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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: February 20, 2001, from 9:00 a.m. to Noon (E.S.T.)

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

RESERVATIONS: 202–523–4538

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Presidential Documents

Title 3—

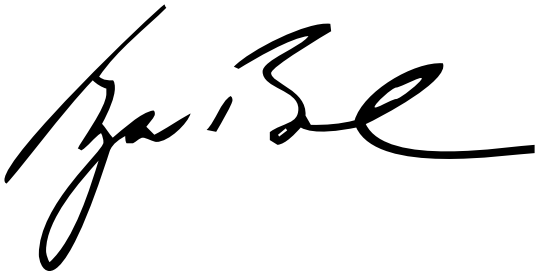
The President

Executive Order 13200 of February 11, 2001

President's Information Technology Advisory Committee, Further Amendment to Executive Order 13035, as Amended

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the High-Performance Computing Act of 1991 (Public Law 102–194), as amended by the Next Generation Internet Research Act of 1998 (Public Law 105–305), and in order to extend the life of the President's Information Technology Advisory Committee so that it may continue to carry out its responsibilities, it is hereby ordered that Executive Order 13035 of February 11, 1997, as amended by Executive Orders 13092 and 13113 (''Executive Order 13035, as amended''), is further amended as follows:

Section 4(b) of Executive Order 13035, as amended, is further amended by deleting ''February 11, 2001 and inserting ''June 1, 2001,'' in lieu thereof.



THE WHITE HOUSE,
February 11, 2001.

[FR Doc. 01–3883
Filed 2–13–01; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register

Vol. 66, No. 31

Wednesday, February 14, 2001

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–65–AD; Amendment 39–12106; AD 2000–25–54]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2000–25–54, which was sent previously to all known U.S. owners and operators of Agusta (Agusta) S.p.A. Model A109E helicopters by individual letters. This AD requires, before each start of the engines, visually checking both sides of each tail rotor blade (blade) for a crack and, at specified intervals, inspecting each blade for a crack using a 5-power or higher magnifying glass. Dye-penetrant inspecting each blade for a crack is also required at specified time intervals. If a crack is found, replacing the blade with an airworthy blade is required before further flight. This amendment is prompted by five reports of cracked tail rotor blades. The actions specified by this AD are intended to prevent failure of a blade and subsequent loss of control of the helicopter.

DATES: Effective March 1, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2000–25–54, issued on December 12, 2000, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 1, 2001.

Comments for inclusion in the Rules Docket must be received on or before April 16, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–65–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9–asw–adcomments@faa.gov.

The applicable service information may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On December 12, 2000, the FAA issued Emergency AD 2000–25–54 for Agusta Model A109E helicopters which requires, before each start of the engines, visually checking both sides of each blade for a crack and, at specified intervals, inspecting each blade for a crack using a 5-power or higher magnifying glass. Dye-penetrant inspecting each blade for a crack is also required at specified time intervals. If a crack is found, replacing the blade with an airworthy blade is required before further flight. That action was prompted by five reports of cracked tail rotor blades. The cracks were discovered during maintenance and also during flight due to an increase in tail rotor vibration. The manufacturer is currently investigating the cause of these cracks. This condition, if not corrected, could result in failure of a blade and subsequent loss of control of the helicopter.

The Ente Nazionale per l'Aviazione Civile (ENAC), which is the airworthiness authority for Italy, notified the FAA that an unsafe condition may exist on Agusta Model A109E helicopters. The ENAC advises inspecting certain blades for a crack in accordance with Agusta Alert Bollettino Tecnico No. 109EP–14, dated October 11, 2000 (ABT).

The FAA has reviewed the ABT, which specifies checking the upper and lower sides of each blade, part number (P/N) 109–8132–01–109, for a crack before each flight. The ABT also specifies visually inspecting the blades for a crack, using a 5-power magnifying lens, each 10 operating hours or if any abnormal increase of vibratory level occurs. In addition, the ABT specifies dye-penetrant inspecting the blades for a crack at each 25 operating hours. The ABT specifies replacing any cracked blade before further flight. The ENAC classified the ABT as mandatory and issued AD 2000–468, dated December 10, 2000, to ensure the continued airworthiness of these helicopters in Italy.

This helicopter model is manufactured in Italy and is typed certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral airworthiness agreement. Pursuant to 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 products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other Agusta Model A109E helicopters of the same type design, the FAA issued Emergency AD 2000–25–54 to prevent failure of a blade and subsequent loss of control of the helicopter. The AD requires the following for each blade, part number 109–8132–01–109:

- Before each start of the engines, visually check both sides of each blade for a crack.
- Within 10 hours time-in-service (TIS) and thereafter at intervals not to exceed 10 hours TIS or before the next flight after any abnormal tail rotor vibration, inspect each blade for a crack using a 5-power or higher magnifying glass.
- Within 25 hours TIS and thereafter at intervals not to exceed 25 hours TIS, dye-penetrant inspect each blade for a crack.

• If a crack is found, replace the blade with an airworthy blade before further flight.

An owner/operator (pilot) may perform the visual check required by this AD and must enter compliance with paragraph (a) of this AD into the aircraft maintenance records in accordance with 14 CFR 43.11 and 91.417(a)(2)(v)). This AD allows a pilot to perform this check because it involves only a visual check for a crack in the blade and can be performed equally well by a pilot or a mechanic.

The actions must be accomplished in accordance with the ABT described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, the actions previously listed are required at the specified intervals, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on December 12, 2000, to all known U.S. owners and operators of Agusta Model A109E helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons. Paragraph (a) of the emergency AD contained a typographical error in that it referenced 91.147(a)(2)(v) (a non-existent regulation). The correct reference should have been 91.417(a)(2)(v). This document corrects that error.

The FAA estimates that 21 helicopters of U.S. registry will be affected by this AD. It will take approximately ½ work hour per helicopter to inspect each blade using a magnifying glass; 2 work hours to dye-penetrant inspect each blade; and 1 work hour to replace each blade, if necessary. The average labor rate is $60 per work hour. Required parts will cost approximately $5,000 per blade. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $122,640 ($5,840 per helicopter, assuming that each helicopter blade is inspected 4 times, dye-penetrant inspected twice, and both blades are replaced on all helicopters).

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted 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.

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 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 mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–SW–65–AD.'' The postcard will be date stamped and returned to the commenter.

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 a new airworthiness directive to read as follows:

2000–25–54 Agusta S.p.A.: Amendment 39–12106. Docket No. 2000–SW–65–AD.

