado River Zones.

*Del Norte and Humboldt Area:* The Counties of Del Norte and Humboldt.

*Sacramento Valley Special Management Area (East):* That area bounded by a line beginning at the junction of the Gridley-Colusa Highway and the Cherokee Canal; west on the Gridley-Colusa Highway to Gould Road; west on Gould Road and due west 0.75 miles directly to Highway 45; south on Highway 45 to Highway 20; east on Highway 20 to West Butte Road; north on West Butte Road to Pass Road; west on Pass Road to West Butte Road; north on West Butte Road to North Butte Road; west on North Butte Road and due west 0.5 miles directly to the Cherokee Canal; north on the Cherokee Canal to the point of beginning.

*Sacramento Valley Special Management Area (West):* That area bounded by a line beginning at Willows south on I–5 to Hahn Road; easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

*San Joaquin Valley Special Management Area:* That area bounded by a line beginning at the intersection of Highway 5 and Highway 120; south on Highway 5 to Highway 33; southeast on Highway 33 to Crows Landing Road; north on Crows Landing Road to Highway 99; north on Highway 99 to Highway 120; west on Highway 120 to the point of beginning.

*Western Canada Goose Hunt Area:* That portion of the above described Sacramento Valley Area lying east of a line formed by Butte Creek from the Gridley-Colusa Highway south to the Cherokee Canal; easterly along the Cherokee Canal and North Butte Road to West Butte Road; southerly on West Butte Road to Pass Road; easterly on Pass Road to West Butte Road; southerly on West Butte Road to CA 20; and westerly along CA 20 to the Sacramento River.

**Colorado (Pacific Flyway Portion)**

*West Central Area:* Archuleta, Delta, Dolores, Gunnison, LaPlata, Montezuma, Montrose, Ouray, San Juan, and San Miguel Counties and those portions of Hinsdale, Mineral, and Saguache Counties west of the Continental Divide.

*State Area:* The remainder of the Pacific-Flyway Portion of Colorado.

**Idaho**

*Zone 1:* Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties.

*Zone 2:* The Counties of Ada; Adams; Boise; Canyon; those portions of Elmore north and east of I–84, and south and west of I–84, west of ID 51, except the Camas Creek drainage; Gem; Owyhee west of ID 51; Payette; Valley; and Washington.

*Zone 3:* The Counties of Blaine; Camas; Cassia; those portions of Elmore south of I–84 east of ID 51, and within the Camas Creek drainage; Gooding; Jerome; Lincoln; Minidoka; Owyhee east of ID 51; Power within the Minidoka National Wildlife Refuge; and Twin Falls.

*Zone 4:* The Counties of Bear Lake; Bingham within the Blackfoot Reservoir drainage; Bonneville, Butte; Caribou except the Fort Hall Indian Reservation; Clark; Custer; Franklin; Fremont; Jefferson; Lemhi; Madison; Oneida; Power west of ID 37 and ID 39 except the Minidoka National Wildlife Refuge; and Teton.

*Zone 5:* All lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of ID 37 and ID 39.

In addition, goose frameworks are set by the following geographical areas: Northern Unit: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties.

*Southwestern Unit:* That area west of the line formed by U.S. 93 north from the Nevada border to Shoshone, northerly on ID 75 (formerly U.S. 93) to Challis, northerly on U.S. 93 to the Montana border (except the Northern Unit and except Custer and Lemhi Counties).

*Southeastern Unit:* That area east of the line formed by U.S. 93 north from the Nevada border to Shoshone, northerly on ID 75 (formerly U.S. 93) to Challis, northerly on U.S. 93 to the Montana border, including all of Custer and Lemhi Counties.

**Montana (Pacific Flyway Portion)**

*East of the Divide Zone:* The Pacific Flyway portion of the State located east of the Continental Divide.

*West of the Divide Zone:* The remainder of the Pacific Flyway portion of Montana.

**Nevada**

*Lincoln Clark County Zone:* All of Lincoln and Clark Counties

*Remainder-of-the-State Zone:* The remainder of Nevada.

**New Mexico (Pacific Flyway Portion)**

*North Zone:* The Pacific Flyway portion of New Mexico located north of I–40.

*South Zone:* The Pacific Flyway portion of New Mexico located south of I–40.

**Oregon**

*Southwest Zone:* Douglas, Coos, Curry, Josephine, and Jackson Counties.

*Northwest Special Permit Zone:* That portion of western Oregon west and north of a line running south from the Columbia River in Portland along I–5 to OR 22 at Salem; then east on OR 22 to the Stayton Cutoff; then south on the Stayton Cutoff to Stayton and due south to the Santiam River; then west along the north shore of the Santiam River to I–5; then south on I–5 to OR 126 at Eugene; then west on OR 126 to Greenhill Road; then south on Greenhill Road to Crow Road; then west on Crow Road to Territorial Hwy; then west on Territorial Hwy to OR 126; then west on OR 126 to OR 36; then north on OR 36 to Forest Road 5070 at Brickerville; then west and south on Forest Road 5070 to OR 126; then west on OR 126 to the Pacific Coast.

*Northwest Zone:* Those portions of Clackamas, Lane, Linn, Marion, Multnomah, and Washington Counties outside of the Northwest Special Permit Zone.

*Closed Zone:* Those portions of Coos, Curry, Douglas and Lane Counties west of US 101.

*Eastern Zone:* Hood River, Wasco, Sherman, Gilliam, Morrow, Umatilla, Deschutes, Jefferson, Crook, Wheeler, Grant, Baker, Union, and Wallowa Counties.

*Lake County Zone:* All of Lake County.

**Utah**

*Washington County Zone:* All of Washington County.

*Remainder-of-the-State Zone:* The remainder of Utah.

**Washington**

*Eastern Washington:* All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

*Area 1:* Lincoln, Spokane, and Walla Walla Counties; that part of Grant County east of a line beginning at the Douglas-Lincoln County line on WA 174, southwest on WA 174 to WA 155, south on WA 155 to US 2, southwest on US 2 to Pinto Ridge Road, south on Pinto Ridge Road to WA 28, east on WA 28 to the Stratford Road, south on the Stratford Road to WA 17, south on WA 17 to the Grant-Adams County line; those parts of Adams County east of State Highway 17; those parts of Franklin County east and south of a line beginning at the Adams-Franklin County line on WA 17, south on WA 17 to US 395, south on US 395 to I–182, west of I–182 to the Franklin-Benton County line; those parts of Benton County south of I–182 and I–82; and those parts of Klickitat County east of U.S. Highway 97.

*Area 2:* All of Okanongan, Douglas, and Kittitas Counties and those parts of Grant, Adams, Franklin, and Benton Counties not included in Eastern Washington Goose Management Area 1.

*Area 3:* All other parts of eastern Washington not included in Eastern Washington Goose Management Areas 1 and 2.

*Western Washington:* All areas west of the East Zone.

*Area 1:* Skagit, Island, and Snohomish Counties.

*Area 2:* Clark County, except portions south of the Washougal River, Cowlitz, Pacific, and Wahkiakum Counties, and that portion of Grays Harbor County south of U.S. highway 12 and east of U.S. highway 101.

*Area 3:* All parts of western Washington not included in Western Washington Goose Management Areas 1 and 2.

*Lower Columbia River Early-Season Canada Goose Zone*: Beginning at the Washington-Oregon border on the I–5 Bridge near Vancouver, Washington; north on I–5 to Kelso; west on Highway 4 from Kelso to Highway 401; south and west on Highway 401 to Highway 101 at the Astoria-Megler Bridge; west on Highway 101 to Gray Drive in the City of Ilwaco; west on Gray Drive to Canby Road; southwest on Canby Road to the North Jetty; southwest on the North Jetty to its end; southeast to the Washington-Oregon border; upstream along the Washington-Oregon border to the point of origin.

**Wyoming (Pacific Flyway Portion): See State Regulations**

*Bear River Area:* That portion of Lincoln County described in State regulations.

*Salt River Area:* That portion of Lincoln County described in State regulations.

*Eden-Farson Area:* Those portions of Sweetwater and Sublette Counties described in State regulations.

**Swans**

**Central Flyway**

*South Dakota:* Aurora, Beadle, Brookings, Brown, Brule, Buffalo,

Campbell, Clark, Codington, Davison, Deuel, Day, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

**Pacific Flyway**

**Montana (Pacific Flyway Portion)**

*Open Area:* Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

**Nevada**

*Open Area:* Churchill, Lyon, and Pershing Counties.

**Utah**

*Open Area:* Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I–15, north of I–80 and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary, then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge, then west along a line to Promontory Road, then north on Promontory Road to the intersection of SR 83, then north on SR 83 to I–84, then north and west on I–84 to State Hwy 30, then west on State Hwy 30 to the Nevada-Utah state line, then south on the Nevada-Utah state line to I–80.

[FR Doc. 00–24611 Filed 9–26–00; 8:45 am]

BILLING CODE 4310–55–P

Federal Register

Wednesday,
September 27, 2000

# Part III

# Department of Transportation

## Federal Aviation Administration

**14 CFR Part 39**

**Airworthiness Directives; Aviointeriors S.p.A. Seat Model 312; Final Rule**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 2000-NE–09-AD; Amendment 39–11889; AD 2000–18–04]**

**RIN 2120–AA64**

## Airworthiness Directives; Aviointeriors S.p.A. Seat Model 312

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to Aviointeriors S.p.A. (formerly ALVEN), Seat Model 312. This AD requires initial and repetitive inspections of the seat center crossmember for cracks, and if necessary, replacing the crossmember with a new crossmember. This amendment is prompted by reports of cracks in the crossmember that were found during normal maintenance. The FAA is issuing this AD to prevent the loss of the structural integrity of the seat due to cracks in the seat center crossmember.

**DATES:** Effective October 12, 2000. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 12, 2000.

The FAA must receive any comments on this rule by November 27, 2000.

**ADDRESSES:** Submit comments to Docket number 2000–NE–09–AD in one of the following ways:

- Mail comments to the Federal Aviation Administration (FAA), Office of the Regional Counsel, New England Region, Attention: Rules Docket number 2000–NE–09–AD, 12 New England Executive Park, Burlington, MA 01803–5299. You may also send a request for a copy of the AD or regulatory evaluation from that address. If you want us to acknowledge receipt of your comments, you must include a self-addressed, stamped postcard on which the Docket Number is written. We will date-stamp your postcard and mail it back to you.
- E-mail comments to 9-ane-adcomment@faa.gov. Be sure to include Docket number 2000–NE–09–AD in the subject line.

You can get the service information referenced in this AD from Aviointeriors S.p.A., Via Appia Km. 66.4—04013 Latina, Italy; telephone: 39–0773–6891; fax: 39–0773–631546. You may examine the AD Docket (including any comments and service information) at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. You may also examine the service information at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Brian Murphy, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: 781–238–7739; fax: 781–238–7199.

**SUPPLEMENTARY INFORMATION:** The Ente Nazionale per l'Aviaazione Civile (ENAC), which is the airworthiness authority for Italy, recently notified the FAA that an unsafe condition may exist on the crossmembers of Aviointeriors S.p.A. (formerly ALVEN) model 312 seats. The ENAC has advised the FAA that cracks were found in three seat center crossmembers during routine maintenance.

### Manufacturer's Service Information

Aviointeriors has issued alert service bulletin (ASB) No. 312/912–01, Revision 1, dated October 7, 1999, that specifies procedures for inspecting the center crossmember, part number (P/N) DM03437–1, of the seat for cracks and, if necessary, replacing the crossmember with a serviceable part. The ENAC classified this service bulletin as mandatory and issued AD 99–421 in order to assure the airworthiness of these seats in Italy.

### Bilateral Airworthiness Agreement

This seat is manufactured in Italy, and is approved for use on airplanes that are type certificated for operation in the United States under the provisions of § 21.617 of the Federal Aviation Regulations (14 CFR 21.617) and the applicable bilateral airworthiness agreement. Under this bilateral airworthiness agreement, the ENAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the ENAC, reviewed all available information, and determined that AD action is necessary for seats of this design that are used on airplanes that are certificated for operation in the United States.

### Requirements of this AD

The FAA has identified an unsafe condition that is likely to exist or develop on other seats of this same design. This AD is being issued to prevent the loss of the structural integrity of the seat due to cracks in the seat center crossmember. This AD requires an initial inspection within 20 days or 80 hours time-in-service (TIS), whichever occurs first, after the effective date of this AD, repetitive inspections within 650 hours TIS after the last inspection, and if necessary, the replacement of the seat center crossmember with a new crossmember. These actions must to be done in accordance with the service bulletin described previously.

### Immediate Adoption

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

### Comments Invited

Although this AD is in the form of a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment, the FAA invites you to submit any written relevant data, views, or arguments. Submit your comments as specified under the ''ADDRESSES'' caption. Be sure to include the Rules Docket number 2000–NE–09–AD in the communication. We specifically invite comments on the overall regulatory economic, environmental, and energy aspects of the rule that might suggest a need to modify it. We will file a report in the AD Docket that summarizes each FAA contact with the public that is related to the substantive part of this rule. The FAA is examining the writing style we currently use in regulatory documents, in response to the presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. You can get more information about the presidential memorandum and the plain language initiative at http://www.plainlanguage.gov. We also specifically invite comments on the chart-type format used to publish the actions required by this AD. This format was developed in consultation with the Office of the Federal Register, and the FAA is considering using this format, when appropriate, for future AD's. We will consider all comments received by the closing date, and may amend the rule.

If you want the FAA to acknowledge receipt of your comments, send a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NE–09–AD.'' We will date stamp the postcard and return it to you.

**Regulatory Impact**

This AD will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the FAA has determined that this AD does not have federalism implications under Executive Order 13132. Accordingly, the FAA has not consulted with state authorities before publication of this rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. Further, the FAA has determined that this AD involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If a determination is made that this AD otherwise would be significant under DOT Regulatory Policies and Procedures, the FAA will prepare a final regulatory evaluation and place it in the AD Docket. You can get a copy of this evaluation, if one has been prepared, by sending a request to the FAA at the mailing address listed under the caption ''ADDRESSES.'' Your request must reference ''AD Docket Number 2000–NE–09–AD.''

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. FAA amends § 39.13 by adding the following new airworthiness directive:

**Department of Transportation**
**Federal Aviation Administration (FAA)**

**Airworthiness Directive (AD) 2000–18–04**
**Docket No. 2000–NE–09–AD, Amendment 39–11889**
**Aviointeriors S.p.A.**
**Subject: Inspection of Seat Center Crossmember for Cracks**

| | |
|---|---|
| **(a) Effective Date** | October 12, 2000. |
| **(b) Affected Documents** | None. |
| **(c) Applicability** | Aviointeriors S.p.A. (formerly ALVEN) Model 312 Seats. These seats are used on, but are not limited to, Fokker 50 airplanes. |
| **(d) Unsafe Condition** | The FAA is issuing this AD to prevent the loss of the structural integrity of the seat due to cracks in the seat center crossmember. |
| **(e) Compliance** | Initial inspection within 20 days or 80 hours time-in-service (TIS), whichever occurs first after the effective date of this AD, unless already done, and repetitive inspections within 650 hours TIS after last inspection. |
| **(f) Required Actions** | (1) Inspect seat crossmember P/N DM03437–1 in accordance with Section 2. Inspection Procedure of Aviointeriors Alert Service Bulletin (ASB) 312/912–01, Revision 1, dated October 7, 1999.<br>(2) If you find cracks, replace the crossmember with a new crossmember P/N DM03437–1 in accordance with Section 3 Crossmember Replacement Procedure, Step 3.1 through 3.9 of ASB 312/912–01, Revision 1, dated October 7, 1999. |

**Department of Transportation**—Continued
**Federal Aviation Administration (FAA)**

**Airworthiness Directive (AD) 2000–18–04**
**Docket No. 2000–NE–09–AD, Amendment 39–11889**
**Aviointeriors S.p.A.**
**Subject: Inspection of Seat Center Crossmember for Cracks**

| | |
|---|---|
| **(g) Other Provisions** | (1) *Alternative Methods of Compliance:*<br>(i) You may use an alternative method of complying or adjust the time you take to meet the requirements of this AD if your alternative provides an acceptable level of safety, and the Manager, Boston Aircraft Certification Office (ACO), approves your alternative.<br>(ii) Submit your request for approval through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Boston ACO.<br>(iii) You can get information about the existence of already approved alternatives from the FAA, Boston ACO.<br>(2) *Modifications, Alterations, or Repairs:*<br>This AD applies to each seat identified in the applicability paragraph, even if it has been modified, altered, or repaired in the area subject to this AD. If that change in any way affects accomplishing the required actions, you must request FAA approval for an alternative method of compliance (AMOC). Your request should assess the effect of the change on the unsafe condition addressed by this AD.<br>(3) *Special Flight Permits:*<br>The FAA can issue you a special flight permit under 14 CFR 21.197 and 21.199 to operate your airplane to a location where you can comply with this AD. |
| **(h) Incorporation by Reference** | You must do the inspections and replacements in accordance with Aviointeriors ASB No 312/912–01, Revision 1, dated October 7, 1999. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. If you need a copy of the service bulletin, contact Aviointeriors S.p.A, Via Appia Km. 66.4–04013 Latina, Italy; telephone: 39–0773–6891; fax: 39–0773–631546. You may review a copy of the service bulletin at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC. |
| **(i) Related Information** | Ente Nazionale per L'Aviaazione Civile AD 99–421 has required these inspections and replacements in Italy. |

Issued in Burlington, MA on August 30, 2000.