Applicability: Model A109E helicopters, with tail rotor blade (blade), part number 109–8132–01–109, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Before each start of the engines, visually check both sides of each blade for a crack, in the area shown in Figure 1. An owner/operator (pilot), holding at least a private pilot certificate, may perform the visual check required by this paragraph and must enter compliance into the aircraft maintenance records in accordance with 14 CFR 43.11 and 91.417(a)(2)(v).

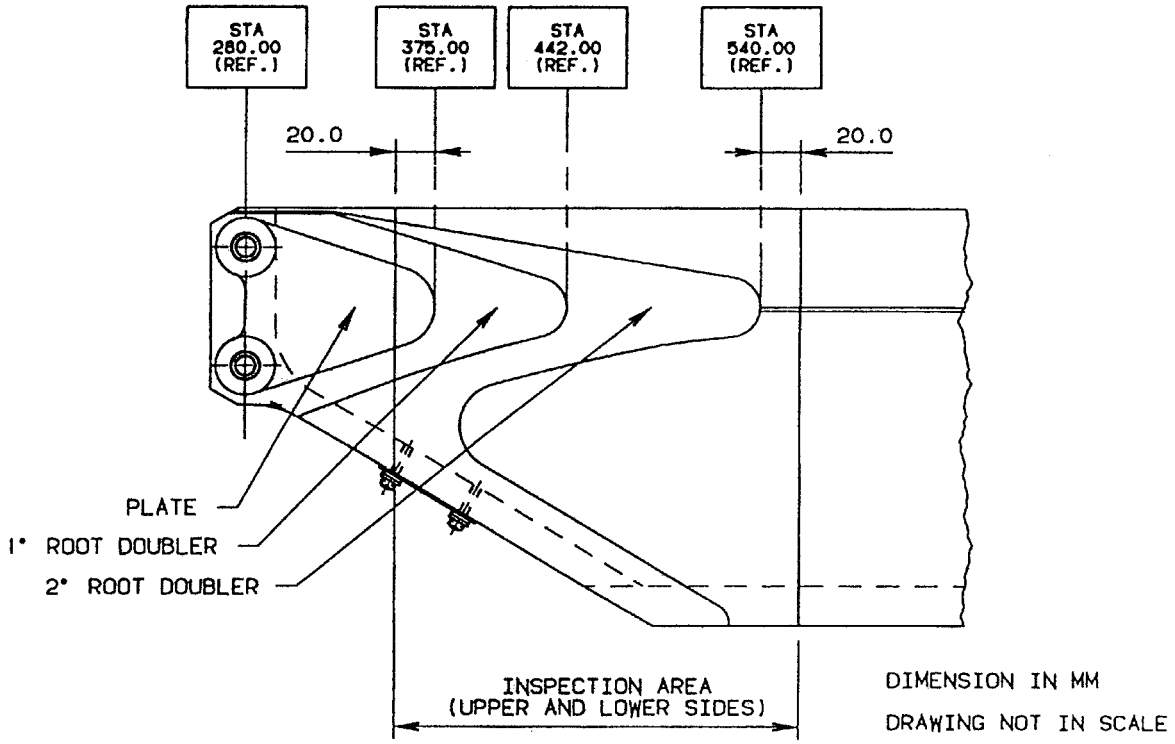


FIGURE 1

Note: Paint irregularities may be due to cracks.

(b) Within 10 hours time-in-service (TIS) and thereafter at intervals not to exceed 10 hours TIS or before the next flight after any abnormal tail rotor vibration, inspect each blade for a crack using a 5-power or higher magnifying glass in accordance with the Compliance Instructions, Part II, of Agusta S.p.A. Alert Bollettino Tecnico No. 109EP–14, dated October 11, 2000 (ABT).

(c) Within 25 hours TIS and thereafter at intervals not to exceed 25 hours TIS, dye-penetrant inspect each blade for a crack in accordance with the Compliance Instructions, Part III, of the ABT.

(d) If a crack is found, replace the blade with an airworthy blade before further flight.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

(f) Special flight permits are prohibited.

(g) The inspections shall be done in accordance with the Compliance Instructions, Parts II and III, of Agusta S.p.A. Alert Bollettino Tecnico No. 109EP–14, dated October 11, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on March 1, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2000–25–54, issued December 12, 2000, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on February 2, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–3562 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–299–AD; Amendment 39–12107; AD 2001–03–04]

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 repetitive ultrasonic inspection to detect damage of the actuator lugs of the flight spoiler center hinge; corrective action, if necessary; and eventual replacement of the flight spoilers with new, improved spoilers. This action is necessary to prevent uncommanded deployment of a flight

spoiler, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 1, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 1, 2001.

Comments for inclusion in the Rules Docket must be received on or before March 16, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–299–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–iarcomment@faa.gov. Comments sent via the Internet must contain ''Docket No. 2000–NM–299–AD'' in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centerville, 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: Serge Napoleon, 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) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, has notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–2B19 series airplanes. The TCCA advises that uncommanded deployment of a flight spoiler during flight has been reported. Such uncommanded deployment of the flight spoiler has been attributed to a fracture of the actuator lug on the center hinge fittings of the left or right flight spoiler. Recently, an uncommanded deployment of the flight spoiler during flight occurred at about 4,000 flight cycles. TCCA had previously identified an inspection threshold of 7,000 flight cycles to detect any fracturing of the actuator lug. Such uncommanded deployment of a flight spoiler can reduce the controllability of the airplane.

Explanation of Relevant Service Information

Bombardier has issued Alert Service Bulletin A601R–57–027, Revision C, dated May 30, 2000, which describes nondestructive evaluation procedure NDE UT–35 for repetitive (ultrasonic) inspections to detect damage of the actuator lugs of the flight spoiler center hinge fittings on the left-hand and right-hand flight spoilers at spoiler stations 195.36 and 204.36. The alert service bulletin also describes procedures for repetitive inspections if any damage is within certain limits and replacement of the left-hand and right-hand flight spoiler with serviceable or new, improved flight spoilers if any damage is beyond certain limits.

Bombardier also issued Service Bulletin 601R–57–029, dated May 30, 2000, which describes installation of new, enhanced flight spoilers. Installation of the new, improved flight spoilers eliminates the need for the repetitive inspections described in the above alert service bulletin.

Accomplishment of the actions specified in the service information above is intended to adequately address the identified unsafe condition.

TCCA classified the service information above as mandatory and also requires that the results of the mandated inspections be reported to the manufacturer. TCCA issued Canadian airworthiness directive CF–2000–15, dated June 6, 2000, 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 TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of the 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 the 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 requires accomplishment of the actions specified in the service information described previously, except as discussed below.

Differences Between This AD, the Foreign AD, and the Service Information

Although the manufacturer references the number of flight cycles based on the serialized components, the Canadian AD specifies the number of flight cycles based on cycles of the airplane. The FAA considers that, since flight cycles on airplanes may differ from those of the flight cycles on flight spoilers, specifying the number of flight cycles on airplanes is, in this case, more conservative and therefore, appropriate.

Operators should note that, although TCCA specifies several different compliance thresholds based on accumulated flight cycles, this AD specifies an inspection threshold of ''prior to the accumulation of 3,000 flight cycles.'' (As typically allowed in AD's, a grace period also has been provided for airplanes on which the flight cycle threshold has been exceeded.) The lower inspection threshold is necessary as a consequence of the previously mentioned uncommanded deployment of the flight spoiler that occurred around 4,000 flight cycles.

Interim Action

This action is considered to be interim action. The FAA is currently considering requiring replacement of any flight spoiler having part number (P/N) 600–10602–1001 or 600–10602–1002 with a new, improved left-hand flight spoiler having P/N 600–10602–73 or a new, improved right-hand flight spoiler having P/N 600–10602–74. Such replacements will constitute terminating action for the repetitive inspections required by this AD action. However, the planned compliance time for the replacements is sufficiently long so that notice and opportunity for prior public comment will be practicable.

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–299–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:

2001–03–04 Bombardier, Inc. (Formerly Canadair): Amendment 39–12107. Docket 2000–NM–299–AD.

Applicability: Model CL–600–2B19 series airplanes, serial numbers 7003 through 7340 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded deployment of a flight spoiler, which could result in reduced controllability of the airplane, accomplish the following:

Inspections

(a) Prior to the accumulation of 3,000 total flight cycles or within 30 days after the effective date of this AD, whichever occurs later: Perform nondestructive evaluation procedure NDE UT–35 (ultrasonic inspections) to detect damage (e.g., cracking) of the actuator lugs on both of the center hinge fittings of flight spoilers part numbers (P/N) 600–10602–1001 and –1002, at spoiler stations 195.36 and 204.36; per Section 2, Accomplishment Instructions, Part A of Bombardier Alert Service Bulletin A601R–57–027, Revision C, dated May 30, 2000. If no damage is detected, repeat the inspection at intervals not to exceed 500 flight cycles until the requirements of paragraph (c) of this AD have been accomplished.

Note 2: Accomplishment of the nondestructive evaluation procedure in accordance with Bombardier Alert Service Bulletin A601R–57–027, dated April 19, 1999; Revision A, dated July 23, 1999; or Revision B, dated December 8, 1999; is acceptable for compliance with the requirements of paragraph (a) of this AD.

Corrective Actions

(b) If any damage (e.g., cracking) is detected during the inspection required by paragraph (a) of this AD: Prior to further flight, remove the damaged flight spoiler and perform nondestructive evaluation procedure NDE ET–27 of the lug, per Section 2 of the Accomplishment Instructions of Part B of Bombardier Alert Service Bulletin A601R–57–027, Revision C, dated May 30, 2000.

(i) If no damage is detected, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 500 flight cycles until the requirements of paragraph (c) of this AD have been accomplished.

(ii) If any damage is detected, prior to further flight, replace the damaged flight spoiler with a new or serviceable flight spoiler, per Bombardier Service Bulletin 601R–57–029, dated May 30, 2000.

(A) For a flight spoiler with no damage or one that is replaced with a new or serviceable flight spoiler: Repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 500 flight cycles, until the requirements of paragraph (c) of this AD have been accomplished.

(B) If both flight spoilers are replaced with new, improved spoilers having part number P/N 600–10602–73 and P/N 600–10602–74, no further action is required by paragraphs (a) and (b) of this AD.

Optional Terminating Action

(c) Replacement of flight spoilers having part number (P/N) 600–10602–1001 or 600–10602–1002 with both a new, improved left-hand flight spoiler having P/N 600–10602–73 and a new, improved right-hand flight spoiler having P/N 600–10602–74, as applicable; per

Bombardier Service Bulletin 601R–57–029, dated May 30, 2000, constitutes terminating action for the requirements of paragraphs (a) and (b) of this AD.

Reporting Requirements

(d) Within 10 days of accomplishing the inspection required by paragraph (a) of this AD: Submit a report of any findings of cracking to Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 3: 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

(f) Special flight permits may be issued in accordance with 1A21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) The actions shall be done in accordance with Bombardier Alert Service Bulletin A601R–57–027, Revision C, dated May 30, 2000; and Bombardier Service Bulletin 601R–57–029, dated May 30, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from 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.

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–2000–15, dated June 6, 2000.

Effective Date

(h) This amendment becomes effective on March 1, 2001.

Issued in Renton, Washington, on February 6, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–3563 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–34]

Amendment to Class E Airspace; Algona, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, March 22, 2001.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on November 20, 2000 (65 FR 69662). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on March 22, 2001. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on January 22, 2001.

Richard L. Day,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 01–3650 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8924]

RIN 1545–AY63

Liabilities Assumed in Certain Corporate Transactions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary and final regulations.

SUMMARY: This document contains a correction to temporary and final regulations that were published in the **Federal Register** on January 4, 2001 (66 FR 723). This document relates to the assumption of liabilities in certain corporate transactions under section 301 of the Internal Revenue Code.

DATES: This correction is effective January 4, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Dean (202) 622–7550 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary and final regulations that are the subject of this correction are under section 301 of the Internal Revenue Code.

Need for Correction

As published, these temporary and final regulations (TD 8924) contain an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary and final regulations (TD 8924), which were the subject of FR Doc. 01–200, is corrected as follows:

On page 723, column 3, in the preamble under the paragraph heading *''A. State of the Law Before the Miscellaneous Trade and Technical Corrections Act of 1999'',* line 6, the language ''distribution shall be reduced (but now'' is corrected to read ''distribution shall be reduced (but not''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).

[FR Doc. 01–3775 Filed 2–13–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, 301, and 602

[TD 8942]

RIN 1545–AY00

Electronic Payee Statements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations under sections 6041 and 6051 relating to the voluntary electronic furnishing of payee statements on Forms W–2, ''Wage and Tax Statement,'' and under section 6050S relating to the voluntary electronic furnishing of statements to individuals for whom Forms 1098–T, ''Tuition Payments Statement,'' and Forms 1098–E, ''Student Loan Interest Statement,'' are filed. The regulations will affect persons required by the foregoing Internal Revenue Code sections to furnish these statements (furnishers) who wish to furnish these statements electronically. The regulations will also affect individuals, principally employees, students, and borrowers (recipients), who consent to receive these statements electronically. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**. The temporary regulations do not affect the requirement to file copy A of Forms W–2 with the Social Security Administration or the requirement to file Forms 1098–T or Forms 1098–E with the IRS.