**David A. Downey,**

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

[FR Doc. 00–23578 Filed 9–26–00; 8:45 am]

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Federal Register

Wednesday,
September 27, 2000

# Part IV

# Department of the Interior

## Bureau of Indian Affairs

## 25 CFR Part 38

## Southwestern Indian Polytechnic Institute (SIPI) Personnel System; Final Rule

**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**25 CFR Part 38**

**RIN 1076–AE02**

## Southwestern Indian Polytechnic Institute (SIPI) Personnel System

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Indian Affairs of the Department of the Interior is amending its regulations to allow the Southwestern Indian Polytechnic Institute to develop a new alternative personnel system.

**EFFECTIVE DATE:** The new personnel system becomes operational on October 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Dr. Carolyn Elgin, SIPI, 505–346–2347.

**SUPPLEMENTARY INFORMATION:** This final rule is published in the exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Bureau of Indian Affairs is issuing this final rule in accordance with the Administrative Systems Act of 1998, Pub. L. 105–337, to establish an alternative personnel system at SIPI. This personnel system will be a demonstration project to provide an alternative to OPM's government-wide personnel system. It will allow SIPI greater autonomy in administration and improvement of the academic program while maintaining SIPI and its employees as an integral part of the Bureau of Indian Affairs. Under this demonstration project, employees at SIPI will be converted to the excepted service and all future appointments to positions at SIPI will be in the excepted service. SIPI management will establish qualifications and classification standards that will directly support the mission of SIPI in providing quality education programs for its students. The employee compensation and pay system will be converted to that of the current contract education pay system with no loss of pay or benefits. The current Title 5 benefits (i.e., retirement, health, life insurance and thrift savings plan) will be continued. The current annual and sick leave program will be continued. The personnel system will be in the excepted service and will specifically address the areas of classification, staffing, pay, performance, discipline and separation. Other areas of personnel such as leave, retirement, life insurance, health benefits, thrift savings, etc., will remain under the current jurisdiction of the Office of Personnel Management (OPM). All current employees of SIPI will be converted to the excepted service with no loss of pay under this personnel system.

A new 5-step performance evaluation system will be utilized under the project. Any collective bargaining agreement in effect on the day before this demonstration project commences shall be recognized by SIPI until the earlier of:

(1) The date occurring 3 years after the commencement date of the project;

(2) The date as of which the agreement is scheduled to expire (disregarding any option to renew); or

(3) Such date as may be determined by mutual agreement of the parties.

The demonstration project will terminate on October 31, 2005, or on such date beyond October 31, 2005, as deemed necessary to validate the results of the project, or as determined by Congress.

Proposed rulemaking to establish this project was published in the **Federal Register** on May 8, 2000 (65 FR 26727), and invited comments for 30 days ending June 7, 2000. Comments were received from two individuals. The comments did not prompt any changes to the proposed rule.

### Comments and Responses

*Comment 1:* One commenter asked if pay under the new system would be based on experience and education and who would decide the pay.

*Response:* No employee will lose any pay because of the change in pay systems. Some employees will be converted to a higher rate of pay based on the education and experience of the individual involved. This will be the result of the qualification requirements of the position which will be published in the Personnel Manual prior to the implementation of the demonstration project. These qualification standards were developed by the management of SIPI.

*Comment 2:* A commenter asked if they transferred to another agency, would they go back to the GS pay system.

*Response:* If the employee returns to another agency under the GS pay system, they would then return to the GS pay system.

*Comment 3:* A commenter asked if they transferred to another agency, would the pay be set at their current pay under the demonstration project.

*Response:* The receiving agency would determine the pay based on current guidelines.

*Comment 4:* A commenter asked if all employees would be grand fathered into the new system.

*Response:* All employees will be converted to the excepted service at the pay set by the new qualification standards. No one will lose pay.

*Comment 5:* A commenter asked if an instructor with an Associate Degree at a grade GS–9 would be impacted.

*Response:* All employees will be impacted by the conversion. No one will lose any pay. Some employees will receive raises.

*Comment 6:* A commenter asked if it is possible that they will get a raise.

*Response:* It is possible, depending on the particular qualification standards for your position.

*Comment 7:* A commenter asked if SIPI would be following Part 38 of the CFR for Contract Educators.

*Response:* Part 38, Title 25 of the Code of Federal Regulations (CFR) is the part of the CFR that covers the personnel system in the excepted service for the Bureau of Indian Affairs.

*Comment 8:* A commenter wanted to know if the leave system would change from what it is currently under Title 5.

*Response:* No, the leave system will remain the same.

*Comment 9:* A commenter wanted to know if their eligibility for retirement would change with the new system.

*Response:* The answer is no, nothing in the retirement system will change.

*Comment 10:* A commenter asked if the employees would be told what portions of their experience will count for pay purposes under the new pay system.

*Response:* The qualifications standards, classification standards, and pay levels for each position will be published in the personnel manual. They will be available for all to review.

*Comment 11:* A commenter wanted to know who is management in SIPI.

*Response:* The President, Deans, and Department Chairs are considered management.

*Comment 12:* A commenter wanted to know if a GS–11 supervisor were a part of management.

*Response:* A supervisor is a part of management. However, they may not have participated in the development of the various parts of the personnel manual.

*Comment 13:* A commenter wanted to know if employees would still be furloughed each school year.

*Response:* Since furloughs are budget driven, everything depends on the allocations made by Congress each session.

**Regulatory Planning and Review (E.O. 12866)**

This rule is not a significant regulatory action because it affects only a small number of employees (approximately 185) and have no additional affect on SIPI employees beyond the current approved budget. Therefore, this rule is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will have no effect beyond the current approved budget which is less than $6 million.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

**Regulatory Flexibility Act**

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because it only effects the 185 total positions located at SIPI and has no economic impact on the incumbents of those positions.

**Small Business Regulatory Enforcement Fairness Act (SBREFA)**

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(1) Does not have any annual effect on the economy beyond the current approved budget of less that $6 million.

(2) Will not cause any increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(3) Does not have any 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**

This rule does not impose any unfunded mandate on State, local, or tribal governments or the private sector. The rule does not have any 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. 1501, *et seq.*) is not required.

**Takings (E.O. 12630)**

In accordance with Executive Order 12630, the rule does not have any takings implications. A takings implication assessment is not required.

**Federalism (E.O. 13132)**

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. The rule does not propose any regulation that:

(1) Has any direct effect on the States, the relationship between national government and the States, or the distribution of power and responsibilities among the various levels of government;

(2) Impose any compliance costs on State and local governments; or,

(3) Preempts state law.

Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

**Civil Justice Reform (E.O. 12988)**

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not impact the judicial system and does not meet the requirements of sections 3(a) and 3(b)(2) of the Order.

**Paperwork Reduction Act**

This rule does not require information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

**National Environmental Policy Act**

This rule does not constitute a major Federal action affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

**Consultation and Coordination With Indian Tribal Governments (E.O. 13084)**

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084. Because the rule would not affect the Indian tribal governments, the funding and consultation requirement of Executive Order 13084 does not apply.

**List of Subjects in 25 CFR Part 38**

Indians—education, personnel.

For the reasons set out in the preamble, we are amending part 38 in chapter I of title 25 of the Code of Regulations as follows.

## PART 38—EDUCATION PERSONNEL

1. The authority citation for part 38 is revised to read as follows:

**Authority:** 25 U.S.C. 2011 and 2015, Secs. 1131 and 1135 of the Act of November 1, 1978, 92 Stat. 2322 and 2327; Secs. 511 and 512, Pub. L. 98–511; Secs. 8 and 9, Pub. L. 99–89; Title V of Pub. L. 100–297; Pub. L. 105–337.

2. Add § 38.15 to read as follows:

**§ 38.15 Southwestern Indian Polytechnic Institute.**

(a) The Southwestern Indian Polytechnic Institute has an independent personnel system established under Public Law 105–337, the Administrative Systems Act of 1998, 112 Stat. 3171. The details of this system are in the Indian Affairs Manual (IAM) at Part 20. This manual system may be found in Bureau of Indian Affairs Regional and Agency Offices, Education Line Offices, and the Central Office in Washington, DC.

(b) The personnel system is in the excepted service and addresses the areas of classification, staffing, pay, performance, discipline, and separation. Other areas of personnel such as leave, retirement, life insurance, health benefits, thrift savings, etc., remain under the jurisdiction of the Office of Personnel Management.

Dated: September 19, 2000.

**Kevin Gover,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 00–24716 Filed 9–26–00; 8:45 am]

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Federal Register

Wednesday,
September 27, 2000

# Part V

# Department of Transportation

## Federal Aviation Administration

**14 CFR Part 39**

**Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes; Proposed Rules**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 2000–NM–280–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger-to a cargo-carrying (''freighter'') configuration. This proposal would require, among other actions, modification of the main deck cargo door structure and fuselage structure; modification of a main deck cargo door hinge; modification of the main deck cargo floor; and installation of a main deck cargo 9g crash barrier; as applicable. These actions are necessary to prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage. These actions are intended to address the identified unsafe condition.

**DATES:** Comments must be received by November 13, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–280–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–280–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.

Information pertaining to this NPRM 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:** Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5320; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

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

### Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–280–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

Supplemental Type Certificate (STC) SA1063SO (originally issued to Aeronautical Engineers, Inc. (AEI)) specifies a design for installation of a main deck cargo door, associated door cutout in the fuselage, and door hydraulic and indication systems on McDonnell Douglas Model DC–8 series airplanes. STC SA1377SO (originally issued to AEI) specifies a design for installation of a Class E compartment with a 9g crash barrier and cargo handling system on McDonnell Douglas Model DC–8 series airplanes. The FAA has conducted a design review of Model DC–8 series airplanes modified in accordance with STC's SA1063SO and SA1377SO and has conducted discussions regarding the design with the STC holder. From the design review and these discussions, the FAA has identified several potential unsafe conditions. (Results of this design review are contained in ''DC–8 Cargo Modification Review Team Review of AEI Supplemental Type Certificates SA1063SO—Installation of a Cargo Door and SA1377SO—Installation of a Cargo Interior, Final Report, dated July 30, 1999,'' hereinafter referred to as ''the Design Review Report,'' which is included in the Rules Docket for this NPRM.)

On August 9, 2000, the FAA issued airworthiness directive (AD) 2000–13–03 R1, amendment 39–11865 (65 FR 49735, August 15, 2000), which identifies corrective action for the unsafe conditions that relate to the hydraulic and indication systems of the main deck cargo door and provides for a means to prevent pressurization to an unsafe level if the main deck cargo door is not closed, latched, and locked.

In the preamble of the NPRM for AD 2000–13–03 R1, the FAA indicated that further rulemaking action was being considered to address the potential unsafe conditions on Model DC–8 series airplanes modified in accordance with STC SA1063SO that relate to the main deck cargo door hinge and fuselage structure in the area modified by installation of a main deck cargo door. In addition, the FAA indicated that further rulemaking action was being considered to address the potential unsafe conditions on Model DC–8 series airplanes modified in accordance with STC SA1377SO that relate to the unreinforced main deck floor, 9g crash barrier, and fire/smoke detection system. The FAA now has determined that further rulemaking action is indeed necessary, and this NPRM follows from that determination.

**Other Related Rulemaking**

The FAA is considering further rulemaking to address the remaining potential unsafe condition on Model DC–8 series airplanes modified in accordance with STC SA1377SO that relates to the fire/smoke detection system.

**Cargo Modification Concerns**

In early 1989, two transport airplane accidents were attributed to cargo doors coming open during flight. The first accident involved a Boeing Model 747 series airplane in which the cargo door separated from the airplane, and damaged the fuselage structure, engines, and passenger cabin. The second accident involved a McDonnell Douglas Model DC–9 series airplane in which the cargo door opened but did not separate from its hinge. The open door disturbed the airflow over the empennage, which resulted in loss of flight control and consequent loss of the airplane. Although cargo doors have opened occasionally without mishap shortly after the airplane was in flight, these two accidents served to highlight the extreme potential dangers associated with the opening of a cargo door while the airplane is in flight.

As a result of these cargo door opening accidents, the Air Transport Association (ATA) of America formed a task force, including representatives of the FAA, to review the design, manufacture, maintenance, and operation of airplanes fitted with outward opening cargo doors, and to make recommendations to prevent inadvertent cargo door openings while the airplane is in flight. A design working group was tasked with reviewing 14 Code of Federal Regulations (CFR) part 25.783 (and its accompanying Advisory Circular (AC) 25.783–1, dated December 10, 1986) with the intent of clarifying its contents and recommending revisions to enhance future cargo door designs. This design group also was tasked with providing specific recommendations regarding design criteria to be applied to existing outward opening cargo doors to ensure that inadvertent openings would not occur in the current transport category fleet of airplanes.

The ATA task force made its recommendations in the ''ATA Cargo Door Task Force Final Report,'' dated May 15, 1991 (hereinafter referred to as ''the ATA Final Report''). On March 20, 1992, the FAA acknowledged the ATA's recommendations and issued an FAA memorandum (hereinafter referred to as ''the FAA Memorandum'') providing additional guidance for purposes of assessing the continuing airworthiness of existing designs of outward opening doors. The FAA Memorandum was not intended to upgrade the certification basis of the various airplanes, but rather to identify criteria to evaluate potential unsafe conditions identified on in-service airplanes.

Utilizing the applicable requirements of Civil Air Regulations (CAR) part 4b and the design criteria provided by the FAA Memorandum, the FAA has reviewed the original type design of major transport airplanes, including McDonnell Douglas Model DC–8 series airplanes equipped with outward opening doors, for any design deficiency or service difficulty. Based on that review, the FAA identified unsafe conditions and issued, among others, the following AD's:

- For certain McDonnell Douglas Model DC–9 series airplanes: AD 89–11–02, amendment 39–6216 (54 FR 21416, May 18, 1989);
- For all Boeing Model 747 series airplanes: AD 90–09–06, amendment 39–6581 (55 FR 15217, April 23, 1990);
- For certain McDonnell Douglas Model DC–8 series airplanes: AD 89–17–01 R1, amendment 39–6521 (55 FR 8446, March 8, 1990);
- For certain Boeing Model 747–100 and –200 series airplanes: AD 96–01–51, amendment 39–9492 (61 FR 1703, January 23, 1996);
- For certain Boeing Model 727–100 and –200 series airplanes: AD 96–16–08, amendment 39–9708 (61 FR 41733, August 12, 1996); and
- For certain McDonnell Douglas Model DC–8 series airplanes: AD 2000–13–03 R1, amendment 39–11865, (65 FR 49735, August 15, 2000).

**FAA/Industry Collaborative Effort**

In late 1997, the FAA informed the STC holders and operators of Model DC–8 series airplanes that it was embarking on a review of Model DC–8 series airplanes that have been converted from a passenger-to a cargo-carrying (''freighter'') configuration by STC. The FAA proposed at a subsequent industry sponsored meeting in early 1998, that DC–8 operators and STC holders work together to identify and address potential safety concerns. This suggestion to the affected industry resulted in the creation of the DC–8 Cargo Conversion Joint Task Force (JTF) (hereinafter referred to as ''the JTF'').

The current composition of the JTF includes holders of each of the six STC's that address the installation of a main deck cargo door in Model DC–8 series airplanes and operators and lessors of those modified airplanes. At the JTF's request, the FAA participates in its meetings to offer counsel and guidance with respect to the FAA's regulatory processes. The JTF is a clearinghouse for the gathering and sharing of information among the parties affected by the FAA review of STC cargo conversions of Model DC–8 series airplanes. The JTF also is a liaison between the FAA, operators, and STC holders.

The JTF has been working with the FAA to provide data relating to the number of STC-modified Model DC–8 series airplanes and operators of those airplanes, and identified which airplanes are modified by each STC. It also was instrumental in polling the operators and providing maintenance schedules and locations to the FAA, which helped the FAA arrange visits to operators of airplanes modified by each of the STC's. These visits allowed the FAA to review both the available data supporting each STC and modified airplanes and to identify potential safety concerns with each of the STC modifications. Additionally, the JTF has coordinated funding of the industry review of the data supporting the STC's and ongoing efforts to resolve safety issues identified by the FAA.

**Identification of Unsafe Conditions**

Using the certification basis of the airplane (i.e., CAR part 4b), the FAA, in collaboration with the JTF, conducted an engineering design review, inspected an airplane modified in accordance with STC's SA1063SO and SA1377SO, and identified a number of design features of these STC's that are unsafe.

For airplanes modified in accordance with STC SA1063SO, the FAA considers the following two specific design deficiencies to be unsafe:

*1. Main Deck Cargo Door and Associated Fuselage Structure.*

The FAA, in collaboration with structural engineering representatives of the JTF, has identified several areas of the main deck cargo door and door jamb structure of STC SA1063SO that require modification to meet type design requirements. These areas include the addition of structural elements to augment and, in some places, to add the structural capability necessary to safely support design loads. When taken individually, these areas do not necessarily represent an unsafe condition. However, the critical load condition for each of the elements is the same, so that all of the elements could fail at the same time. Therefore, the FAA has determined that the potential of concurrent failure of several structural elements presents an unsafe condition for the airplane, and that these elements require modification to

ensure the safety of the airplane. The modifications include:

- Reinforcement of the fuselage door jamb element at the main deck cargo door sill;
- Reinforcement of the inner cap of the frame at fuselage station (FS) 1700;
- Reinforcement of the lower frame inner cap below the strut;
- Replacement of the strut to frame fasteners in the door region;
- Reinforcement of the floor beam to frame attachment;
- Replacement of some of the latch mechanism bolts with increased strength bolts; and
- Replacement of the existing bolts that attach the latches to the door with increased strength bolts.