DATES: *Effective Date:* These regulations are effective February 14, 2001.

Applicability Date: These regulations apply to statements to recipients required to be furnished under sections 6041(d), 6050S(d), and 6051 after December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Laura C. Nash at (202) 622–4910 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed, and pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1545–1729. Responses to this collection of information are required if a person required by section 6050S(d) to furnish statements to recipients for whom Forms 1098–T or Forms 1098–E are filed, or a person required by sections 6041(d) and 6051 to furnish payee statements on Forms W–2, wishes to furnish the statements electronically using website technology.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) relating to sections 6041(d) and 6050S(d), to the Regulations on Employment Taxes and Collection of Income Tax at Source (26 CFR part 31) relating to section 6051, and to the Regulations on Procedure and Administration (26 CFR Part 301) relating to section 6724. Sections 6041(d) and 6050S(d) generally require certain persons to furnish a statement to a person with respect to whom an information return is required to be filed with the Federal government under sections 6041(a) and 6050S(a). Section 6051 requires certain persons to furnish a written statement to an employee regarding remuneration paid by such person to the employee. The foregoing statements (specified statements) are generally required to be furnished to recipients on or before January 31 of the year following the calendar year for which the related information returns are required to be filed or in which the wages or other compensation was paid.

These temporary regulations state that furnishers may provide the written statements required by sections 6041(d), 6050S(d), and 6051 in an electronic format in lieu of a paper format. In addition, the temporary regulations provide furnishers with a method of furnishing these statements electronically using website technology. Furnishers who use this website technology and satisfy the requirements of the temporary regulations are treated as timely furnishing the statements under sections 6041(d), 6050S(d), and 6051.

The objective of the temporary regulations is to facilitate the voluntary electronic furnishing of these statements. This objective is consistent with the general goals of (i) section 2001 of the Internal Revenue Service Restructuring and Reform Act of 1998 to eliminate barriers, provide incentives, and use competitive forces to increase electronic filing over the next ten years and (ii) the Electronic Signatures in Global and National Commerce Act (E–SIGN Act) to facilitate voluntary use of certain electronic records. However, furnishers are not required to use the website technology described in the temporary regulations if they wish to continue to provide paper statements. Thus, the temporary regulations do not require a furnisher to invest in new delivery systems or to meet any new legal requirements to furnish a statement.

A major impetus for publishing these temporary regulations was the large number of requests for published guidance from lenders, educational institutions, employers and other furnishers who want the option of delivering statements to recipients in an electronic format. In addition, the Information Reporting Program Advisory Committee of the Internal Revenue Service (IRPAC) and the Electronic Tax Administration Advisory Committee (ETAAC) also strongly support providing furnishers with the option of furnishing statements electronically.

At its May 11, 2000, public meeting, IRPAC advocated issuance of guidance permitting furnishers to use website technology to furnish statements electronically. The IRS consulted with IRPAC representatives to ensure that the temporary regulations provide furnishers with clear, practical, and administrable procedures for the voluntary electronic furnishing of the specified statements. The temporary regulations incorporate many of IRPAC's suggestions and those of other furnishers.

These temporary regulations also strike a balance between furnishers' desires to reduce costs and modernize business processes by furnishing statements electronically and the tax administration concern that employees, students, and borrowers must be able to access electronic statements so that they can timely file accurate income tax returns. The consumer consent provisions of section 101(c)(1) of the E–SIGN Act strike a similar balance between businesses' desire to transmit records electronically and concerns about consumers' abilities to access and use those records. Therefore, these temporary regulations include disclosure provisions that are consistent with the Congressionally-approved consent provisions of the E–SIGN Act. These disclosure provisions will ensure that recipients will obtain the information they need to make an informed choice to receive the statements electronically and to access them timely.

The IRS and the Treasury Department invite comments about whether the provisions of these temporary regulations should apply to statements required to be furnished to recipients under other sections of the Internal Revenue Code. In addition, comments are invited about whether furnishers will use other technologies (such as e-mail) to furnish statements electronically and whether they need guidance on the conditions under which those statements will be considered timely furnished. Finally, comments are invited on whether the final regulations should prescribe standards to ensure confidentiality of taxpayer information posted on a website. Until final regulations are issued, the Treasury Department and the IRS expect that furnishers will take reasonable precautions to ensure confidentiality of taxpayer information.

Explanation of Provisions

This temporary regulation provides guidance under §§ 1.6041–2T(a)(5) (by cross-reference to the regulations under section 6051), 1.6050S–1T(a), 1.6050S–2T(a), and 31.6051–1T(j) regarding the electronic furnishing of specified statements. The temporary regulations provide that the written statements required by sections 6041(d), 6050S(d), and 6051 may be furnished in an electronic format. In addition, the temporary regulations provide that a furnisher that complies with the consent, required disclosures, format, posting, notice, and retention provisions of the temporary regulations is treated as timely furnishing the specified statements under sections 6041(d), 6050S(d), and 6051.

Consent

The temporary regulations provide that a recipient must have affirmatively consented to receive the statement electronically and must not have withdrawn that consent before the statement is furnished. The consent or, alternatively, its confirmation must be made electronically in a manner that reasonably demonstrates that the recipient can access the statement in the electronic format in which it will be furnished to the recipient. A furnisher must take certain actions, including obtaining from the recipient a new electronic consent or confirmation of consent to receive the statement electronically, if a change in the hardware or software needed to access a statement creates a material risk that the recipient will not be able to access the statement.

Required Disclosures

Prior to or at the time a recipient consents to receive a statement electronically, the furnisher must provide a clear and conspicuous statement to the recipient containing certain disclosures. These required disclosures are similar to the consumer consent provisions in the E–SIGN Act and, like those provisions, require a furnisher to inform a recipient about, for example, the scope and duration of a consent to receive an electronic statement, the ability to revoke that consent, the hardware and software required to access, print, and retain an electronic statement, and the ability to obtain a paper statement.

Format

The temporary regulations require that the electronic version of a statement furnished to a recipient contain all required information and comply with applicable revenue procedures relating to substitute statements.

Posting

The temporary regulations generally require that the furnisher post the statements on a website accessible to recipients on or before January 31 of the year following the calendar year to which the statements relate.

Notice

The temporary regulations generally require the furnisher to notify a recipient that the statement is posted on a website on or before January 31 of the year following the calendar year to which the statement relates. The notice may be delivered by mail, electronic mail, or in person and must provide instructions to the recipient on how to access and print the statement. If a furnisher later posts corrected statements on the website, the furnisher must notify the recipients of that posting within 30 days after the posting.

Retention

The temporary regulations generally require the furnisher to maintain access to the statements on the website through October 15 of the year following the calendar year to which the statements relate. In addition, the furnisher generally must maintain access to corrected statements that are posted on the website through October 15 of the year following the calendar year to which the statements relate or for 90 days after that posting, whichever is later.

Special Analyses

It has been determined that this temporary regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) does not apply to these regulations.

Because no preceding notice of proposed rulemaking is required for this temporary regulation, the provisions of the Regulatory Flexibility Act do not apply. However, an initial Regulatory Flexibility Analysis was prepared for the proposed regulations published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, that notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these temporary regulations is Eric Lucas, formerly of the Office of Associate Chief Counsel (Procedure and Administration). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping

requirements, Social security, Unemployment compensation.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1, 31, 301, and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.6041–2T also issued under 26 U.S.C. 6041(d). * * *

Section 1.6050S–1T also issued under 26 U.S.C. 6050S(g).

Section 1.6050S–2T also issued under 26 U.S.C. 6050S(g). * * *

Par. 2. Section 1.6041–2T is added to read as follows:

§ 1.6041–2T Return of information as to payments to employees (temporary).

(a)(1) through (4) [Reserved]

(5) *Statement for employees.* An employer that is required under § 1.6041–2(a) to file Form W–2 with respect to an employee is also required under section 6041(d) and 6051 to furnish a written statement to the employee. This written statement must be furnished on Form W–2 in accordance with section 6051 and the regulations.

(b) and (c). For further guidance, see § 1.6041–2(b) and (c).

Par. 3. Sections 1.6050S–1T and 1.6050S–2T are added to read as follows:

§ 1.6050S–1T Information reporting for payments and reimbursements or refunds of qualified tuition and related expenses (temporary).

(a) *Electronic furnishing of statements*—(1) *In general.* A person required by section 6050S(d) to furnish a written statement (furnisher) to the individual to whom it is required to be furnished (recipient) may furnish the statement in an electronic format in lieu of a paper format. A furnisher who meets the requirements of paragraphs (a)(2) through (7) of this section is treated as furnishing the statement in a timely manner.

(2) *Consent*—(i) *In general.* The recipient must have affirmatively consented to receive the statement in an electronic format and must not have withdrawn that consent before the statement is furnished. The consent must be made electronically in a manner that reasonably demonstrates that the recipient can access the statement in the electronic format in which it will be furnished to the recipient. Alternatively, the consent may be made in a different manner (for example, in an e-mail or in a paper document) if it is confirmed electronically in the manner described in the preceding sentence.

(ii) *Change in hardware or software requirements.* If a change in the hardware or software required to access the statement creates a material risk that the recipient will not be able to access the statement, the furnisher must, prior to changing the hardware or software, provide the recipient with a notice. The notice must describe the revised hardware and software required to access the statement and inform the recipient that a new consent to receive the statement in the revised electronic format must be provided to the furnisher. After implementing the revised hardware and software, the furnisher must obtain from the recipient, in the manner described in paragraph (a)(2)(i) of this section, a new consent or confirmation of consent to receive the statement electronically.

(iii) *Example.* The following example illustrates the rules of this paragraph (a)(2):

Example. Furnisher F sends Recipient R an e-mail stating that R may consent to receive statements required by section 6050S(d) electronically on a website instead of in a paper format. The e-mail contains an attachment instructing R how to consent to receive the statements electronically. The e-mail attachment uses the same electronic format that F will use for the electronically furnished statements. R opens the attachment, reads the instructions, and submits the consent in the manner provided in the instructions. R has consented to receive the statements electronically in the manner described in paragraph (a)(2)(i) of this section.

(3) *Required disclosures*—(i) *In general.* Prior to, or at the time of, a recipient's consent, the furnisher must provide to the recipient a clear and conspicuous disclosure statement containing each of the disclosures described in paragraphs (a)(3)(ii) through (viii) of this section.

(ii) *Paper statement.* The recipient must be informed that the statement will be furnished on paper if the recipient does not consent to receive it electronically.

(iii) *Scope and duration of consent.* The recipient must be informed of the scope and duration of the consent. For example, the recipient must be informed whether the consent applies to statements furnished every year after the consent is given until it is withdrawn in the manner described in paragraph (a)(3)(v)(A) of this section or only to the statement required to be furnished on or before the January 31 immediately following the date on which the consent is given.

(iv) *Post-consent request for a paper statement.* The recipient must be informed of any procedure for obtaining a paper copy of the recipient's statement after giving the consent described in paragraph (a)(2)(i) of this section.

(v) *Withdrawal of consent.* The recipient must be informed that—

(A) The recipient may withdraw a consent at any time by furnishing the withdrawal in writing (electronically or on paper) to the person whose name, mailing address, telephone number, and e-mail address is provided in the disclosure statement;

(B) The furnisher will confirm the withdrawal in writing (either electronically or on paper); and

(C) A withdrawal of consent does not apply to a statement that was furnished electronically in the manner described in this paragraph (a) before the withdrawal of consent is furnished.

(vi) *Notice of termination.* The recipient must be informed of the conditions under which a furnisher will cease furnishing statements electronically to the recipient.

(vii) *Updating information.* The recipient must be informed of the procedures for updating the information needed by the furnisher to contact the recipient.

(viii) *Hardware and software requirements.* The recipient must be provided with a description of the hardware and software required to access, print, and retain the statement, and the date when the statement will no longer be available on the website.

(4) *Format.* The electronic version of the statement must contain all required information and comply with applicable revenue procedures relating to substitute statements to recipients.

(5) *Posting.* The furnisher must on or before January 31 of the year following the calendar year to which the statement relates (or such other date permitted or required for furnishing the statement) post it on a website accessible to the recipient.

(6) *Notice*—(i) *In general.* The furnisher must on or before January 31 of the year following the calendar year to which the statement relates (or such other date permitted or required for furnishing the statement) notify the

recipient that the statement is posted on a website. The notice may be delivered by mail, electronic mail, or in person. The notice must provide instructions on how to access and print the statement. The notice must include the following statement in capital letters, ''IMPORTANT TAX RETURN DOCUMENT AVAILABLE.'' If the notice is provided by electronic mail, the foregoing statement should be on the subject line of the electronic mail and sent with high importance.

(ii) *Undeliverable electronic address.* If an electronic notice described in paragraph (a)(6)(i) of this section is returned as undeliverable, and the correct electronic address cannot be obtained from the furnisher's records or from the recipient, then the furnisher must furnish the notice by mail or in person within 30 days after the electronic notice is returned.

(iii) *Corrected statements.* A furnisher must notify a recipient that it has posted corrected statements on a website within 30 days of such posting in the manner described in paragraph (a)(6)(i) of this section. This notice must be furnished by mail or in person if—

(A) An electronic notice of the website posting of an original statement was returned as undeliverable; and

(B) The recipient has not provided a new e-mail address.