As part of its continuing work to maintain the structural integrity of older transport category airplanes, in the early 1980's, the FAA concluded that the incidence of fatigue cracking may increase as these airplanes continue in service. In light of this, and as a result of increased utilization, longer operational lives, and the levels of safety expected of the currently operated transport category airplanes, the FAA has determined that a damage tolerance assessment of the structural modifications associated with STC SA1063SO is necessary to ensure the structural integrity for all airplanes in the affected fleet. This damage tolerance assessment is to identify any principal structural elements (PSE), including the associated inspection threshold, inspection method, and repetitive inspection interval, to ensure continued operational safety of the airplane. The PSE information must be identified in any method of compliance presented to address the requirements of the proposed AD.

*2. Main Deck Cargo Door Hinge.*

In order to avoid catastrophic structural failure of outward opening cargo doors, a typical industry approach has been to design them and their attaching structure to be fail safe (*i.e.,* designed so that if a single structural element fails, other structural elements are able to carry the redistributed load).

Structural elements, such as the main deck cargo door hinge, are subject to severe in-service operating conditions that could result in corrosion, binding, or seizure of the hinge. These conditions, in addition to the normal operational loads, can lead to early and unpredictable fatigue cracking. If a main deck cargo door hinge is not a fail-safe design, a fatigue crack could initiate and propagate undetected longitudinally along the length of the hinge, which could lead to a complete hinge failure. A possible consequence of this undetected failure is the opening of the main deck cargo door while the airplane is in flight. Service experience indicates that the opening of a cargo door while the airplane is in flight can be extremely hazardous in a variety of ways including possible loss of flight control, severe structural damage, or rapid decompression, any of which could lead to loss of the airplane.

The design of the main deck cargo door hinge for STC SA1063SO must be in compliance with CAR part 4b, including CAR part 4b.270, which requires, in part, that catastrophic failure or excessive structural deformation, which could adversely affect the flight characteristics of the airplane, is not probable after fatigue failure or obvious partial failure of a single critical structural element. One common feature of a fail-safe hinge design is a division of the hinge into multiple segments such that, following failure of any one segment, the remaining segments would support the redistributed load.

The main deck cargo door installed in accordance with STC SA1063SO is supported by latches along the bottom of the door and a two-segment hinge along the top. This two-segment hinge is considered a critical structural element for this STC. A crack that initiates and propagates longitudinally along either segment of the hinge will eventually result in failure of the entire hinge, because the remaining segment of the hinge is unable to support the redistributed loads. Failure of the entire hinge can result in the opening of the main deck cargo door while the airplane is in flight.

Therefore, the FAA has determined that detailed visual inspections to detect cracks or other discrepancies of the exposed surfaces of the main deck cargo door hinge is necessary to ensure that the affected airplanes are not in immediate risk of hinge failure and to ensure the integrity of the door and fuselage structure to which the hinge is attached. Also, the end of the existing aluminum hinge elements of the main deck cargo door must be replaced with steel hinge elements on both the fuselage and door sides of the hinge, and the hinge must comply with the applicable requirements of CAR part 4b, including fail-safe requirements.

For airplanes modified in accordance with STC SA1377SO, the FAA considers the following two specific design deficiencies to be unsafe:

*1. Capability of the Unmodified Floor*

Based on the results of the FAA's and JTF's structural evaluation of the main deck cargo floor, the FAA has determined that the unmodified main deck cargo floor is not capable of safely supporting the main deck zone loading (cargo weight) currently allowed by STC SA1377SO. There are several methods to address the unsafe condition. The floor beams and their attachment to the fuselage frames and struts, which support the floor beams on either side of the fuselage, could be modified to support the currently acceptable main deck zone loading. It is also possible to limit the main deck zone loading to a level that the main deck cargo floor can be supported safely without modification. A further possibility is to modify the main deck cargo floor beams to a configuration compatible with the desired level of zone loading.

In assessing the load carrying capability of the main deck cargo floor for STC SA1377SO, the manner in which the load is applied to the floor, as well as the magnitude of that load, must be considered. For example, it is possible to directly place the cargo onto the floor and secure it to the floor in a safe manner. However, most operators utilize a cargo handling system installed in the airplane that allows the use of unit load devices (ULD), such as pallets and containers. Together, the cargo handling system and ULD's expedite loading and unloading of the airplanes. Technical Standard Order (TSO) TSO–C90c, dated April 3, 1992, identifies both the ultimate loads that the ULD's produced under the TSO must support, and the number and location of restraints necessary to carry those loads. The TSO requires identification of the type and size of the ULD's. Although this TSO is the most common method of approval for ULD's, it is not the only means of approving ULD's. ULD designs also may be approved as part of a type certificate or STC. Therefore, the total cargo weight, distribution of cargo weight in the airplane, and restraint requirements for ULD's must be identified in any method of compliance presented to address the requirements of the proposed AD.

During evaluations of Model 727 and DC–8 series airplanes converted to a freighter configuration by STC, the FAA found instances where the existing venting capability of certain airplanes had been compromised by installation of the Class E compartment. In some cases, the vent area was decreased or restricted during modification. The FAA also found that the available design data for the main deck cargo floor for STC SA1377SO do not demonstrate the adequacy of the venting system of the modified DC–8 airplanes. The FAA is concerned about the venting between

the main cabin floor and the baggage compartments below the main deck cargo floor in the event of a rapid decompression. If the vent area of the original type design has been decreased or restricted during modification, the loads on the main deck cargo floor may be increased to an unsafe level during a rapid decompression event. The increased loads on the main deck cargo floor could lead to collapse of the floor beams. Collapse of the main deck cargo floor could restrict the motion of the flight and engine control cables routed through the floor beams or could cause the failure of those cables, which could result in reduced controllability of the airplane or loss of control. Rapid decompression of the airplane could result from a sufficiently large failure in the fuselage pressure boundary either above or below the main deck cargo floor, such as inadvertent opening of the cargo door.

Therefore, the FAA has determined that an inspection and evaluation of the affected floor structure must be accomplished to ensure that the venting capability of the passenger configuration has not been compromised by installation of the Class E compartment. If the current venting capability of the affected floor is less than that of the passenger configuration, it must be modified to limit decompression loads to a level that can be supported successfully by the existing floor structure.

*2. 9g Crash Barrier.*

In order to ensure the safety of occupants during emergency landing conditions, the FAA first established in 1934 a set of inertia load factors used to design the structure for restraining items of mass in the fuselage. Because the airplane landing speeds have increased over the years as the fleet has transitioned from propeller to jet design, inertia load factors were changed as specified in CAR part 4b.260. Experience has shown that an airplane designed to this regulation has a reasonable probability of protecting its occupants from serious injury in an emergency landing. The DC–8 passenger airplane was designed to these criteria that specified an ultimate inertia load requirement of 9g in the forward direction. These criteria were applied to the seats and structure restraining the occupants, including the flight crew, as well as other items of mass in the fuselage.

When a Model DC–8 series airplane is converted from a passenger-to a cargo-carrying (''freighter'') configuration, a 9g crash barrier is required, since most cargo containers and container-to-floor attaching devices are not designed to withstand emergency landing loads. In fact, the FAA estimates that the container-to-floor attaching devices will only support approximately 1.5g's to 3g's in the forward direction. Without a 9g crash barrier, it is probable that the loads associated with an emergency landing would cause the cargo to become unrestrained and impact the occupants of the airplane, which could result in serious injury to the occupants.

The structural inadequacy of the 9g crash barrier was evident to the FAA during its review in October 1998 of a McDonnell Douglas Model DC–8 modified in accordance with STC SA1377SO. The observations revealed that the design of the crash barrier floor attachment and circumferential supporting structure neither provide adequate strength to withstand the 9g forward inertia load generated by the main deck cargo mass, nor provide a load path to effectively transfer the loads from the crash barrier to the fuselage structure of the airplane.

Therefore, the FAA has determined that installation of a 9g crash barrier that complies with the applicable requirements of CAR part 4b is necessary to prevent serious injury to occupants of the airplane.

**Development of Engineering Data**

The FAA is aware that the JTF is currently sponsoring an effort to develop engineering data to address the identified unsafe conditions of this NPRM. The FAA is anticipating that this effort will result in an STC that addresses the proposed requirements of this NPRM, and that this STC will be made available to all operators.

**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, for airplane modified by STC SA1063SO, the following five actions:

1. Incorporation of inspections into the operator's FAA-approved maintenance or inspection program that ensures the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any PSE associated with the STC modification and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

2. Modification of the main deck cargo door structure and fuselage structure immediately surrounding the main deck cargo door to comply with the applicable requirements of CAR part 4b.

3. A detailed visual inspection to detect cracks of the exposed surfaces of the main deck cargo door hinge (both fuselage and door side hinge elements); and repair or replacement of the hinge element with a new, like part, if necessary.

4. A detailed visual inspection to detect cracks or other discrepancies (*i.e.*, double or closely drilled holes, corrosion, chips, scratches, or gouges) of the mating surfaces of the main deck cargo door hinge, skin of the main deck cargo door, and external fuselage doubler underlying the hinge; and repair, if necessary.

5. Installation of a main deck cargo door hinge that complies with the applicable requirements of CAR part 4b, including fail-safe requirements.

For airplanes modified by STC SA1377SO, this proposed AD would require the following four actions:

1. An inspection and evaluation of the cargo handling system to determine if the side restraints provide the support required by the ULD; and modification of the vertical side restraint to provide the support appropriate to the ULD's compatible with the cargo handling system, if necessary.

2. Modification of the main deck cargo floor to safely carry the applicable FAA-approved payload limits for above and below the main deck cargo floor. The modification must comply with the applicable requirements of CAR part 4b for the FAA-approved payload distribution.

3. An inspection and evaluation of the venting system of the main deck cargo floor to determine if the system limits decompression loads to a level that can be carried by the floor structure without failure; and modification of the venting system, as necessary, to limit the decompression loads to a level that can be supported successfully by the existing floor structure, if necessary.

4. Installation of a main deck cargo 9g crash barrier that complies with the applicable requirements of CAR part 4b.

The actions described above would be required to be accomplished in accordance with a method approved by the FAA.

*Differences Between 727 and DC–8 NPRM Format*

The format and content of this NPRM differs from the following rulemaking actions that address similar concerns for Boeing Model 727 series airplanes that have been modified to freighters by STC:

• AD 98–26–18, amendment 39–10961 (64 FR 1994, January 12, 1999);

• AD 98–26–19, amendment 39–10962 (64 FR 2016, January 12, 1999);

• AD 98–26–20, amendment 39–10963 (64 FR 2038, January 12, 1999);

• AD 98–26–21, amendment 39–10964 (64 FR 2061, January 12, 1999); and

• NPRM Rules Dockets 97–NM–232–AD, 97–NM–233–AD, 97–NM–234–AD, and 97–NM–235–AD.

However, the FAA used the same criteria (i.e., CAR part 4b) for evaluation of the subject Model 727 series airplanes and Model DC–8 series airplanes affected by this NPRM. The differences in the subject rulemaking actions are accounted for by the variance in the design philosophies embraced by Douglas (now Boeing) and Boeing.

The original floor beams for the DC–8 passenger airplanes have a deeper cross section, which reduces internal stresses for the same applied bending moment, than those for Model 727 series airplanes. Additionally, DC–8 passenger airplanes utilize intermediate ''struts'' between the main deck cargo floor beams and fuselage frames below the floor to help support the floor beams, which decreases the unsupported span. A shorter unsupported span helps reduce the bending moment for a given applied load. The amount of design data available to the FAA for review of each of the DC–8 STC's (i.e., SA1063SO, SA10377SO, SA1802SO, SA1832SO, SA1862SO, and SA00309AT) was greater than that available when the FAA issued the subject Model 727 NPRM's and AD's. Additionally, the JTF has assisted the FAA in engineering review of this greater volume of data and in the creation of additional data necessary for substantiation of the existing designs. Based on the data available for review, the margins of safety of the DC–8 floor beams indicate a lower level of immediate concern than those margins indicated for the 727 floor beams when the 727 AD's and NPRM's were proposed. Therefore, the FAA has determined that the type of restrictions and interim floor loading and side vertical restraint that were applied to the 727 are not required for the subject DC–8 STC's.

To address the safety concerns of Boeing Model 727 series airplanes that have been modified to freighters by STC, the FAA issued AD's 98–26–19, 98–26–20, 98–26–21, and 98–26–22 to address the capability of the main deck cargo floor and then issued NPRM Rules Dockets 97–NM–232–AD, 97–NM–233–AD, 97–NM–234–AD, and 97–NM–235–AD to address the door indicating system and related systems issues; means to prevent pressurization to an unsafe level if the door is not closed, latched, and locked; door hinge; and 9g crash barrier. Because there have been events involving the cargo door opening in flight on the modified DC–8 series airplanes, the FAA has issued the following AD's to address the door indication system and other related systems issues for those airplanes:

• AD 2000–09–01 R1, amendment 39–11809 (65 FR 41869, July 7, 2000);

• AD 2000–09–02, amendment 39–11710 (65 FR 25437, May 2, 2000);

• AD 2000–13–03 R1, amendment 39–11865 (65 FR 49735, August 15, 2000); and

• AD 2000–15–11, amendment 39–11843 (65 FR 47660, August 3, 2000).

This DC–8 NPRM, and NPRM Rules Dockets 2000–NM–281–AD, 2000–NM–282–AD, and 2000–NM–283–AD would address the structures issues, including the main deck cargo floor, as discussed previously.

*Cost Impact*

There are approximately 15 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 11 airplanes of U.S. registry would be affected by this proposed AD. The following table shows the estimated cost impact for airplanes affected by this AD. The average labor rate is $60 per work hour. The estimated maximum total cost for all airplanes affected by this proposed AD is $2,192,520, or $199,320 per airplane.

| STC | Action | Work hours (estimated) | Parts cost (estimated) | Total cost (estimated) |
|---|---|---|---|---|
| SA1063SO | Incorporation of inspections into maintenance or inspection program. | 8 | N/A | $5,280 or $480 per airplane. |
| SA1063SO | Modification of main deck cargo door structure and fuselage structure. | 205 | 700 | $143,000, or $13,000 per airplane. |
| SA1063SO | Inspection of exposed surfaces of main deck cargo door hinge. | 16 | N/A | $10,560, or $960 per airplane. |
| SA1063SO | Inspection of mating surfaces of main deck cargo door hinge. | 16 | N/A | $10,560, or $960 per airplane. |
| SA1063SO | Installation of a main deck cargo door hinge. | 60 | $200 | $41,800, or $3,800 per airplane. |
| SA1377SO | Inspection and evaluation of the cargo handling system. | 16 | N/A | $10,560, or $960 per airplane. |
| SA1377SO | Modification of main deck cargo floor | 120 | $1,000 | $90,200, or $8,200 per airplane. |
| SA1377SO | Inspection and evaluation of the venting system. | 16 | N/A | $10,560, or $960 per airplane. |
| SA1377SO | Installation of main deck cargo 9g crash barrier. | 2,000 | $50,000 | $1,870,000, or $170,000 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 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–280–AD.

*Applicability:* Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with Supplemental Type Certificates (STC) SA1063SO and SA1377SO; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage, accomplish the following:

**Actions Addressing the Main Deck Cargo Door and Associated Fuselage Structure**

(a) For airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with STC SA1063SO: Accomplish the actions specified in paragraphs (a)(1) and (a)(2) of this AD in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

(1) Within 1 year or 1,200 flight cycles after the effective date of this AD, whichever occurs first, incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any principal structural element (PSE) associated with the STC modification and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

(2) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, accomplish the actions specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Modify the main deck cargo door structure and fuselage structure immediately surrounding the main deck cargo door to comply with the applicable requirements of Civil Air Regulations (CAR) part 4b.

(ii) Incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any PSE associated with the STC modification required by paragraph (a)(2)(i) of this AD and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

**Actions Addressing the Main Deck Cargo Floor**

(b) For airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with STC SA1377SO: Within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the cargo handling system to determine if the side restraints provide the support required by the unit load device (ULD), in accordance with a method approved by the Manager, Los Angeles ACO. If any vertical side restraint does not provide the required support, within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first, modify the vertical side restraint to provide the support appropriate to the ULD's compatible with the cargo handling system, in accordance with a method approved by the Manager, Los Angeles ACO.

(c) For airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with STC SA1377SO: Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the main deck cargo floor to safely carry the applicable FAA-approved payload limits for above and below the main deck cargo floor. The modification and payload distribution shall be accomplished in accordance with a method approved by the Manager, Los Angeles ACO. The modification must comply with the applicable requirements of CAR part 4b for the FAA-approved payload distribution.

(d) For airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with STC SA1377SO, except for those airplanes that have been modified in accordance with paragraph (c) of this AD: Within 1 year or 1,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the venting system of the main deck cargo floor to determine if the system limits decompression loads to a level that can be carried by the floor structure without failure, in accordance with a method approved by the Manager, Los Angeles ACO.

(e) If, based on the evaluation required by paragraph (d) of this AD, the venting system does not limit decompression loads to a level that can be carried by the floor structure without failure, within 2 years after the effective date of this AD, modify the venting system, as necessary, to limit the decompression loads to a level that can be supported successfully by the existing floor structure, in accordance with a method approved by the Manager, Los Angeles ACO.

**Actions Addressing Main Deck Cargo Door Hinge**

(f) For airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with STC SA1063SO: Within 250 flight cycles after the effective date of this AD, perform a detailed visual inspection to detect cracks of the exposed surfaces of the main deck cargo door hinge (both fuselage and door side hinge elements), in accordance with a method approved by the Manager, Los Angeles ACO. If any crack is detected, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles ACO, or replace the cracked hinge element with a new, like part.

**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.''

(g) For airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with STC SA1063SO: Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, accomplish the

actions specified in paragraphs (g)(1) and (g)(2) of this AD in accordance with a method approved by the Manager, Los Angeles ACO.

(1) Perform a detailed visual inspection to detect cracks or other discrepancies (*i.e.,* double or closely drilled holes, corrosion, chips, scratches, or gouges) of the mating surfaces of the main deck cargo door hinge, skin of the main deck cargo door, and external fuselage doubler underlying the hinge. If any discrepancy is detected, prior to further flight, repair the discrepant part.

(2) Install a main deck cargo door hinge that complies with the applicable requirements of CAR part 4b, including fail-safe requirements.

**Actions Addressing Main Deck Cargo 9g Crash Barrier**

(h) For airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with STC SA1377SO: Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, install a main deck cargo 9g crash barrier that complies with the applicable requirements of CAR part 4b, in accordance with a method approved by the Manager, Los Angeles ACO.

**Alternative Methods of Compliance**

(i) 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, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

**Special Flight Permit**

(j) 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 21, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–24749 Filed 9–26–00; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–281–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration. This proposal would require, among other actions, modification of the main deck cargo door structure and fuselage structure; modification of the main deck cargo floor; and installation of a main deck cargo 9g crash barrier; as applicable. These actions are necessary to prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage. These actions are intended to address the identified unsafe condition.

**DATES:** Comments must be received by November 13, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–281–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–281–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.

Information pertaining to this NPRM 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:** Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5320; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

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

### Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–281–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

Supplemental Type Certificate (STC) SA1862SO (originally issued to Agro Air Associates, Inc. (Agro)) specifies a design for installation of a main deck cargo door, associated door cutout in the fuselage, and door hydraulic and indication systems on McDonnell Douglas Model DC–8 series airplanes. STC ST00309AT (originally issued to Agro) specifies a design for installation of a Class E compartment with a 9g crash barrier and cargo handling system on McDonnell Douglas Model DC–8

series airplanes. The FAA has conducted a design review of Model DC–8 series airplanes modified in accordance with STC's SA1862SO and SA00309AT and has conducted discussions regarding the design with the STC holder. From the design review and these discussions, the FAA has identified several potential unsafe conditions. (Results of this design review are contained in ''DC–8 Cargo Modification Review Team, Review of Agro Air Supplemental Type Certificates SA1862SO—Installation of a Cargo Door and ST00309AT—Installation of a Cargo Interior, Final Report, dated August 2, 1999,'' hereinafter referred to as ''the Design Review Report,'' which is included in the Rules Docket for this NPRM.)

On July 28, 2000, the FAA issued airworthiness directive (AD) 2000–15–11, amendment 39–11843 (65 FR 47660, August 3, 2000), which identifies corrective action for the unsafe conditions that relate to the hydraulic and indication systems of the main deck cargo door and provides for a means to prevent pressurization to an unsafe level if the main deck cargo door is not closed, latched, and locked.

In the preamble of the NPRM for AD 2000–15–11, the FAA indicated that further rulemaking action was being considered to address the potential unsafe conditions on Model DC–8 series airplanes modified in accordance with STC SA1862SO that relate to the main deck cargo door fuselage structure in the area modified by installation of a main deck cargo door. In addition, the FAA indicated that further rulemaking action was being considered to address the potential unsafe conditions on Model DC–8 series airplanes modified in accordance with STC ST00309AT that relate to the unreinforced main deck floor, 9g crash barrier, and fire/smoke detection system. The FAA now has determined that further rulemaking action is indeed necessary, and this NPRM follows from that determination.

**Other Related Rulemaking**

The FAA is considering further rulemaking to address the remaining potential unsafe condition on Model DC–8 series airplanes modified in accordance with STC ST00309AT that relates to the fire/smoke detection system.

**Cargo Modification Concerns**

In early 1989, two transport airplane accidents were attributed to cargo doors coming open during flight. The first accident involved a Boeing Model 747 series airplane in which the cargo door separated from the airplane, and damaged the fuselage structure, engines, and passenger cabin. The second accident involved a McDonnell Douglas Model DC–9 series airplane in which the cargo door opened but did not separate from its hinge. The open door disturbed the airflow over the empennage, which resulted in loss of flight control and consequent loss of the airplane. Although cargo doors have opened occasionally without mishap shortly after the airplane was in flight, these two accidents served to highlight the extreme potential dangers associated with the opening of a cargo door while the airplane is in flight.

As a result of these cargo door opening accidents, the Air Transport Association (ATA) of America formed a task force, including representatives of the FAA, to review the design, manufacture, maintenance, and operation of airplanes fitted with outward opening cargo doors, and to make recommendations to prevent inadvertent cargo door openings while the airplane is in flight. A design working group was tasked with reviewing 14 Code of Federal Regulations (CFR) part 25.783 [and its accompanying Advisory Circular (AC) 25.783–1, dated December 10, 1986] with the intent of clarifying its contents and recommending revisions to enhance future cargo door designs. This design group also was tasked with providing specific recommendations regarding design criteria to be applied to existing outward opening cargo doors to ensure that inadvertent openings would not occur in the current transport category fleet of airplanes.

The ATA task force made its recommendations in the ''ATA Cargo Door Task Force Final Report,'' dated May 15, 1991 (hereinafter referred to as ''the ATA Final Report''). On March 20, 1992, the FAA acknowledged the ATA's recommendations and issued an FAA memorandum (hereinafter referred to as ''the FAA Memorandum'') providing additional guidance for purposes of assessing the continuing airworthiness of existing designs of outward opening doors. The FAA Memorandum was not intended to upgrade the certification basis of the various airplanes, but rather to identify criteria to evaluate potential unsafe conditions identified on in-service airplanes.

Utilizing the applicable requirements of Civil Air Regulations (CAR) part 4b and the design criteria provided by the FAA Memorandum, the FAA has reviewed the original type design of major transport airplanes, including McDonnell Douglas Model DC–8 series airplanes equipped with outward opening doors, for any design deficiency or service difficulty. Based on that review, the FAA identified unsafe conditions and issued, among others, the following AD's:

- For certain McDonnell Douglas Model DC–9 series airplanes: AD 89–11–02, amendment 39–6216 (54 FR 21416, May 18, 1989);
- For all Boeing Model 747 series airplanes: AD 90–09–06, amendment 39–6581 (55 FR 15217, April 23, 1990);
- For certain McDonnell Douglas Model DC–8 series airplanes: AD 89–17–01 R1, amendment 39–6521 (55 FR 8446, March 8, 1990;
- For certain Boeing Model 747–100 and –200 series airplanes: AD 96–01–51, amendment 39–9492 (61 FR 1703, January 23, 1996);
- For certain Boeing Model 727–100 and –200 series airplanes: AD 96–16–08, amendment 39–9708 (61 FR 41733, August 12, 1996);
- For certain McDonnell Douglas Model DC–8 series airplanes: AD 2000–09–02, amendment 39–11710 (65 FR 25437, May 2, 2000); and
- For certain McDonnell Douglas Model DC–8 series airplanes: AD 2000–15–11, amendment 39–11843 (65 FR 47660, August 3, 2000).

**FAA/Industry Collaborative Effort**

In late 1997, the FAA informed the STC holders and operators of Model DC–8 series airplanes that it was embarking on a review of Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration by STC. The FAA proposed at a subsequent industry sponsored meeting in early 1998, that DC–8 operators and STC holders work together to identify and address potential safety concerns. This suggestion to the affected industry resulted in the creation of the DC–8 Cargo Conversion Joint Task Force (JTF) (hereinafter referred to as ''the JTF'').

The current composition of the JTF includes holders of each of the six STC's that address the installation of a main deck cargo door in Model DC–8 series airplanes and operators and lessors of those modified airplanes. At the JTF's request, the FAA participates in its meetings to offer counsel and guidance with respect to the FAA's regulatory processes. The JTF is a clearinghouse for the gathering and sharing of information among the parties affected by the FAA review of STC cargo conversions of Model DC–8 series airplanes. The JTF also is a liaison between the FAA, operators, and STC holders.

The JTF has been working with the FAA to provide data relating to the number of STC-modified Model DC–8 series airplanes and operators of those

airplanes, and identified which airplanes are modified by each STC. It also was instrumental in polling the operators and providing maintenance schedules and locations to the FAA, which helped the FAA arrange visits to operators of airplanes modified by each of the STC's. These visits allowed the FAA to review both the available data supporting each STC and modified airplanes and to identify potential safety concerns with each of the STC modifications. Additionally, the JTF has coordinated funding of the industry review of the data supporting the STC's and ongoing efforts to resolve safety issues identified by the FAA.

**Identification of Unsafe Conditions**

Using the certification basis of the airplane (*i.e.*, CAR part 4b), the FAA, in collaboration with the JTF, conducted an engineering design review, inspected an airplane modified in accordance with STC's SA1862SO and ST00309AT, and identified a number of design features of these STC's that are unsafe.

For airplanes modified in accordance with STC SA1862SO, the FAA considers certain design deficiencies of the main deck cargo door and associated fuselage structure to be unsafe. The FAA, in collaboration with structural engineering representatives of the JTF, has identified several areas of the main deck cargo door and door jamb structure of STC SA1862SO that require modification to meet type design requirements. These areas include the addition of structural elements to augment, and in some places, to add the structural capability necessary to safely support design loads. When taken individually, these areas do not necessarily represent an unsafe condition. However, the critical load condition for each of the elements is the same so that all of the elements could fail at the same time. Therefore, the FAA has determined that the potential of concurrent failure of several structural elements presents an unsafe condition for the airplane, and that these elements require modification to ensure the safety of the airplane. The modifications include:

- Reinforcement of the inner cap of the frame at fuselage station (FS) 1700;
- Reinforcement of the lower frame inner cap below the strut;
- Replacement of the strut to frame fasteners in the door region;
- Reinforcement of the floor beam to frame attachment;
- Replacement of some of the latch mechanism bolts with increased strength bolts;
- Reinforcement of the main deck cargo door frames that support the two latches at either end of the main deck cargo door; and
- Replacement of the existing bolts that attach the latches to the door with increased strength bolts.

As part of its continuing work to maintain the structural integrity of older transport category airplanes, in the early 1980's, the FAA concluded that the incidence of fatigue cracking may increase as these airplanes continue in service. In light of this, and as a result of increased utilization, longer operational lives, and the levels of safety expected of the currently operated transport category airplanes, the FAA has determined that a damage tolerance assessment of the structural modifications associated with STC SA1862SO is necessary to ensure the structural integrity for all airplanes in the affected fleet. This damage tolerance assessment is to identify any principal structural elements (PSE), including the associated inspection threshold, inspection method, and repetitive inspection interval, to ensure continued operational safety of the airplane. The PSE information must be identified in any method of compliance presented to address the requirements of the proposed AD.

The design of STC SA1862SO divides the hinge elements that connect the main deck cargo door to the fuselage into several segments. This configuration of the hinge satisfies the applicable fail-safe requirements of CAR part 4b, including CAR part 4b.270. Additionally, this design includes steel-hinge segments at both ends of the main deck cargo door to account for higher loading and possible in-service damage. The FAA considers the hinge and supporting door and fuselage structure to be a PSE for this STC.

For airplanes modified in accordance with STC ST00309AT, the FAA considers the following two specific design deficiencies to be unsafe:

*1. Capability of the Unmodified Floor*

Based on the results of the FAA's and JTF's structural evaluation of the main deck cargo floor, the FAA has determined that the unmodified main deck cargo floor is not capable of safely supporting the main deck zone loading (cargo weight) currently allowed by STC ST00309AT. There are several methods to address the unsafe condition. The floor beams and their attachment to the fuselage frames and struts, which support the floor beams on either side of the fuselage, could be modified to support the currently acceptable main deck zone loading. It is also possible to limit the main deck zone loading to a level that the main deck cargo floor can be supported safely without modification. A further possibility is to modify the main deck cargo floor beams to a configuration compatible with the desired level of zone loading.

In assessing the load carrying capability of the main deck cargo floor for STC ST00309AT, the manner in which the load is applied to the floor, as well as the magnitude of that load, must be considered. For example, it is possible to directly place the cargo onto the floor and secure it to the floor in a safe manner. However, most operators utilize a cargo handling system installed in the airplane that allows the use of unit load devices (ULD), such as pallets and containers. Together, the cargo handling system and ULD's expedite loading and unloading of the airplanes. Technical Standard Order (TSO) TSO–C90c, dated April 3, 1992, identifies both the ultimate loads that the ULD's produced under the TSO must support, and the number and location of restraints necessary to carry those loads. The TSO requires identification of the type and size of the ULD's. Although this TSO is the most common method of approval for ULD's, it is not the only means of approving ULD's. ULD designs also may be approved as part of a type certificate or STC. Therefore, the total cargo weight, distribution of cargo weight in the airplane, and restraint requirements for ULD's must be identified in any method of compliance presented to address the requirements of the proposed AD.

During evaluations of Model 727 and DC–8 series airplanes converted to a freighter configuration by STC, the FAA found instances where the existing venting capability of certain airplanes had been compromised by installation of the Class E compartment. In some cases, the vent area was decreased or restricted during modification. The FAA also found that the available design data for the main deck cargo floor for STC ST00309AT do not demonstrate the adequacy of the venting system of the modified DC–8 airplanes. The FAA is concerned about the venting between the main cabin floor and the baggage compartments below the main deck cargo floor in the event of a rapid decompression. If the vent area of the original type design has been decreased or restricted during modification, the loads on the main deck cargo floor may be increased to an unsafe level during a rapid decompression event. The increased loads on the main deck cargo floor could lead to collapse of the floor beams. Collapse of the main deck cargo floor could restrict the motion of the flight and engine control cables routed through the floor beams or could cause

the failure of those cables, which could result in reduced controllability of the airplane or loss of control. Rapid decompression of the airplane could result from a sufficiently large failure in the fuselage pressure boundary either above or below the main deck cargo floor, such as inadvertent opening of the cargo door.

Therefore, the FAA has determined that an inspection and evaluation of the affected floor structure must be accomplished to ensure that the venting capability of the passenger configuration has not been compromised by installation of the Class E compartment. If the current venting capability of the affected floor is less than that of the passenger configuration, it must be modified to limit decompression loads to a level that can be supported successfully by the existing floor structure.

*2. 9g Crash Barrier*

In order to ensure the safety of occupants during emergency landing conditions, the FAA first established in 1934 a set of inertia load factors used to design the structure for restraining items of mass in the fuselage. Because the airplane landing speeds have increased over the years as the fleet has transitioned from propeller to jet design, inertia load factors were changed as specified in CAR part 4b.260. Experience has shown that an airplane designed to this regulation has a reasonable probability of protecting its occupants from serious injury in an emergency landing. The DC–8 passenger airplane was designed to these criteria that specified an ultimate inertia load requirement of 9g in the forward direction. These criteria were applied to the seats and structure restraining the occupants, including the flight crew, as well as other items of mass in the fuselage.

When a Model DC–8 series airplane is converted from a passenger to a cargo-carrying (''freighter'') configuration, a 9g crash barrier is required, since most cargo containers and container-to-floor attaching devices are not designed to withstand emergency landing loads. In fact, the FAA estimates that the container-to-floor attaching devices will only support approximately 1.5g's to 3g's in the forward direction. Without a 9g crash barrier, it is probable that the loads associated with an emergency landing would cause the cargo to become unrestrained and impact the occupants of the airplane, which could result in serious injury to the occupants.

The structural inadequacy of the 9g crash barrier was evident to the FAA during its review in January 1999 of a McDonnell Douglas Model DC–8 modified in accordance with STC ST00309AT. The observations revealed that the design of the crash barrier floor attachment and circumferential supporting structure neither provide adequate strength to withstand the 9g forward inertia load generated by the main deck cargo mass, nor provide a load path to effectively transfer the loads from the crash barrier to the fuselage structure of the airplane.

Therefore, the FAA has determined that installation of a 9g crash barrier that complies with the applicable requirements of CAR part 4b is necessary to prevent serious injury to occupants of the airplane.

**Development of Engineering Data**

The FAA is aware that the JTF is currently sponsoring an effort to develop engineering data to address the identified unsafe conditions of this NPRM. The FAA is anticipating that this effort will result in an STC that addresses the proposed requirements of this NPRM, and that this STC will be made available to all operators.

**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, for airplanes modified by STC SA1862SO, the following two actions:

1. Incorporation of inspections into the operator's FAA-approved maintenance or inspection program that ensures the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any PSE associated with the STC modification and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

2. Modification of the main deck cargo door structure and fuselage structure immediately surrounding the main deck cargo door to comply with the applicable requirements of CAR part 4b.

For airplane modified by STC ST00309AT, this proposed AD would require the following four actions:

1. An inspection and evaluation of the cargo handling system to determine if the side restraints provide the support required by the ULD; and modification of the vertical side restraint to provide the support appropriate to the ULD's compatible with the cargo handling system, if necessary.

2. Modification of the main deck cargo floor to safely carry the applicable FAA-approved payload limits for above and below the main deck cargo floor. The modification must comply with the applicable requirements of CAR part 4b for the FAA-approved payload distribution.

3. An inspection and evaluation of the venting system of the main deck cargo floor to determine if the system limits decompression loads to a level that can be carried by the floor structure without failure; and modification of the venting system, as necessary, to limit the decompression loads to a level that can be supported successfully by the existing floor structure, if necessary.

4. Installation of a main deck cargo 9g crash barrier that complies with the applicable requirements of CAR part 4b.

The actions described above would be required to be accomplished in accordance with a method approved by the FAA.

**Differences Between 727 and DC–8 NPRM Format**

The format and content of this NPRM differs from the following rulemaking actions that address similar concerns for Boeing Model 727 series airplanes that have been modified to freighters by STC:

- AD 98–26–18, amendment 39–10961 (64 FR 1994, January 12, 1999);
- AD 98–26–19, amendment 39–10962 (64 FR 2016, January 12, 1999);
- AD 98–26–20, amendment 39–10963 (64 FR 2038, January 12, 1999);
- AD 98–26–21, amendment 39–10964 (64 FR 2061, January 12, 1999); and
- NPRM Rules Dockets 97–NM–232–AD, 97–NM–233–AD, 97–NM–234–AD, and 97–NM–235–AD.