(7) *Retention.* The furnisher must maintain access to the statements on the website through October 15 of the year following the calendar year to which the statements relate (or the first business day after such October 15, if October 15 falls on a Saturday, Sunday, or legal holiday). The furnisher must maintain access to corrected statements that are posted on the website through October 15 of the year following the calendar year to which the statements relate (or the first business day after such October 15, if October 15 falls on a Saturday, Sunday, or legal holiday) or the date 90 days after the corrected statements are posted, whichever is later.

(b) *Effective date.* This section applies to statements required to be furnished under section 6050S(d) after December 31, 2000.

§ 1.6050S–2T Information reporting for payments of interest on qualified education loans (temporary).

(a) *Electronic furnishing of statements*—(1) *In general.* A person required by section 6050S(d) to furnish a written statement (furnisher) to the individual to whom it is required to be furnished (recipient) may furnish the statement in an electronic format in lieu of a paper format. A furnisher who meets the requirements of paragraphs (a)(2) through (7) of this section is treated as furnishing the statement in a timely manner.

(2) *Consent*—(i) *In general.* The recipient must have affirmatively consented to receive the statement in an electronic format and must not have withdrawn that consent before the statement is furnished. The consent must be made electronically in a manner that reasonably demonstrates that the recipient can access the statement in the electronic format in which it will be furnished to the recipient. Alternatively, the consent may be made in a different manner (for example, in an e-mail or in a paper document) if it is confirmed electronically in the manner described in the preceding sentence.

(ii) *Change in hardware or software requirements.* If a change in the hardware or software required to access the statement creates a material risk that the recipient will not be able to access the statement, the furnisher must, prior to changing the hardware or software, provide the recipient with a notice. The notice must describe the revised hardware and software required to access the statement and inform the recipient that a new consent to receive the statement in the revised electronic format must be provided to the furnisher. After implementing the revised hardware and software, the furnisher must obtain from the recipient, in the manner described in paragraph (a)(2)(i) of this section, a new consent or confirmation of consent to receive the statement electronically.

(iii) *Example.* The following example illustrates the rules of this paragraph (a)(2):

Example. Furnisher F sends Recipient R an e-mail stating that R may consent to receive statements required by section 6050S(d) electronically on a website instead of in a paper format. The e-mail contains an attachment instructing R how to consent to receive the statements electronically. The e-mail attachment uses the same electronic format that F will use for the electronically furnished statements. R opens the attachment, reads the instructions, and submits the consent in the manner provided in the instructions. R has consented to receive the statements electronically in the manner described in paragraph (a)(2)(i) of this section.

(3) *Required disclosures*—(i) *In general.* Prior to, or at the time of, a recipient's consent, the furnisher must provide to the recipient a clear and conspicuous disclosure statement containing each of the disclosures described in paragraphs (a)(3)(ii) through (viii) of this section.

(ii) *Paper statement.* The recipient must be informed that the statement will be furnished on paper if the recipient does not consent to receive it electronically.

(iii) *Scope and duration of consent.* The recipient must be informed of the scope and duration of the consent. For example, the recipient must be informed whether the consent applies to statements furnished every year after the consent is given until it is withdrawn in the manner described in paragraph (a)(3)(v)(A) of this section or only to the statement required to be furnished on or before the January 31 immediately following the date on which the consent is given.

(iv) *Post-consent request for a paper statement.* The recipient must be informed of any procedure for obtaining a paper copy of the recipient's statement after giving the consent described in paragraph (a)(2)(i) of this section.

(v) *Withdrawal of consent.* The recipient must be informed that—

(A) The recipient may withdraw a consent at any time by furnishing the withdrawal in writing (electronically or on paper) to the person whose name, mailing address, telephone number, and e-mail address is provided in the disclosure statement;

(B) The furnisher will confirm the withdrawal in writing (either electronically or on paper); and

(C) A withdrawal of consent does not apply to a statement that was furnished electronically in the manner described in this paragraph (a) before the withdrawal of consent is furnished.

(vi) *Notice of termination.* The recipient must be informed of the conditions under which a furnisher will cease furnishing statements electronically to the recipient.

(vii) *Updating information.* The recipient must be informed of the procedures for updating the information needed by the furnisher to contact the recipient.

(viii) *Hardware and software requirements.* The recipient must be provided with a description of the hardware and software required to access, print, and retain the statement, and the date when the statement will no longer be available on the website.

(4) *Format.* The electronic version of the statement must contain all required information and comply with applicable revenue procedures relating to substitute statements to recipients.

(5) *Posting.* The furnisher must on or before January 31 of the year following the calendar year to which the statement relates (or such other date permitted or required for furnishing the statement) post it on a website accessible to the recipient.

(6) *Notice*—(i) *In general.* The furnisher must on or before January 31 of the year following the calendar year to which the statement relates (or such other date permitted or required for furnishing the statement) notify the recipient that the statement is posted on a website. The notice may be delivered by mail, electronic mail, or in person. The notice must provide instructions on how to access and print the statement. The notice must include the following statement in capital letters, ''IMPORTANT TAX DOCUMENT RETURN AVAILABLE.'' If the notice is provided by electronic mail, the foregoing statement should be on the subject line of the electronic mail and sent with high importance.

(ii) *Undeliverable electronic address.* If an electronic notice described in paragraph (a)(6)(i) of this section is returned as undeliverable, and the correct electronic address cannot be obtained from the furnisher's records or from the recipient, then the furnisher must furnish the notice by mail or in person within 30 days after the electronic notice is returned.

(iii) *Corrected statements.* A furnisher must notify a recipient that it has posted corrected statements on a website within 30 days of such posting in the manner described in paragraph (a)(6)(i) of this section. This notice must be furnished by mail or in person if—

(A) An electronic notice of the website posting of an original statement was returned as undeliverable; and

(B) The recipient has not provided a new e-mail address.

(7) *Retention.* The furnisher must maintain access to the statements on the website through October 15 of the year following the calendar year to which the statements relate (or the first business day after such October 15, if October 15 falls on a Saturday, Sunday, or legal holiday). The furnisher must maintain access to corrected statements that are posted on the website through October 15 of the year following the calendar year to which the statements relate (or the first business day after such October 15, if October 15 falls on a Saturday, Sunday, or legal holiday) or the date 90 days after the corrected statements are posted, whichever is later.

(b) *Effective date.* This section applies to statements required to be furnished under section 6050S(d) after December 31, 2000.