However, the FAA used the same criteria (i.e., CAR part 4b) for evaluation of the subject Model 727 series airplanes and Model DC–8 series airplanes affected by this NPRM. The differences in the subject rulemaking actions are accounted for by the variance in the design philosophies embraced by Douglas (now Boeing) and Boeing.

The original floor beams for the DC–8 passenger airplanes have a deeper cross section, which reduces internal stresses for the same applied bending moment, than those for Model 727 series airplanes. Additionally, DC–8 passenger airplanes utilize intermediate ''struts'' between the main deck cargo floor beams and fuselage frames below the floor to help support the floor beams, which decreases the unsupported span. A shorter unsupported span helps reduce the bending moment for a given applied load. The amount of design data available to the FAA for review of each

of the DC–8 STC's (i.e., SA1063SO, SA10377SO, SA1802SO, SA1832SO, ST00309AT, and SA1862SO) was greater than that available when the FAA issued the subject Model 727 NPRM's and AD's. Additionally, the JTF has assisted the FAA in engineering review of this greater volume of data and in the creation of additional data necessary for substantiation of the existing designs. Based on the data available for review, the margins of safety of the DC–8 floor beams indicate a lower level of immediate concern than those margins indicated for the 727 floor beams when the 727 AD's and NPRM's were proposed. Therefore, the FAA has determined that the type of restrictions and interim floor loading and side vertical restraint that were applied to the 727 are not required for the subject DC–8 STC's.

To address the safety concerns of Boeing Model 727 series airplanes that have been modified to freighters by STC, the FAA issued AD's 98–26–19, 98–26–20, 98–26–21, and 98–26–22 to address the capability of the main deck cargo floor and then issued NPRM Rules Dockets 97–NM–232–AD, 97–NM–233–AD, 97–NM–234–AD, and 97–NM–235–AD to address the door indicating system and related systems issues; means to prevent pressurization to an unsafe level if the door is not closed, latched, and locked; door hinge; and 9g crash barrier. Because there have been events involving the cargo door opening in flight on the modified DC–8 series airplanes, the FAA has issued the following AD's to address the door indication system and other related systems issues for those airplanes:

- AD 2000–09–01 R1, amendment 39–11809 (65 FR 41869, July 7, 2000);
- AD 2000–09–02, amendment 39–11710 (65 FR 25437, May 2, 2000);
- AD 2000–13–03 R1, amendment 39–11865 (65 FR 49735, August 15, 2000); and
- AD 2000–15–11, amendment 39–11843 (65 FR 47660, August 3, 2000).

This DC–8 NPRM, and NPRM Rules Dockets 2000–NM–280–AD, 2000–NM–282–AD, 2000–NM–283–AD would address the structures issues, including the main deck cargo floor, as discussed previously.

**Cost Impact**

There are approximately 5 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 4 airplanes of U.S. registry would be affected by this proposed AD. The following table shows the estimated cost impact for airplanes affected by this AD. The average labor rate is $60 per work hour. The estimated maximum total cost for all airplanes affected by this proposed AD is $442,560, or $110,640 per airplane.

| STC | Action | Work hours (estimated) | Parts cost (estimated) | Total cost (estimated) |
|---|---|---|---|---|
| SA1862SO | Incorporation of inspections into maintenance or inspection program. | 8 | N/A | $1,920 or $480 per airplane. |
| SA1862SO | Modification of main deck cargo door structure and fuselage structure. | 225 | 700 | $56,800, or $14,200 per airplane. |
| ST00309AT | Inspection and evaluation of the cargo handling system. | 16 | N/A | $3,840, or $960 per airplane. |
| ST00309AT | Modification of main deck cargo floor | 60 | $500 | $16,400, or 4,100 per airplane. |
| ST00309AT | Inspection and evaluation of the venting system. | 16 | N/A | $3,840, or $960 per airplane. |
| ST00309AT | Installation of main deck cargo 9g crash barrier. | 1,000 | $30,000 | $360,000, or $90,000 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 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–281–AD.

*Applicability:* Model DC–8 series airplanes that have been converted from a passenger- to a cargo carrying (''freighter'') configuration in accordance with Supplemental Type

Certificates (STC) SA1862SO and ST00309AT; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage, accomplish the following:

**Actions Addressing the Main Deck Cargo Door and Associated Fuselage Structure**

(a) For airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with STC SA1862SO: Accomplish the actions specified in paragraphs (a)(1) and (a)(2) of this AD in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

(1) Within 1 year or 1,200 flight cycles after the effective date of this AD, whichever occurs first, incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any principal structural element (PSE) associated with the STC modification and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

(2) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, accomplish the actions specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Modify the main deck cargo door structure and fuselage structure immediately surrounding the main deck cargo door to comply with the applicable requirements of Civil Air Regulations (CAR) part 4b.

(ii) Incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any PSE associated with the STC modification required by paragraph (a)(2)(i) of this AD and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

**Actions Addressing the Main Deck Cargo Floor**

(b) For airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with STC ST00309AT: Within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the cargo handling system to determine if the side restraints provide the support required by the unit load device (ULD), in accordance with a method approved by the Manager, Los Angeles ACO. If any vertical side restraint does not provide the required support, within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first, modify the vertical side restraint to provide the support appropriate to the ULD's compatible with the cargo handling system, in accordance with a method approved by the Manager, Los Angeles ACO.

(c) For airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with STC ST00309AT: Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the main deck cargo floor to safely carry the applicable FAA-approved payload limits for above and below the main deck cargo floor. The modification and payload distribution shall be accomplished in accordance with a method approved by the Manager, Los Angeles ACO. The modification must comply with the applicable requirements of CAR part 4b for the FAA-approved payload distribution.

(d) For airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with STC ST00309AT, except for those airplanes that have been modified in accordance with paragraph (c) of this AD: Within 1 year or 1,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the venting system of the main deck cargo floor to determine if the system limits decompression loads to a level that can be carried by the floor structure without failure, in accordance with a method approved by the Manager, Los Angeles ACO.

(e) If, based on the evaluation required by paragraph (d) of this AD, the venting system does not limit decompression loads to a level that can be carried by the floor structure without failure, within 2 years after the effective date of this AD, modify the venting system, as necessary, to limit the decompression loads to a level that can be supported successfully by the existing floor structure, in accordance with a method approved by the Manager, Los Angeles ACO.

**Actions Addressing Main Deck Cargo 9g Crash Barrier**

(f) For airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with STC ST00309AT: Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, install a main deck cargo 9g crash barrier that complies with the applicable requirements of CAR part 4b, in accordance with a method approved by the Manager, Los Angeles ACO.

**Alternative Methods of Compliance**

(g) 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, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

**Special Flight Permit**

(h) 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 21, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–24748 Filed 9–26–00; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–282–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration. This proposal would require, among other actions, modification of the main deck cargo door structure and fuselage structure; modification of a main deck cargo door hinge; modification of the main deck cargo floor; and installation of a main deck cargo 9g crash barrier. These actions are necessary to prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage. These actions are intended to address the identified unsafe condition.

**DATES:** Comments must be received by November 13, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–282–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–282–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.

Information pertaining to this NPRM 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:** Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5320; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

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

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

## Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–282–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

## Discussion

Supplemental Type Certificate (STC) SA1832SO (originally issued to Monarch, Inc. and currently held by National Aircraft Services, Inc. (NASI)) specifies a design for installation of a main deck cargo door, associated door cutout in the fuselage, door hydraulic and indication systems, Class E compartment with a 9g crash barrier, and cargo handling system on McDonnell Douglas Model DC–8 series airplanes. The FAA has conducted a design review of Model DC–8 series airplanes modified in accordance with STC SA1832SO and has conducted discussions regarding the design with the STC holder. From the design review and these discussions, the FAA has identified several potential unsafe conditions. (Results of this design review are contained in ''DC–8 Cargo Modification Review Team Review of Monarch (ATAZ) Supplemental Type Certificate SA1832SO—Installation of a Cargo Door and Interior, Final Report, dated August 3, 1999,'' hereinafter referred to as ''the Design Review Report,'' which is included in the Rules Docket for this NPRM.)

On April 24, 2000, the FAA issued airworthiness directive (AD) 2000–09–02, amendment 39–11710 (65 FR 25437, May 2, 2000), which identifies corrective action for the unsafe conditions that relate to the hydraulic and indication systems of the main deck cargo door and provides for a means to prevent pressurization to an unsafe level if the main deck cargo door is not closed, latched, and locked.

In the preamble of the NPRM for AD 2000–09–02, the FAA indicated that further rulemaking action was being considered to address the potential unsafe conditions on Model DC–8 series airplanes modified in accordance with STC SA1832SO that relate to the unreinforced main deck floor, main deck cargo door hinge, fuselage structure in the area modified by installation of a main deck cargo door, 9g crash barrier, and fire/smoke detection system. The FAA now has determined that further rulemaking action is indeed necessary, and this NPRM follows from that determination.

## Other Related Rulemaking

The FAA is considering further rulemaking to address the remaining potential unsafe condition that relates to the fire/smoke detection system.

## Cargo Modification Concerns

In early 1989, two transport airplane accidents were attributed to cargo doors coming open during flight. The first accident involved a Boeing Model 747 series airplane in which the cargo door separated from the airplane, and damaged the fuselage structure, engines, and passenger cabin. The second accident involved a McDonnell Douglas Model DC–9 series airplane in which the cargo door opened but did not separate from its hinge. The open door disturbed the airflow over the empennage, which resulted in loss of flight control and consequent loss of the airplane. Although cargo doors have opened occasionally without mishap shortly after the airplane was in flight, these two accidents served to highlight the extreme potential dangers associated with the opening of a cargo door while the airplane is in flight.

As a result of these cargo door opening accidents, the Air Transport Association (ATA) of America formed a task force, including representatives of the FAA, to review the design, manufacture, maintenance, and operation of airplanes fitted with outward opening cargo doors, and to make recommendations to prevent inadvertent cargo door openings while the airplane is in flight. A design working group was tasked with reviewing 14 Code of Federal Regulations (CFR) part 25.783 [and its accompanying Advisory Circular (AC) 25.783–1, dated December 10, 1986] with the intent of clarifying its contents and recommending revisions to enhance future cargo door designs. This design group also was tasked with providing specific recommendations regarding

design criteria to be applied to existing outward opening cargo doors to ensure that inadvertent openings would not occur in the current transport category fleet of airplanes.

The ATA task force made its recommendations in the ''ATA Cargo Door Task Force Final Report,'' dated May 15, 1991 (hereinafter referred to as ''the ATA Final Report''). On March 20, 1992, the FAA acknowledged the ATA's recommendations and issued an FAA memorandum (hereinafter referred to as ''the FAA Memorandum'') providing additional guidance for purposes of assessing the continuing airworthiness of existing designs of outward opening doors. The FAA Memorandum was not intended to upgrade the certification basis of the various airplanes, but rather to identify criteria to evaluate potential unsafe conditions identified on in-service airplanes.

Utilizing the applicable requirements of Civil Air Regulations (CAR) part 4b and the design criteria provided by the FAA Memorandum, the FAA has reviewed the original type design of major transport airplanes, including McDonnell Douglas Model DC–8 series airplanes equipped with outward opening doors, for any design deficiency or service difficulty. Based on that review, the FAA identified unsafe conditions and issued, among others, the following AD's:

- For certain McDonnell Douglas Model DC–9 series airplanes: AD 89–11–02, amendment 39–6216 (54 FR 21416, May 18, 1989);
- For all Boeing Model 747 series airplanes: AD 90–09–06, amendment 39–6581 (55 FR 15217, April 23, 1990);
- For certain McDonnell Douglas Model DC–8 series airplanes: AD 89–17–01 R1, amendment 39–6521 (55 FR 8446, March 8, 1990);
- For certain Boeing Model 747–100 and –200 series airplanes: AD 96–01–51, amendment 39–9492 (61 FR 1703, January 23, 1996);
- For certain Boeing Model 727–100 and –200 series airplanes: AD 96–16–08, amendment 39–9708 (61 FR 41733, August 12, 1996); and
- For certain McDonnell Douglas Model DC–8 series airplanes: AD 2000–09–02, amendment 39–11710 (65 FR 25437, May 2, 2000).

**FAA/Industry Collaborative Effort**

In late 1997, the FAA informed the STC holders and operators of Model DC–8 series airplanes that it was embarking on a review of Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration by STC. The FAA proposed at a subsequent industry sponsored meeting in early 1998, that DC–8 operators and STC holders work together to identify and address potential safety concerns. This suggestion to the affected industry resulted in the creation of the DC–8 Cargo Conversion Joint Task Force (JTF) (hereinafter referred to as ''the JTF'').

The current composition of the JTF includes holders of each of the six STC's that address the installation of a main deck cargo door in Model DC–8 series airplanes and operators and lessors of those modified airplanes. At the JTF's request, the FAA participates in its meetings to offer counsel and guidance with respect to the FAA's regulatory processes. The JTF is a clearinghouse for the gathering and sharing of information among the parties affected by the FAA review of STC cargo conversions of Model DC–8 series airplanes. The JTF also is a liaison between the FAA, operators, and STC holders.

The JTF has been working with the FAA to provide data relating to the number of STC-modified Model DC–8 series airplanes and operators of those airplanes, and identified which airplanes are modified by each STC. It also was instrumental in polling the operators and providing maintenance schedules and locations to the FAA, which helped the FAA arrange visits to operators of airplanes modified by each of the STC's. These visits allowed the FAA to review both the available data supporting each STC and modified airplanes and to identify potential safety concerns with each of the STC modifications. Additionally, the JTF has coordinated funding of the industry review of the data supporting the STC's and ongoing efforts to resolve safety issues identified by the FAA.

**Identification of Unsafe Conditions**

Using the certification basis of the airplane (i.e., CAR part 4b), the FAA, in collaboration with the JTF, conducted an engineering design review, inspected an airplane modified in accordance with STC SA1832SO, and identified a number of design features of this STC that are unsafe. The FAA considers the following four specific design deficiencies to be unsafe:

*1. Main Deck Cargo Door and Associated Fuselage Structure*

The FAA, in collaboration with structural engineering representatives of the JTF, has identified several areas of the main deck cargo door and door jamb structure of STC SA1832SO that require modification to meet type design requirements. These areas include the addition of structural elements to augment and, in some places, to add the structural capability necessary to safely support design loads. When taken individually, these areas do not necessarily represent an unsafe condition. However, the critical load condition for each of the elements is the same, so that all of the elements could fail at the same time. Therefore, the FAA has determined that the potential of concurrent failure of several structural elements presents an unsafe condition for the airplane, and that these elements require modification to ensure the safety of the airplane. The modifications include:

- Reinforcement of the fuselage door jamb element at the main deck cargo door sill;
- Reinforcement of the inner cap of the frame at fuselage station (FS) 1700;
- Reinforcement of the lower frame inner cap below the strut;
- Replacement of the strut to frame fasteners in the door region;
- Reinforcement of the floor beam to frame attachment;
- Replacement of some of the latch mechanism bolts with increased strength bolts;
- Replacement of the existing bolts that attach the latches to the door with increased strength bolts; and
- Reinforcement of the main deck cargo door frames that support the two latches at either end of the main deck cargo door.

As part of its continuing work to maintain the structural integrity of older transport category airplanes, in the early 1980's, the FAA concluded that the incidence of fatigue cracking may increase as these airplanes continue in service. In light of this, and as a result of increased utilization, longer operational lives, and the levels of safety expected of the currently operated transport category airplanes, the FAA has determined that a damage tolerance assessment of the structural modifications associated with STC SA1832SO is necessary to ensure the structural integrity for all airplanes in the affected fleet. This damage tolerance assessment is to identify any principal structural elements (PSE), including the associated inspection threshold, inspection method, and repetitive inspection interval, to ensure continued operational safety of the airplane. The PSE information must be identified in any method of compliance presented to address the requirements of the proposed AD.

*2. Main Deck Cargo Door Hinge*

In order to avoid catastrophic structural failure of outward opening cargo doors, a typical industry approach has been to design them and their

attaching structure to be fail safe (i.e., designed so that if a single structural element fails, other structural elements are able to carry the redistributed load).

Structural elements, such as the main deck cargo door hinge, are subject to severe in-service operating conditions that could result in corrosion, binding, or seizure of the hinge. These conditions, in addition to the normal operational loads, can lead to early and unpredictable fatigue cracking. If a main deck cargo door hinge is not a fail-safe design, a fatigue crack could initiate and propagate undetected longitudinally along the length of the hinge, which could lead to a complete hinge failure. A possible consequence of this undetected failure is the opening of the main deck cargo door while the airplane is in flight. Service experience indicates that the opening of a cargo door while the airplane is in flight can be extremely hazardous in a variety of ways including possible loss of flight control, severe structural damage, or rapid decompression, any of which could lead to loss of the airplane.

The design of the main deck cargo door hinge for STC SA1832SO must be in compliance with CAR part 4b, including CAR part 4b.270, which requires, in part, that catastrophic failure or excessive structural deformation, which could adversely affect the flight characteristics of the airplane, is not probable after fatigue failure or obvious partial failure of a single critical structural element. One common feature of a fail-safe hinge design is a division of the hinge into multiple segments such that, following failure of any one segment, the remaining segments would support the redistributed load.

The main deck cargo door installed in accordance with STC SA1832SO is supported by latches along the bottom of the door and a two-segment hinge along the top. This two-segment hinge is considered a critical structural element for this STC. A crack that initiates and propagates longitudinally along either segment of the hinge will eventually result in failure of the entire hinge, because the remaining segment of the hinge is unable to support the redistributed loads. Failure of the entire hinge can result in the opening of the main deck cargo door while the airplane is in flight.

Therefore, the FAA has determined that detailed visual inspections to detect cracks or other discrepancies of the exposed surfaces of the main deck cargo door hinge is necessary to ensure that the affected airplanes are not in immediate risk of hinge failure and to ensure the integrity of the door and fuselage structure to which the hinge is attached. Also, the end of the existing aluminum hinge elements of the main deck cargo door must be replaced with steel hinge elements on both the fuselage and door sides of the hinge, and the hinge must comply with the applicable requirements of CAR part 4b, including fail-safe requirements.

*3. Capability of the Unmodified Floor*

Based on the results of the FAA's and JTF's structural evaluation of the main deck cargo floor, the FAA has determined that the unmodified main deck cargo floor is not capable of safely supporting the main deck zone loading (cargo weight) currently allowed by STC SA1832SO. There are several methods to address the unsafe condition. The floor beams and their attachment to the fuselage frames and struts, which support the floor beams on either side of the fuselage, could be modified to support the currently acceptable main deck zone loading. It is also possible to limit the main deck zone loading to a level that the main deck cargo floor can be supported safely without modification. A further possibility is to modify the main deck cargo floor beams to a configuration compatible with the desired level of zone loading.

In assessing the load carrying capability of the main deck cargo floor for STC SA1832SO, the manner in which the load is applied to the floor, as well as the magnitude of that load, must be considered. For example, it is possible to directly place the cargo onto the floor and secure it to the floor in a safe manner. However, most operators utilize a cargo handling system installed in the airplane that allows the use of unit load devices (ULD), such as pallets and containers. Together, the cargo handling system and ULD's expedite loading and unloading of the airplanes. Technical Standard Order (TSO) TSO–C90c, dated April 3, 1992, identifies both the ultimate loads that the ULD's produced under the TSO must support, and the number and location of restraints necessary to carry those loads. The TSO requires identification of the type and size of the ULD's. Although this TSO is the most common method of approval for ULD's, it is not the only means of approving ULD's. ULD designs also may be approved as part of a type certificate or STC. Therefore, the total cargo weight, distribution of cargo weight in the airplane, and restraint requirements for ULD's must be identified in any method of compliance presented to address the requirements of the proposed AD.

During evaluations of Model 727 and DC–8 series airplanes converted to a freighter configuration by STC, the FAA found instances where the existing venting capability of certain airplanes had been compromised by installation of the Class E compartment. In some cases, the vent area was decreased or restricted during modification. The FAA also found that the available design data for the main deck cargo floor for STC SA1832SO do not demonstrate the adequacy of the venting system of the modified DC–8 airplanes. The FAA is concerned about the venting between the main cabin floor and the baggage compartments below the main deck cargo floor in the event of a rapid decompression. If the vent area of the original type design has been decreased or restricted during modification, the loads on the main deck cargo floor may be increased to an unsafe level during a rapid decompression event. The increased loads on the main deck cargo floor could lead to collapse of the floor beams. Collapse of the main deck cargo floor could restrict the motion of the flight and engine control cables routed through the floor beams or could cause the failure of those cables, which could result in reduced controllability of the airplane or loss of control. Rapid decompression of the airplane could result from a sufficiently large failure in the fuselage pressure boundary either above or below the main deck cargo floor, such as inadvertent opening of the cargo door.

Therefore, the FAA has determined that an inspection and evaluation of the affected floor structure must be accomplished to ensure that the venting capability of the passenger configuration has not been compromised by installation of the Class E compartment. If the current venting capability of the affected floor is less than that of the passenger configuration, it must be modified to limit decompression loads to a level that can be supported successfully by the existing floor structure.

*4. 9g Crash Barrier*

In order to ensure the safety of occupants during emergency landing conditions, the FAA first established in 1934 a set of inertia load factors used to design the structure for restraining items of mass in the fuselage. Because the airplane landing speeds have increased over the years as the fleet has transitioned from propeller to jet design, inertia load factors were changed as specified in CAR part 4b.260. Experience has shown that an airplane designed to this regulation has a reasonable probability of protecting its occupants from serious injury in an emergency landing. The DC–8 passenger

airplane was designed to these criteria that specified an ultimate inertia load requirement of 9g in the forward direction. These criteria were applied to the seats and structure restraining the occupants, including the flight crew, as well as other items of mass in the fuselage.

When a Model DC–8 series airplane is converted from a passenger- to a cargo-carrying (''freighter'') configuration, a 9g crash barrier is required, since most cargo containers and container-to-floor attaching devices are not designed to withstand emergency landing loads. In fact, the FAA estimates that the container-to-floor attaching devices will only support approximately 1.5g's to 3g's in the forward direction. Without a 9g crash barrier, it is probable that the loads associated with an emergency landing would cause the cargo to become unrestrained and impact the occupants of the airplane, which could result in serious injury to the occupants.

The structural inadequacy of the 9g crash barrier was evident to the FAA during its review in October 1998 of a McDonnell Douglas Model DC–8 modified in accordance with STC SA1832SO. The observations revealed that the design of the crash barrier floor attachment and circumferential supporting structure neither provide adequate strength to withstand the 9g forward inertia load generated by the main deck cargo mass, nor provide a load path to effectively transfer the loads from the crash barrier to the fuselage structure of the airplane.

Therefore, the FAA has determined that installation of a 9g crash barrier that complies with the applicable requirements of CAR part 4b is necessary to prevent serious injury to occupants of the airplane.

**Development of Engineering Data**

The FAA is aware that the JTF is currently sponsoring an effort to develop engineering data to address the identified unsafe conditions of this NPRM. The FAA is anticipating that this effort will result in an STC that addresses the proposed requirements of this NPRM, and that this STC will be made available to all operators.

**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 the following nine actions:

1. Incorporation of inspections into the operator's FAA-approved maintenance or inspection program that ensures the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any PSE associated with the STC modification and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

2. Modification of the main deck cargo door structure and fuselage structure immediately surrounding the main deck cargo door to comply with the applicable requirements of CAR part 4b.

3. A detailed visual inspection to detect cracks of the exposed surfaces of the main deck cargo door hinge (both fuselage and door side hinge elements); and repair or replacement of the hinge element with a new, like part, if necessary.

4. A detailed visual inspection to detect cracks or other discrepancies (i.e., double or closely drilled holes, corrosion, chips, scratches, or gouges) of the mating surfaces of the main deck cargo door hinge, skin of the main deck cargo door, and external fuselage doubler underlying the hinge; and repair, if necessary.

5. Installation of a main deck cargo door hinge that complies with the applicable requirements of CAR part 4b, including fail-safe requirements.

6. An inspection and evaluation of the cargo handling system to determine if the side restraints provide the support required by the ULD; and modification of the vertical side restraint to provide the support appropriate to the ULD's compatible with the cargo handling system, if necessary.

7. Modification of the main deck cargo floor to safely carry the applicable FAA-approved payload limits for above and below the main deck cargo floor. The modification must comply with the applicable requirements of CAR part 4b for the FAA-approved payload distribution.

8. An inspection and evaluation of the venting system of the main deck cargo floor to determine if the system limits decompression loads to a level that can be carried by the floor structure without failure; and modification of the venting system, as necessary, to limit the decompression loads to a level that can be supported successfully by the existing floor structure, if necessary.

9. Installation of a main deck cargo 9g crash barrier that complies with the applicable requirements of CAR part 4b.

The actions described above would be required to be accomplished in accordance with a method approved by the FAA.

**Differences Between 727 and DC–8 NPRM Format**

The format and content of this NPRM differs from the following rulemaking actions that address similar concerns for Boeing Model 727 series airplanes that have been modified to freighters by STC:

- AD 98–26–18, amendment 39–10961 (64 FR 1994, January 12, 1999);
- AD 98–26–19, amendment 39–10962 (64 FR 2016, January 12, 1999);
- AD 98–26–20, amendment 39–10963 (64 FR 2038, January 12, 1999);
- AD 98–26–21, amendment 39–10964 (64 FR 2061, January 12, 1999); and
- NPRM Rules Dockets 97–NM–232–AD, 97–NM–233-AD, 97-NM–234–AD, and 97–NM–235–AD.

However, the FAA used the same criteria (i.e., CAR part 4b) for evaluation of the subject Model 727 series airplanes and Model DC–8 series airplanes affected by this NPRM. The differences in the subject rulemaking actions are accounted for by the variance in the design philosophies embraced by Douglas (now Boeing) and Boeing.

The original floor beams for the DC–8 passenger airplanes have a deeper cross section, which reduces internal stresses for the same applied bending moment, than those for Model 727 series airplanes. Additionally, DC–8 passenger airplanes utilize intermediate ''struts'' between the main deck cargo floor beams and fuselage frames below the floor to help support the floor beams, which decreases the unsupported span. A shorter unsupported span helps reduce the bending moment for a given applied load. The amount of design data available to the FAA for review of each of the DC–8 STC's (i.e., SA1063SO, SA10377SO, SA1802SO, SA1832SO, SA1862SO, and SA00309AT) was greater than that available when the FAA issued the subject Model 727 NPRM's and AD's. Additionally, the JTF has assisted the FAA in engineering review of this greater volume of data and in the creation of additional data necessary for substantiation of the existing designs. Based on the data available for review, the margins of safety of the DC–8 floor beams indicate a lower level of immediate concern than those margins indicated for the 727 floor beams when the 727 AD's and NPRM's were proposed. Therefore, the FAA has determined that the type of restrictions and interim floor loading and side vertical restraint that were applied to the 727 are not required for the subject DC–8 STC.

To address the safety concerns of Boeing Model 727 series airplanes that

have been modified to freighters by STC, the FAA issued AD's 98–26–19, 98–26–20, 98–26–21, and 98–26–22 to address the capability of the main deck cargo floor and then issued NPRM Rules Dockets 97–NM–232–AD, 97–NM–233–AD, 97–NM–234–AD, and 97–NM–235–AD to address the door indicating system and related systems issues; means to prevent pressurization to an unsafe level if the door is not closed, latched, and locked; door hinge; and 9g crash barrier. Because there have been events involving the cargo door opening in flight on the modified DC–8 series airplanes, the FAA has issued the following AD's to address the door indication system and other related systems issues for those airplanes:

- AD 2000–09–01 R1, amendment 39–11809 (65 FR 41869, July 7, 2000);
- AD 2000–09–02, amendment 39–11710 (65 FR 25437, May 2, 2000);
- AD 2000–13–03 R1, amendment 39–11865 (65 FR 49735, August 15, 2000); and
- AD 2000–15–11, amendment 39–11843 (65 FR 47660, August 3, 2000).

This DC–8 NPRM, and NPRM Rules Dockets 2000–NM–280–AD, 2000–NM–281–AD, and 2000–NM–283–AD would address the structures issues, including the main deck cargo floor, as discussed previously.

**Cost Impact**

There are approximately 6 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 6 airplanes of U.S. registry would be affected by this proposed AD. The following table shows the estimated cost impact for airplanes affected by this AD. The average labor rate is $60 per work hour. The estimated maximum total cost for all airplanes affected by this proposed AD is $1,175,820, or $196,420 per airplane.

| Action | Work hours (estimated) | Parts cost (estimated) | Total cost (estimated) |
|---|---|---|---|
| Incorporation of inspections into maintenance or inspection program | 8 | N/A | $2,880 or $480 per airplane. |
| Modification of main deck cargo door structure and fuselage structure | 225 | 700 | $85,200, or $14,200 per airplane. |
| Inspection of exposed surfaces of main deck cargo door hinge | 16 | N/A | $5,760, or $960 per airplane. |
| Inspection of mating surfaces of main deck cargo door hinge | 16 | N/A | $5,760, or $960 per airplane. |
| Installation of a main deck cargo door hinge | 60 | $200 | $22,800, or $3,800 per airplane. |
| Inspection and evaluation of the cargo handling system | 16 | N/A | $5,760, or $960 per airplane. |
| Modification of main deck cargo floor | 60 | $500 | $24,600 or $4,100 per airplane. |
| Inspection and evaluation of the venting system | 16 | N/A | $5,760, or $960 per airplane. |
| Installation of main deck cargo 9g crash barrier | 2,000 | $50,000 | $1,020,000, or $170,000 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 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–282–AD.

*Applicability:* Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with Supplemental Type Certificate (STC) SA1832SO; certificated in any category.

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

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage, accomplish the following:

**Actions Addressing the Main Deck Cargo Door and Associated Fuselage Structure**

(a) Accomplish the actions specified in paragraphs (a)(1) and (a)(2) of this AD in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

(1) Within 1 year or 1,200 flight cycles after the effective date of this AD, whichever occurs first, incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any principal structural element (PSE) associated with the STC modification and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

(2) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, accomplish the actions specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Modify the main deck cargo door structure and fuselage structure immediately surrounding the main deck cargo door to comply with the applicable requirements of Civil Air Regulations (CAR) part 4b.

(ii) Incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any PSE associated with the STC modification required by paragraph (a)(2)(i) of this AD and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

**Actions Addressing the Main Deck Cargo Floor**

(b) Within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the cargo handling system to determine if the side restraints provide the support required by the unit load device (ULD), in accordance with a method approved by the Manager, Los Angeles ACO. If any vertical side restraint does not provide the required support, within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first, modify the vertical side restraint to provide the support appropriate to the ULD's compatible with the cargo handling system, in accordance with a method approved by the Manager, Los Angeles ACO.

(c) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the main deck cargo floor to safely carry the applicable FAA-approved payload limits for above and below the main deck cargo floor. The modification and payload distribution shall be accomplished in accordance with a method approved by the Manager, Los Angeles ACO. The modification must comply with the applicable requirements of CAR part 4b for the FAA-approved payload distribution.

(d) Except for those airplanes that have been modified in accordance with paragraph (c) of this AD, within 1 year or 1,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the venting system of the main deck cargo floor to determine if the system limits decompression loads to a level that can be carried by the floor structure without failure, in accordance with a method approved by the Manager, Los Angeles ACO.

(e) If, based on the evaluation required by paragraph (d) of this AD, the venting system does not limit decompression loads to a level that can be carried by the floor structure without failure, within 2 years after the effective date of this AD, modify the venting system, as necessary, to limit the decompression loads to a level that can be supported successfully by the existing floor structure, in accordance with a method approved by the Manager, Los Angeles ACO.

**Actions Addressing Main Deck Cargo Door Hinge**

(f) Within 250 flight cycles after the effective date of this AD, perform a detailed visual inspection to detect cracks of the exposed surfaces of the main deck cargo door hinge (both fuselage and door side hinge elements), in accordance with a method approved by the Manager, Los Angeles ACO. If any crack is detected, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles ACO, or replace the cracked hinge element with a new, like part.

**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.''

(g) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, accomplish the actions specified in paragraphs (g)(1) and (g)(2) of this AD in accordance with a method approved by the Manager, Los Angeles ACO.

(1) Perform a detailed visual inspection to detect cracks or other discrepancies (i.e., double or closely drilled holes, corrosion, chips, scratches, or gouges) of the mating surfaces of the main deck cargo door hinge, skin of the main deck cargo door, and external fuselage doubler underlying the hinge. If any discrepancy is detected, prior to further flight, repair the discrepant part.

(2) Install a main deck cargo door hinge that complies with the applicable requirements of CAR part 4b, including fail-safe requirements.

**Actions Addressing Main Deck Cargo 9g Crash Barrier**

(h) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, install a main deck cargo 9g crash barrier that complies with the applicable requirements of CAR part 4b, in accordance with a method approved by the Manager, Los Angeles ACO.

**Alternative Methods of Compliance**

(i) 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, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

**Special Flight Permit**

(j) 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 21, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–24747 Filed 9–26–00; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–283–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration. This proposal would require, among

other actions, modification of the main deck cargo door structure and fuselage structure; replacement of fasteners in the two door-side hinge elements; modification of the main deck cargo floor; and installation of a main deck cargo 9g crash barrier. These actions are necessary to prevent opening of the cargo door while the airplane is in flight, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage. These actions are intended to address the identified unsafe condition.

**DATES:** Comments must be received by November 13, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–283–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–283–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.

Information pertaining to this NPRM 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:** Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5320; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

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

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–283–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–283–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

## Discussion

The FAA has conducted a design review of McDonnell Douglas Model DC–8 series airplanes modified in accordance with STC SA1802SO (originally issued to Rosembalm and currently held by National Aircraft Services, Inc. (NASI)) and has identified several potential unsafe conditions. [Results of this design review are contained in ''DC–8 Cargo Modification Review Team Review of Rosenbalm Supplemental Type Certificate SA1802SO—Installation of a Cargo Door and Interior, Final Report, Revision A, dated November 29, 1999,'' hereinafter referred to as ''the Design Review Report,'' which is included in the Rules Docket for this notice of proposed rulemaking (NPRM).) The modification defined by STC SA421NW (also held by NASI) is nearly identical to that defined by STC SA1802SO; therefore, STC SA421NW has the same potential unsafe conditions. STC's SA1802SO and SA421NW specify a design for installation of a main deck cargo door, associated door cutout in the fuselage, door system hydraulics, door indication system, Class E compartment with a 9g crash barrier, and cargo handling system on McDonnell Douglas Model DC–8 series airplanes.

On June 28, 2000, the FAA issued airworthiness directive (AD) 2000–09–01 R1, amendment 39–11809 (65 FR 41869, June 7, 2000), which identifies corrective action for the unsafe conditions that relate to the hydraulic and indication systems of the main deck cargo door and provides for a means to prevent pressurization to an unsafe level if the main deck cargo door is not closed, latched, and locked.