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 4. The authority citation for part 31 is amended to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 31.6051–1T also issued under 26 U.S.C. 6051. * * *

Par. 5. Section 31.6051–1T is added to read as follows:

§ 31.6051–1T Statements for employees (temporary).

(a) through (i) [Reserved]. For further guidance, see § 31.6051–1(a) through (i).

(j) *Electronic furnishing of statements*—(1) *In general.* A person required by section 6051 to furnish a written statement on Form W–2 (furnisher) to the individual to whom it is required to be furnished (recipient) may furnish the Form W–2 in an electronic format in lieu of a paper format. A furnisher who meets the requirements of paragraphs (j)(2) through (7) of this section is treated as furnishing the Form W–2 in a timely manner.

(2) *Consent*—(i) *In general.* The recipient must have affirmatively consented to receive the Form W–2 in an electronic format and must not have withdrawn that consent before the Form W–2 is furnished. The consent must be made electronically in a manner that reasonably demonstrates that the recipient can access the Form W–2 in the electronic format in which it will be furnished to the recipient. Alternatively, the consent may be made in a different manner (for example, in an e-mail or in a paper document) if it is confirmed electronically in the manner described in the preceding sentence.

(ii) *Change in hardware or software requirements.* If a change in hardware or software required to access the Form W–2 creates a material risk that the recipient will not be able to access the Form W–2, the furnisher must, prior to changing the hardware or software, provide the recipient with a notice. The notice must describe the revised hardware and software required to access the Form W–2 and inform the recipient that a new consent to receive the Form W–2 in the revised electronic format must be provided to the furnisher. After implementing the revised hardware and software, the furnisher must obtain from the recipient, in the manner described in paragraph (j)(2)(i) of this section, a new consent or confirmation of consent to receive the Form W–2 electronically.

(iii) *Example.* The following example illustrates the rules of this paragraph (j)(2):

Example. Furnisher F sends Recipient R an e-mail stating that R may consent to receive Forms W–2 electronically on a website instead of in a paper format. The e-mail contains an attachment instructing R how to consent to receive Forms W–2 electronically. The e-mail attachment uses the same electronic format that F will use for its electronically furnished Forms W–2. R opens the attachment, reads the instructions, and submits the consent in the manner provided in the instructions. R has consented to receive Forms W–2 electronically in the manner described in paragraph (j)(2)(i) of this section.

(3) *Required disclosures*—(i) *In general.* Prior to, or at the time of, a recipient's consent, the furnisher must provide to the recipient a clear and conspicuous disclosure statement containing each of the disclosures described in paragraphs (j)(3)(ii) through (viii) of this section.

(ii) *Paper statement.* The recipient must be informed that the Form W–2 will be furnished on paper if the recipient does not consent to receive it electronically.

(iii) *Scope and duration of consent.* The recipient must be informed of the scope and duration of the consent. For example, the recipient must be informed whether the consent applies to Forms W–2 furnished every year after the consent is given until it is withdrawn in the manner described in paragraph (j)(3)(v)(A) of this section or only to the Form W–2 required to be furnished on or before the January 31 immediately following the date on which the consent is given.

(iv) *Post-consent request for a paper statement.* The recipient must be informed of any procedure for obtaining a paper copy of the recipient's Form W–2 after giving the consent described in paragraph (j)(2)(i) of this section.

(v) *Withdrawal of consent.* The recipient must be informed that—

(A) The recipient may withdraw a consent at any time by furnishing the withdrawal in writing (electronically or on paper) to the person whose name, mailing address, telephone number, and e-mail address is provided in the disclosure statement;

(B) The furnisher will confirm the withdrawal in writing (either electronically or on paper); and

(C) A withdrawal of consent does not apply to a Form W–2 that was furnished electronically in the manner described in this paragraph (j) before the withdrawal of consent is furnished.

(vi) *Notice of termination.* The recipient must be informed of the conditions under which a furnisher will cease furnishing statements electronically to the recipient (for example, termination of the recipient's employment with furnisher-employer).

(vii) *Updating information.* The recipient must be informed of the procedures for updating the information needed by the furnisher to contact the recipient.

(viii) *Hardware and software requirements.* The recipient must be provided with a description of the hardware and software required to access, print, and retain the Form W–2, and the date when the Form W–2 will no longer be available on the website. The recipient must be informed that the Form W–2 may be required to be printed and attached to a Federal, State, or local income tax return.

(4) *Format.* The electronic version of the Form W–2 must contain all required information and comply with applicable revenue procedures relating to substitute statements to recipients.

(5) *Posting.* The furnisher must on or before January 31 of the year following the calendar year to which the Form W–2 relates (or such other date permitted or required for furnishing the Forms W–2) post it on a website accessible to the recipient.

(6) *Notice*—(i) *In general.* The furnisher must on or before January 31 of the year following the calendar year to which the Form W–2 relates (or such other date permitted or required for furnishing the Form W–2) notify the recipient that the Form W–2 is posted on a website. The notice may be delivered by mail, electronic mail, or in person. The notice must provide instructions on how to access and print the statement. The notice must include the following statement in capital letters, ''IMPORTANT TAX RETURN DOCUMENT AVAILABLE.'' If the notice is provided by electronic mail, the foregoing statement should be on the subject line of the electronic mail and sent with high importance.

(ii) *Undeliverable electronic address.* If an electronic notice described in paragraph (j)(6)(i) of this section is returned as undeliverable, and the correct electronic address cannot be obtained from the furnisher's records or from the recipient, then the furnisher must furnish the notice by mail or in person within 30 days after the electronic notice is returned.

(iii) *Corrected Forms W–2.* A furnisher must notify a recipient that it has posted corrected Forms W–2 on a website within 30 days of such posting in the manner described in paragraph (j)(6)(i) of this section. This notice must be furnished by mail or in person if—

(A) An electronic notice of the website posting of an original Form W–2 was returned as undeliverable; and

(B) The recipient has not provided a new e-mail address.

(7) *Retention.* The furnisher must maintain access to the Forms W–2 on the website through October 15 of the year following the calendar year to which the Forms W–2 relate (or the first business day after October 15, if October 15 falls on a Saturday, Sunday, or legal holiday). The furnisher must maintain access to corrected Forms W–2 that are posted on the website through October 15 of the year following the calendar year to which the Forms W–2 relate (or the first business day after such October 15, if October 15 falls on a Saturday, Sunday, or legal holiday) or the date 90 days after the corrected forms are posted, whichever is later.

(k) *Effective date.* Paragraph (j) of this section applies to Forms W–2 required to be furnished under section 6051 after December 31, 2000.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 6. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 7. Section 301.6724–1T is added to read as follows:

§ 301.6724–1T Reasonable cause (temporary).