In the preamble of the NPRM for AD 2000–09–01 R1, the FAA indicated that further rulemaking action was being considered to address the potential unsafe conditions on Model DC–8 series airplanes modified in accordance with STC's SA1802SO and SA421NW that relate to the unreinforced main deck floor, main deck cargo door hinge, fuselage structure in the area modified by installation of a main deck cargo door, 9g crash barrier, and fire/smoke detection system. The FAA now has determined that further rulemaking action is indeed necessary, and this NPRM follows from that determination.

## Other Related Rulemaking

The FAA is considering further rulemaking to address the remaining potential unsafe condition that relates to the fire/smoke detection system.

## Cargo Modification Concerns

In early 1989, two transport airplane accidents were attributed to cargo doors coming open during flight. The first accident involved a Boeing Model 747 series airplane in which the cargo door separated from the airplane, and damaged the fuselage structure, engines, and passenger cabin. The second accident involved a McDonnell Douglas Model DC–9 series airplane in which the cargo door opened but did not separate from its hinge. The open door disturbed the airflow over the empennage, which resulted in loss of flight control and consequent loss of the airplane. Although cargo doors have opened occasionally without mishap shortly after the airplane was in flight, these two accidents served to highlight the extreme potential dangers associated with the opening of a cargo door while the airplane is in flight.

As a result of these cargo door opening accidents, the Air Transport Association (ATA) of America formed a task force, including representatives of

the FAA, to review the design, manufacture, maintenance, and operation of airplanes fitted with outward opening cargo doors, and to make recommendations to prevent inadvertent cargo door openings while the airplane is in flight. A design working group was tasked with reviewing 14 Code of Federal Regulations (CFR) part 25.783 [and its accompanying Advisory Circular (AC) 25.783–1, dated December 10, 1986] with the intent of clarifying its contents and recommending revisions to enhance future cargo door designs. This design group also was tasked with providing specific recommendations regarding design criteria to be applied to existing outward opening cargo doors to ensure that inadvertent openings would not occur in the current transport category fleet of airplanes.

The ATA task force made its recommendations in the ''ATA Cargo Door Task Force Final Report,'' dated May 15, 1991 (hereinafter referred to as ''the ATA Final Report''). On March 20, 1992, the FAA acknowledged the ATA's recommendations and issued an FAA memorandum (hereinafter referred to as ''the FAA Memorandum'') providing additional guidance for purposes of assessing the continuing airworthiness of existing designs of outward opening doors. The FAA Memorandum was not intended to upgrade the certification basis of the various airplanes, but rather to identify criteria to evaluate potential unsafe conditions identified on in-service airplanes.

Utilizing the applicable requirements of Civil Air Regulations (CAR) part 4b and the design criteria provided by the FAA Memorandum, the FAA has reviewed the original type design of major transport airplanes, including McDonnell Douglas Model DC–8 series airplanes equipped with outward opening doors, for any design deficiency or service difficulty. Based on that review, the FAA identified unsafe conditions and issued, among others, the following AD's:

- For certain McDonnell Douglas Model DC–9 series airplanes: AD 89–11–02, amendment 39–6216 (54 FR 21416, May 18, 1989);
- For all Boeing Model 747 series airplanes: AD 90–09–06, amendment 39–6581 (55 FR 15217, April 23, 1990);
- For certain McDonnell Douglas Model DC–8 series airplanes: AD 89–17–01 R1, amendment 39–6521 (55 FR 8446, March 8, 1990);
- For certain Boeing Model 747–100 and –200 series airplanes: AD 96–01–51, amendment 39–9492 (61 FR 1703, January 23, 1996);
- For certain Boeing Model 727–100 and –200 series airplanes: AD 96–16–08, amendment 39–9708 (61 FR 41733, August 12, 1996); and
- For certain McDonnell Douglas Model DC–8 series airplanes: AD 2000–09–01 R1, amendment 39–11809 (65 FR 41869, June 7, 2000).

**FAA/Industry Collaborative Effort**

In late 1997, the FAA informed the STC holders and operators of Model DC–8 series airplanes that it was embarking on a review of Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration by STC. The FAA proposed at a subsequent industry sponsored meeting in early 1998, that DC–8 operators and STC holders work together to identify and address potential safety concerns. This suggestion to the affected industry resulted in the creation of the DC–8 Cargo Conversion Joint Task Force (JTF) (hereinafter referred to as ''the JTF'').

The current composition of the JTF includes holders of each of the six STC's that address the installation of a main deck cargo door in Model DC–8 series airplanes and operators and lessors of those modified airplanes. At the JTF's request, the FAA participates in its meetings to offer counsel and guidance with respect to the FAA's regulatory processes. The JTF is a clearinghouse for the gathering and sharing of information among the parties affected by the FAA review of STC cargo conversions of Model DC–8 series airplanes. The JTF also is a liaison between the FAA, operators, and STC holders.

The JTF has been working with the FAA to provide data relating to the number of STC-modified Model DC–8 series airplanes and operators of those airplanes, and identified which airplanes are modified by each STC. It also was instrumental in polling the operators and providing maintenance schedules and locations to the FAA, which helped the FAA arrange visits to operators of airplanes modified by each of the STC's. These visits allowed the FAA to review both the available data supporting each STC and modified airplanes and to identify potential safety concerns with each of the STC modifications. Additionally, the JTF has coordinated funding of the industry review of the data supporting the STC's and ongoing efforts to resolve safety issues identified by the FAA.

**Identification of Unsafe Conditions**

Using the certification basis of the airplane (i.e., CAR part 4b), the FAA, in collaboration with the JTF, conducted an engineering design review, inspected an airplane modified in accordance with STC SA1802SO, and identified a number of design features of this STC that are unsafe, which are applicable to STC SA421NW, as well. The FAA considers the following four specific design deficiencies to be unsafe:

*1. Main Deck Cargo Door and Associated Fuselage Structure*

The FAA, in collaboration with structural engineering representatives of the JTF, has identified several areas of the main deck cargo door and door jamb structure of STC's SA1802SO and SA421NW that require modification to meet type design requirements. These areas include the addition of structural elements to augment and, in some places, to add the structural capability necessary to safely support design loads. When taken individually, these areas do not necessarily represent an unsafe condition. However, the critical load condition for each of the elements is the same, so that all of the elements could fail at the same time. Therefore, the FAA has determined that the potential of concurrent failure of several structural elements presents an unsafe condition for the airplane, and that these elements require modification to ensure the safety of the airplane.

The modifications include:

- Reinforcement of the fuselage door jamb elements across the main deck cargo door sill;
- Reinforcement of the shear transfer capability between the door jamb frames and the fuselage skin and doubler;
- Reinforcement of the inner cap of the frame at fuselage station (FS) 1700;
- Replacement of existing fasteners in the door side end segments of the hinge with increased strength bolts;
- Reinforcement of the existing shear transfer capability of the frames below the main deck cargo door, as well as in the door itself; and
- Reinforcement of the frames that support the two latches at both ends of the main deck cargo door.

As part of its continuing work to maintain the structural integrity of older transport category airplanes, in the early 1980's, the FAA concluded that the incidence of fatigue cracking may increase as these airplanes continue in service. In light of this, and as a result of increased utilization, longer operational lives, and the levels of safety expected of the currently operated transport category airplanes, the FAA has determined that a damage tolerance assessment of the structural modifications associated with STC SA1802SO is necessary to ensure the structural integrity for all airplanes in the affected fleet. This damage tolerance

assessment is to identify any principal structural elements (PSE), including the associated inspection threshold, inspection method, and repetitive inspection interval, to ensure continued operational safety of the airplane. The PSE information must be identified in any method of compliance presented to address the requirements of the proposed AD.

*2. Main Deck Cargo Door Hinge*

In order to avoid catastrophic structural failure of outward opening cargo doors, a typical industry approach has been to design them and their attaching structure to be fail safe (i.e., designed so that if a single structural element fails, other structural elements are able to carry the redistributed load). The hinge installed by STC's SA1802SO and SA421NW is no exception. However, based on the results of the FAA's and JTF's structural evaluation of the hinge of the subject STC's, the FAA has determined that the existing fasteners attaching the two hinge elements to the cargo door at both the forward and aft ends of the hinge are inadequate to carry the design loads. Therefore, these fasteners must be replaced with fasteners of sufficient strength.

Structural elements, such as the main deck cargo door hinge, are subject to severe in-service operating conditions that could result in corrosion, binding, or seizure of the hinge. These conditions, in addition to the normal operational loads, can lead to early and unpredictable fatigue cracking. A possible consequence of the undetected failure of hinge elements is the opening of the main deck cargo door while the airplane is in flight. Service experience indicates that the opening of a cargo door while the airplane is in flight can be extremely hazardous in a variety of ways including possible loss of flight control, severe structural damage, or rapid decompression, any of which could lead to loss of the airplane. Therefore, a detailed visual inspection to detect cracks of the exposed surfaces of the main deck cargo door hinge (both fuselage and door side hinge elements) is also necessary to ensure that the affected airplanes are not in immediate risk of hinge failure.

*3. Capability of the Unmodified Floor*

Based on the results of the FAA's and JTF's structural evaluation of the main deck cargo floor, the FAA has determined that the unmodified main deck cargo floor is not capable of safely supporting the main deck zone loading (cargo weight) currently allowed by STC's SA1802SO and SA421NW. There are several methods to address the unsafe condition. The floor beams and their attachment to the fuselage frames and struts, which support the floor beams on either side of the fuselage, could be modified to support the currently acceptable main deck zone loading. It is also possible to limit the main deck zone loading to a level that the main deck cargo floor can be supported safely without modification. A further possibility is to modify the main deck cargo floor beams to a configuration compatible with the desired level of zone loading.

In assessing the load carrying capability of the main deck cargo floor for STC's SA1802SO and SA421NW, the manner in which the load is applied to the floor, as well as the magnitude of that load, must be considered. For example, it is possible to directly place the cargo onto the floor and secure it to the floor in a safe manner. However, most operators utilize a cargo handling system installed in the airplane that allows the use of unit load devices (ULD), such as pallets and containers. Together, the cargo handling system and ULD's expedite loading and unloading of the airplanes. Technical Standard Order (TSO) TSO–C90c, dated April 3, 1992, identifies both the ultimate loads that the ULD's produced under the TSO must support, and the number and location of restraints necessary to carry those loads. The TSO requires identification of the type and size of the ULD's. Although this TSO is the most common method of approval for ULD's, it is not the only means of approving ULD's. ULD designs also may be approved as part of a type certificate or STC. Therefore, the total cargo weight, distribution of cargo weight in the airplane, and restraint requirements for ULD's must be identified in any method of compliance presented to address the requirements of the proposed AD.

During evaluations of Model 727 and DC–8 series airplanes converted to a freighter configuration by STC, the FAA found instances where the existing venting capability of certain airplanes had been compromised by installation of the Class E compartment. In some cases, the vent area was decreased or restricted during modification. The FAA also found that the available design data for the main deck cargo floor for STC's SA1802SO and SA421NW do not demonstrate the adequacy of the venting system of the modified DC–8 airplanes. The FAA is concerned about the venting between the main cabin floor and the baggage compartments below the main deck cargo floor in the event of a rapid decompression. If the vent area of the original type design has been decreased or restricted during modification, the loads on the main deck cargo floor may be increased to an unsafe level during a rapid decompression event. The increased loads on the main deck cargo floor could lead to collapse of the floor beams. Collapse of the main deck cargo floor could restrict the motion of the flight and engine control cables routed through the floor beams or could cause the failure of those cables, which could result in reduced controllability of the airplane or loss of control. Rapid decompression of the airplane could result from a sufficiently large failure in the fuselage pressure boundary either above or below the main deck cargo floor, such as inadvertent opening of the cargo door.

Therefore, the FAA has determined that an inspection and evaluation of the affected floor structure must be accomplished to ensure that the venting capability of the passenger configuration has not been compromised by installation of the Class E compartment. If the current venting capability of the affected floor is less than that of the passenger configuration, it must be modified to limit decompression loads to a level that can be supported successfully by the existing floor structure.

*4. 9g Crash Barrier*

In order to ensure the safety of occupants during emergency landing conditions, the FAA first established in 1934 a set of inertia load factors used to design the structure for restraining items of mass in the fuselage. Because the airplane landing speeds have increased over the years as the fleet has transitioned from propeller to jet design, inertia load factors were changed as specified in CAR part 4b.260. Experience has shown that an airplane designed to this regulation has a reasonable probability of protecting its occupants from serious injury in an emergency landing. The DC–8 passenger airplane was designed to these criteria that specified an ultimate inertia load requirement of 9g in the forward direction. These criteria were applied to the seats and structure restraining the occupants, including the flight crew, as well as other items of mass in the fuselage.

When a Model DC–8 series airplane is converted from a passenger to a cargo-carrying (''freighter'') configuration, a 9g crash barrier is required, since most cargo containers and container-to-floor attaching devices are not designed to withstand emergency landing loads. In fact, the FAA estimates that the container-to-floor attaching devices will only support approximately 1.5g's to

3g's in the forward direction. Without a 9g crash barrier, it is probable that the loads associated with an emergency landing would cause the cargo to become unrestrained and impact the occupants of the airplane, which could result in serious injury to the occupants.

The structural inadequacy of the 9g crash barrier was evident to the FAA during its review in January 1999 of a McDonnell Douglas Model DC–8 modified in accordance with STC SA1802SO. The observations revealed that the design of the crash barrier floor attachment and circumferential supporting structure neither provide adequate strength to withstand the 9g forward inertia load generated by the main deck cargo mass, nor provide a load path to effectively transfer the loads from the crash barrier to the fuselage structure of the airplane.

Therefore, the FAA has determined that installation of a 9g crash barrier that complies with the applicable requirements of CAR part 4b is necessary to prevent serious injury to occupants of the airplane.

**Development of Engineering Data**

The FAA is aware that the JTF is currently sponsoring an effort to develop engineering data to address the identified unsafe conditions of this NPRM. The FAA is anticipating that this effort will result in an STC that addresses the proposed requirements of this NPRM, and that this STC will be made available to all operators.

**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 the following eight actions:

1. Incorporation of inspections into the operator's FAA-approved maintenance or inspection program that ensures the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any PSE associated with the STC modification and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

2. Modification of the main deck cargo door structure and fuselage structure immediately surrounding the main deck cargo door to comply with the applicable requirements of CAR part 4b.

3. A detailed visual inspection to detect cracks of the exposed surfaces of the main deck cargo door hinge (both fuselage and door side hinge elements); and repair or replacement of the hinge element with a new, like part, if necessary.

4. Replacement of the existing fasteners in the two door-side hinge elements at the forward and aft ends of the hinge with fasteners of acceptable strength.

5. An inspection and evaluation of the cargo handling system to determine if the side restraints provide the support required by the ULD; and modification of the vertical side restraint to provide the support appropriate to the ULD's compatible with the cargo handling system, if necessary.

6. Modification of the main deck cargo floor to safely carry the applicable FAA-approved payload limits for above and below the main deck cargo floor. The modification must comply with the applicable requirements of CAR part 4b for the FAA-approved payload distribution.

7. An inspection and evaluation of the venting system of the main deck cargo floor to determine if the system limits decompression loads to a level that can be carried by the floor structure without failure; and modification of the venting system, as necessary, to limit the decompression loads to a level that can be supported successfully by the existing floor structure, if necessary.

8. Installation of a main deck cargo 9g crash barrier that complies with the applicable requirements of CAR part 4b.

The actions described above would be required to be accomplished in accordance with a method approved by the FAA.

**Differences Between 727 and DC–8 NPRM Format**

The format and content of this NPRM differs from the following rulemaking actions that address similar concerns for Boeing Model 727 series airplanes that have been modified to freighters by STC:

- AD 98–26–18, amendment 39–10961 (64 FR 1994, January 12, 1999);
- AD 98–26–19, amendment 39–10962 (64 FR 2016, January 12, 1999);
- AD 98–26–20, amendment 39–10963 (64 FR 2038, January 12, 1999);
- AD 98–26–21, amendment 39–10964 (64 FR 2061, January 12, 1999); and
- NPRM Rules Dockets 97–NM–232–AD, 97–NM–233–AD, 97–NM–234–AD, and 97–NM–235–AD.

However, the FAA used the same criteria (i.e., CAR part 4b) for evaluation of the subject Model 727 series airplanes and Model DC–8 series airplanes affected by this NPRM. The differences in the subject rulemaking actions are accounted for by the variance in the design philosophies embraced by Douglas (now Boeing) and Boeing.

The original floor beams for the DC–8 passenger airplanes have a deeper cross section, which reduces internal stresses for the same applied bending moment, than those for Model 727 series airplanes. Additionally, DC–8 passenger airplanes utilize intermediate ''struts'' between the main deck cargo floor beams and fuselage frames below the floor to help support the floor beams, which decreases the unsupported span. A shorter unsupported span helps reduce the bending moment for a given applied load. The amount of design data available to the FAA for review of each of the DC–8 STC's (i.e., SA1063SO, SA10377SO, SA1802SO, SA1832SO, SA1862SO, and SA00309AT) was greater than that available when the FAA issued the subject Model 727 NPRM's and AD's. Additionally, the JTF has assisted the FAA in engineering review of this greater volume of data and in the creation of additional data necessary for substantiation of the existing designs. Based on the data available for review, the margins of safety of the DC–8 floor beams indicate a lower level of immediate concern than those margins indicated for the 727 floor beams when the 727 AD's and NPRM's were proposed. Therefore, the FAA has determined that the type of restrictions and interim floor loading and side vertical restraint that were applied to the 727 are not required for the subject DC–8 STC's.

To address the safety concerns of Boeing Model 727 series airplanes that have been modified to freighters by STC, the FAA issued AD's 98–26–19, 98–26–20, 98–26–21, and 98–26–22 to address the capability of the main deck cargo floor and then issued NPRM Rules Dockets 97–NM–232–AD, 97–NM–233–AD, 97–NM–234–AD, and 97–NM–235–AD to address the door indicating system and related systems issues; means to prevent pressurization to an unsafe level if the door is not closed, latched, and locked; door hinge; and 9g crash barrier. Because there have been events involving the cargo door opening in flight on the modified DC–8 series airplanes, the FAA has issued the following AD's to address the door indication system and other related systems issues for those airplanes:

- AD 2000–09–01 R1, amendment 39–11809 (65 FR 41869, July 7, 2000);
- AD 2000–09–02, amendment 39–11710 (65 FR 25437, May 2, 2000);
- AD 2000–13–03 R1, amendment 39–11865 (65 FR 49735, August 15, 2000); and

• AD 2000–15–11, amendment 39–11843 (65 FR 47660, August 3, 2000).

This DC–8 NPRM, and NPRM Rules Dockets 2000–NM–280–AD, 2000–NM–281–AD, and 2000–NM–282–AD would address the structures issues, including the main deck cargo floor, as discussed previously.

**Cost Impact**

There are approximately 32 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 29 airplanes of U.S. registry would be affected by this proposed AD. The following table shows the estimated cost impact for airplanes affected by this AD. The average labor rate is $60 per work hour. The estimated maximum total cost for all airplanes affected by this proposed AD is $6,718,140, or $231,660 per airplane.

| Action | Work hours (estimated) | Parts cost (estimated) | Total cost (estimated) |
|---|---|---|---|
| Incorporation of inspections into maintenance or inspection program | 8 | N/A | $13,920, or $480 per airplane. |
| Modification of main deck cargo door structure and fuselage structure | 1,420 | $6,500 | $2,659,300, or $91,700 per airplane. |
| Inspection of exposed surfaces of main deck cargo door hinge | 16 | N/A | $27,840, or $960 per airplane. |
| Replacement of the existing fasteners in the two door-side hinge elements | 60 | 100 | $107,300, or $3,700 per airplane |
| Inspection and evaluation of the cargo handling system | 16 | N/A | $27,840, or $960 per airplane. |
| Modification of main deck cargo floor | 40 | $500 | $84,100, or $2,900 per airplane. |
| Inspection and evaluation of the venting system | 16 | N/A | $27,840, or $960 per airplane. |
| Installation of main deck cargo 9g crash barrier | 1,500 | 40,000 | $3,770,000, or $130,000 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 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 Doublas:** Docket 2000–NM–283–AD.

*Applicability:* Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying (''freighter'') configuration in accordance with Supplemental Type Certificate (STC) SA1802SO or SA421NW; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage, accomplish the following:

**Actions Addressing the Main Deck Cargo Door and Associated Fuselage Structure**

(a) Accomplish the actions specified in paragraphs (a)(1) and (a)(2) of this AD in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

(1) Within 1 year or 1,200 flight cycles after the effective date of this AD, whichever occurs first, incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any principal structural element (PSE) associated with the STC modification and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

(2) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever

occurs first, accomplish the actions specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Modify the main deck cargo door structure and fuselage structure immediately surrounding the main deck cargo door to comply with the applicable requirements of Civil Air Regulations (CAR) part 4b.

(ii) Incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any PSE associated with the STC modification required by paragraph (a)(2)(i) of this AD and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

**Actions Addressing the Main Deck Cargo Floor**

(b) Within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the cargo handling system to determine if the side restraints provide the support required by the unit load device (ULD), in accordance with a method approved by the Manager, Los Angeles ACO. If any vertical side restraint does not provide the required support, within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first, modify the vertical side restraint to provide the support appropriate to the ULD's compatible with the cargo handling system, in accordance with a method approved by the Manager, Los Angeles ACO.

(c) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the main deck cargo floor to safely carry the applicable FAA-approved payload limits for above and below the main deck cargo floor. The modification and payload distribution shall be accomplished in accordance with a method approved by the Manager, Los Angeles ACO. The modification must comply with the applicable requirements of CAR part 4b for the FAA-approved payload distribution.

(d) Except for those airplanes that have been modified in accordance with paragraph (c) of this AD, within 1 year or 1,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the venting system of the main deck cargo floor to determine if the system limits decompression loads to a level that can be carried by the floor structure without failure, in accordance with a method approved by the Manager, Los Angeles ACO.

(e) If, based on the evaluation required by paragraph (d) of this AD, the venting system does not limit decompression loads to a level that can be carried by the floor structure without failure, within 2 years after the effective date of this AD, modify the venting system, as necessary, to limit the decompression loads to a level that can be supported successfully by the existing floor structure, in accordance with a method approved by the Manager, Los Angeles ACO.

**Actions Addressing Main Deck Cargo Door Hinge**

(f) Accomplish the actions specified in paragraphs (f)(1) and (f)(2) of this AD in accordance with a method approved by the Manager, Los Angeles ACO.

(1) Within 250 flight hours after the effective date of this AD, perform a detailed visual inspection to detect cracks of the exposed surfaces of the main deck cargo door hinge (both fuselage and door side hinge elements). If any crack is detected, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles ACO, or replace the cracked hinge element with a new, like part.

**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.''

(2) Within 2 years or 2,000 flight hours after the effective date of this AD, whichever occurs first, replace the existing fasteners in the two door-side hinge elements at the forward and aft ends of the hinge with fasteners of acceptable strength.

**Actions Addressing Main Deck Cargo 9g Crash Barrier**

(g) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, install a main deck cargo 9g crash barrier that complies with the applicable requirements of CAR part 4b, in accordance with a method approved by the Manager, Los Angeles ACO.

**Alternative Methods of Compliance**

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles 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, Los Angeles ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

**Special Flight Permit**

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

Issued in Renton, Washington, on September 21, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–24746 Filed 9–26–00; 8:45 am]

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Federal Register

Wednesday,
September 27, 2000

# Part VI

# Department of Labor

## Employment and Training Administration

## Directives System; Request for Information; Notice

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Directives System; Request for Information

This Notice is a request for information regarding possible revisions to the directives system used by the Employment and Training Administration (ETA) to communicate guidance and information to the States and other grant recipients. We are now accepting suggestions from all interested parties who wish to contribute to the streamlining of the directives system to accommodate the One-Stop environment. We intend ultimately to provide directives electronically, and, thus, more expeditiously, to States and other grant recipients.

**Background**

The ETA directives system has been in place for many years. It is used to disseminate the Department's interpretations of Federal law requirements; procedural, administrative, management, and program direction; and other information to the States and other direct grant recipients. The directives system also is used for communications between the ETA national office and its regional offices. They are distributed to standardized lists of recipients who need the instructions or information they contain.

All directives originating within the National Office of ETA must be issued through the official ETA directives system. Directives are used to provide both interpretations and operational guidance.

Interpretative guidance directives may provide major clarifications and interpretations of program initiatives, broad operating policies, and program standards to all States and other direct grant recipients. This guidance, in conjunction with applicable legislation and regulations, comprises the standards governing ETA-funded programs in the States.

Operational guidance directives provide detailed information which supplements the interpretative guidance. This includes requests for reports and other materials, definition or interpretation of specific operating requirements, and dissemination of other information relating to program or administrative management. Operational guidance assists States in complying with Federal law.

ETA sends nine (9) different categories of directives to States (although the last three are rarely used):

1. The Training and Employment Guidance Letter (TEGL) is used to transmit funding allotments, program development and interpretative guidance statements to State Workforce Liaisons, State Employment Security Agencies, State Worker Adjustment Liaisons, and One-Stop Career Center System Leads.

2. The Training and Employment Information Notice (TEIN) is used to clarify existing interpretations or program information, transmit planning schedules, and reiterate previously issued interpretations. The TEIN is sent to State Workforce Liaisons, State Employment Security Agencies, State Worker Adjustment Liaisons, and One-Stop Career Center System Leads.

3. The Employment Service Program Letter (ESPL) is used to transmit instructions; information concerning objectives; standards; rules; regulations; procedures; and related information for developing and implementing employment service programs. It is sent to State Employment Security Agencies.

4. The Unemployment Insurance Program Letter (UIPL) is used to transmit material about objectives, rules, regulations, standards, procedures and related information for administering the unemployment insurance programs. It is sent to State Employment Security Agencies.

5. The General Administration Letter (GAL) is used to transmit material concerning the overall organization and general administration of the employment service, unemployment insurance, and related programs. It is sent to State Employment Security Agencies.

6. Handbooks include technical instructions, information, or guidance about either a specific program or administrative area or a group of related activities or functions pertaining to a single program or administrative area. Technical assistance guides are included in this category. Handbooks are sent to State Employment Security Agencies, and Regional Offices.

7. The Reports and Analysis Letter (RAL) is used to transmit instructions and samples of forms for statistical reports (except budget and fiscal reports) which State agencies submit to ETA National and Regional Offices. It may also be used to supplement statistical reporting requirements. It is sent to State Employment Security Agencies.

8. The Fiscal Letter (FL) is used to transmit material concerning fiscal standards, fiscal reports and procedures, the budgetary process, and expenditure of funds (except the unemployment compensation trust fund). It is sent to State Employment Security Agencies.

9. The Employment Security Manual (ESM) addresses State and local program operating interpretations; standards; and procedural and reporting instructions for the operation of the State employment security system. It is sent to State Employment Security Agencies.

In recent years electronic communication has supplemented the transmittal of hard copies of these directives.

In addition, ETA's special targeted programs, such as the Migrant and Seasonal Farmworker Program; Indian and Native American Program; Senior Community Service Employment Program; Job Corps; and the Office of Apprenticeship Training, Employer and Labor Services (ATELS) have separate means of communicating to their field structure, as follows:

Apprenticeship Training, Employer and Labor Services: Circulars provide interpretations, guidelines, instructions, and procedures governing ATELS operations to regional, State, and local staff. Field instructions provide administrative instructions to the same audience. Bulletins are used to provide information.

Job Corps: Each of the following are addressed to Job Corps Centers and Regional Directors: orders are used to delegate authority; bulletins provide policy, standards, procedures and guidance; notices provide information or request one-time information; and handbooks contain interpretative standards and procedural instructions for centers.

Office of National Programs: Bulletins are used to provide interpretations, standards, procedures, and guidance to grantees and contractors for Indian and Native American Programs; Migrant and Seasonal Farmworker Programs; the Senior Community Service Employment Program; and the Disability Employment and Initiatives Program.

The National School-to-Work Office uses bulletins to provide interpretations, standards, procedures, and guidance to grantees and contractors.

Several developments have prompted ETA to seek review of the current directives system. First, the Workforce Investment Act (WIA) was enacted in August 1998 and replaced the Job Training Partnership Act on July 1, 2000. This legislation reforms many ETA programs and links most of them more closely together through a One-Stop service delivery system. Second, WIA requires ETA to reorganize to align functions to carry out the new legislation. Third, advances in

technology for providing Internet access to directives and reporting requirements, as well as on-line reporting, have enabled more efficient means of communication between ETA and its partners. In light of the above, and because the current directives system predates these developments, ETA decided that the directives system needs to be reconsidered.

**Principles Governing the Redesign of the Directives System**

An internal ETA task group was convened to consider how the ETA directives system might be improved. The task group determined that the following principles or objectives should guide the redesign of the directives system.

*Customer Focus:* The directives system should provide timely, quick, and accurate information to the people who need to use it.

*One Cohesive System:* All ETA programs should be recognized as part of a single workforce development system—America's Workforce Network—and the directives system should be organized in a way that reinforces this.

*Sharing of Information:* ETA should encourage free and open communication with its customers. Full awareness of policies and sharing of information will contribute to greater efficiency and effectiveness in achieving the objectives of ETA's programs.

*Logic and Clarity:* The directives system should have logic and clarity. It should be simplified because there are currently so many types of directives/issuances, they may cause confusion among customers and stakeholders about where to look for information and guidance. Also, limiting different types of communications to different audiences does not facilitate the sharing of information.

*Comprehensiveness:* All directives used by ETA should be under the umbrella of a single system.

*Use of Electronic Communication:* Achieving the objectives of speedy and open communications, as well as easy access to information, argues for utilizing electronic means of communication. Policy and information should be made available quickly on an appropriate ETA website that includes a comprehensive electronic directory of directives, searchable by program and topic. Customers (*e.g.,* grantees) should be able to subscribe to a list serve which will notify them when a new directive is issued, and have the option of receiving notification of only certain categories of directives.

**Request for Public Comment**

The objective of this review of the ETA directives system is to determine how to improve the effectiveness of the system in communicating guidance and information. To assist us, we seek public comment from users of ETA directives and other interested parties. Public comment is particularly invited in response to the following questions. However, other comments, which may not be specifically embraced by these questions, may also be submitted.

1. Does the current ETA directives system meet your needs? If not, describe any problems you have identified.

2. Can you easily access guidance and information relevant to your needs through the current directives system?

3. What different features would you like to see in a revised directives system?

4. Should the directives system be limited to communicating policy and guidance (*i.e.,* information and notices of meetings would be communicated outside the directives system)?

5. Is there good justification to maintain a specific program's directive series like Job Corps Bulletins, ATELS Circulars, Unemployment Insurance Program Letters, or others?

6. Would it be acceptable if directives were available only electronically (*i.e.,* a Web-based system), provided there was a suitable transition period?

7. If the response to question 6 is affirmative, how long a transition period would you suggest is needed to go to an all-electronic system?

This notice is a general solicitation of comments from the public.

**DATES:** Commenters are requested to provide two (2) copies of their written submission to the Office of Policy and Research by 5:00 p.m. on November 13, 2000.

**ADDRESSES:** Written responses should be addressed to Terry Finegan at the Office of Policy and Research, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5637, Washington, DC 20210. Responses also may be E-Mailed to *directivessystem@doleta.gov.*

**FOR FURTHER INFORMATION CONTACT:** For further information, contact Terry Finegan, Office of Policy and Research, Employment and Training Administration at (202) 693–3656; fax (202) 693–2766. (These are not toll-free numbers.)

Signed at Washington, D.C. this 21st day of September 2000.

**Raymond L. Bramucci,**

*Assistant Secretary.*

[FR Doc. 00–24837 Filed 9–26–00; 8:45 am]

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Federal Register

Wednesday,
September 27, 2000

# Part VII

# The President

## Executive Order 13168—President's Commission on Improving Economic Opportunity in Communities Dependent on Tobacco Production While Protecting Public Health

Federal Register
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# Presidential Documents

**Title 3—**

## The President

**Executive Order 13168 of September 22, 2000**

## President's Commission on Improving Economic Opportunity in Communities Dependent on Tobacco Production While Protecting Public Health

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

**Section 1.** *Establishment.* (a) There is established the ''President's Commission on Improving Economic Opportunity in Communities Dependent on Tobacco Production while Protecting Public Health'' (the ''Commission''). The Commission shall be composed of not more than 10 members to be selected by the Secretary of Agriculture, in consultation with the President. The members may include tobacco producers and quota holders; public health experts; Federal, State, and local government representatives; and experts in agricultural economics and economic development.

(b) Two co-chairs shall be selected by the Secretary of Agriculture from the membership of the Commission. The co-chairs shall report to the President through the Secretary of Agriculture and the Secretary of Health and Human Services.

**Sec. 2.** *Purpose.* The Commission shall advise the President on changes occurring in the tobacco farming economy and recommend such measures as may be necessary to improve economic opportunity and development in communities that are dependent on tobacco production, while protecting consumers, particularly children, from hazards associated with smoking.

**Sec. 3.** *Functions.* (a) The Commission shall collect and review information about changes in the tobacco farming economy and Federal, State, and local initiatives intended to help tobacco growers, tobacco quota holders, and communities dependent on tobacco production pursue new economic opportunities. The Commission may make recommendations concerning these, and any other, changes and initiatives that may be necessary to improve economic opportunity in communities dependent on tobacco production. It shall also consider the public health implications of such changes and initiatives, including the efforts to reduce youth smoking and tobacco-related health consequences in the United States and abroad.

(b) For the purpose of carrying out its functions, the Commission may hold hearings, establish subcommittees, and convene and act at such times and places as the Commission may find advisable.

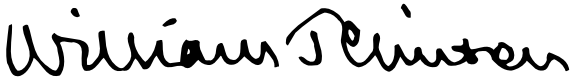
**Sec. 4.** *Reports.* The Commission shall make a preliminary report to the President by December 31, 2000. A final report shall be submitted to the President 6 months after the Commission's first meeting.

**Sec. 5.** *Administration.* (a) To the extent permitted by law, the heads of executive departments and agencies shall provide the Commission, upon request, with such information as it may require for the purposes of carrying out its functions.

(b) While engaged in the work of the Commission, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707) to the extent funds are available for such purposes.

(c) To the extent permitted by law and subject to the availability of appropriations, the Department of Agriculture shall provide the Commission with administrative services, funds, facilities, staff, and other support services necessary for the performance of the Commission's functions. Notwithstanding any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, that are applicable to the Committee shall be performed by the Secretary of Agriculture in accordance with guidelines that have been issued by the Administration of General Services.

**Sec. 6.** *General.* The Commission shall terminate 30 days after submitting its final report, but not later than 2 years from the date of this order, unless extended by the President.



THE WHITE HOUSE,
*September 22, 2000.*

[FR Doc. 00–24978
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Loan and grant program funds; allocation methodology and formulas; comments due by 10-2-00; published 8-3-00

**AGRICULTURE DEPARTMENT**

**Rural Utilities Service**

Grants:

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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

**H.R. 4040/P.L. 106–265**

To amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees, members of the uniformed services, and civilian and military retirees, provide for the correction of retirement coverage errors under chapters 83 and 84 of such title, and for other purposes. (Sept. 19, 2000; 114 Stat. 762)

**Last List August 23, 2000**

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