(a) through (d)(2) [Reserved]. For further information, see § 301.6724–1 (a) through (d)(2).

(d)(3) *Special rule for furnishers of electronic statements.* A filer may seek a waiver for reasonable cause pursuant to § 301.6724–1(c)(6), for failing to timely furnish a statement in the following situation. If the recipient of the statement withdraws a consent to receive the statement in an electronic format, the filer will be deemed to have acted in a responsible manner under § 301.6724–1(d) if the filer furnishes a paper statement on or before the date 30 days after the date the withdrawal of consent is received.

(e) through (n) [Reserved]. For further guidance, see § 301.6724–1(e) through (n).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 8. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 9. In § 602.101, paragraph (b) is amended by adding entries to the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.6041–2T	1545–1729
* * * * *	
1.6050S–1T	1545–1729
1.6050S–2T	1545–1729
* * * * *	
31.6051–1T	1545–1729
* * * * *	

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: January 10, 2001.

Jonathan Talisman,

Assistant Secretary of the Treasury.

[FR Doc. 01–1292 Filed 2–13–01; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301101; FRL–6764–2]

RIN 2070–AB78]

Clomazone; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of clomazone in or on tuberous and corm vegetable (except potato) subgroup crop and cucurbit vegetable crop group. 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 February 14, 2001. Objections and requests for hearings, identified by docket control number OPP–301101, must be received by EPA on or before April 16, 2001.

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–301101 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: 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; and e-mail address: brothers.shaja@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	111 112 311 32532	Crop production Animal production Food manufacturing 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/. 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–301101. 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 December 6, 2000 (65 FR 76249) (FRL–6755–4), 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 petitions (PP 9E6063 and 7E4865) for tolerance by IR–4, 681 U.S. Highway #1 South, North Brunswick, New Jersey 08902–3390. This notice included a summary of the petitions prepared by FMC Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.425 be amended by establishing tolerances for residues of the herbicide clomazone, [2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone], in or on tanier, cassava, yams, arracacha, and cucurbit vegetables at 0.05 and 0.1 parts per million (ppm). The petition was subsequently amended to tuberous and corm vegetable (except potato) crop subgroup and cucurbit vegetable crop group at 0.05 ppm.

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 a tolerance for residues of clomazone on the tuberous and corm vegetable (except potato) crop subgroup and cucurbit vegetable crop group at 0.05 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by clomazone 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 rat	NOAEL = 135.2/160.9 mg/kg/day, males/females LOAEL = 273/319.3 mg/kg/day, males/females, based on decreased body weight, body weight gains, food consumption and increased absolute and relative liver weights in females and increased absolute liver weights in males
870.3100	90-Day oral toxicity mouse	NOAEL ≥ 1,200 mg/kg/day (limit dose) LOAEL > 1,200 mg/kg/day
870.3700a	Prenatal developmental rat	Maternal NOAEL = 100 mg/kg/day LOAEL = 300 mg/kg/day based on chromorhinorrhea and/or abdominogenital staining Developmental NOAEL = 100 mg/kg/day LOAEL = 300 mg/kg/day based on indications of delayed ossification in the form of either partial ossification or the absence of manubrium, sternebrae 3–4, xiphoid, caudal, and metacarpals
870.3700b	Prenatal developmental rabbits	Maternal NOAEL = 240 mg/kg/day LOAEL = 700 mg/kg/day based on effects seen at 1,000 mg/kg/day, which included mortality, abortions, decreased body weight gain, and decreased defecation or no feces Developmental NOAEL ≥ 700 mg/kg/day highest dose tested (HDT) LOAEL > 700 mg/kg/day
870.3800	2–Generation reproduction and fertility effects	Parental NOAEL = 50 mg/kg/day LOAEL = 100 mg/kg/day based on statistically significantly decreased body weight and body weight gain during pre-mating, and decreased body weight during gestation & lactation male & female. In addition decreased food consumption in females and hydro-nephritic kidneys in males. Offspring NOAEL = 50 mg/kg/day LOAEL = 100 mg/kg/day based on decreased body weight in F2a and F2b litters
870.4100b	Chronic toxicity dogs	NOAEL ≥ 1,038/1,012 mg/kg/day, males/females (HDT) LOAEL > 1,038/1,012 mg/kg/day
870.4300	Chronic toxicity/ Carcinogenicity rats	NOAEL = 84.4/112.9 mg/kg/day, males/females (HDT) LOAEL ≥ 84.4/112.9 mg/kg/day, males/females Classified as a ''not likely human carcinogen''
870.4300	Carcinogenicity mice	NOAEL = 300 mg/kg/day (HDT) LOAEL = > 300 mg/kg/day Classified as a ''not likely human carcinogen''
870.5100	Gene mutation *Salmonella typhimurium* and *Escherichia coli* reverse gene mutation assay)	The test article was assayed up to cytotoxic concentrations (5,000 µg/plate), but in no instance were appreciably increased number of revertants to histidine prototrophy (his+) found in any of the tester strains, either in the presence or absence of metabolic activation.
870.5395	Cytogenetics *In vivo* rat	Negative. The incidence of aberrations and the aberrations/cell were not significantly increased.
870.5550	Other effects *In vitro* UDS assay in primary rat hepatocytes	Clomazone was tested up to cytotoxicity (relative toxicity at 0.10 µL/mL was 88.6%), but in no cultures treated with test article was a significant increase in mean net nuclear counts indicative of UDS recorded.
870.7485	Metabolism and pharmacokinetics	Clomazone is extensively metabolized by the liver and excreted in the urine and feces within 24 hours. Sixteen metabolites, including the parent, were identified; and the predominant route of excretion was in urine.

B. 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 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_1*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q_1* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q_1* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-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 clomazone used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CLOMAZONE 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 females 13–50 years of age	NOAEL = 100 mg/kg/day UF = 100 Acute RfD = 1.0 mg/kg/day	FQPA SF = 1X aPAD = acute RfD ÷FQPA SF = 1.0 mg/kg/day	Developmental rat LOAEL = 300 mg/kg/day based on delayed ossification.
Acute Dietary general population including infants and children	None	None	A risk assessment is not required for this population subgroup.
Chronic Dietary all populations	NOAEL= 84.4 mg/kg/day UF = 100 Chronic RfD = 0.84 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD ÷ FQPA SF = 0.84 mg/kg/day	2—year rat feeding study LOAEL > 84.4 mg/kg/day (HDT) 90—day oral rat LOAEL = 319.3 mg/kg/day based on based on decreased body weight, body weight gains, food consumption and increased absolute and relative liver weights in females and increased absolute liver weights in males. 2—Generation Reproduction LOAEL = 100 mg/kg/day based on statistically significantly decreased body weight & body weight gain during premating, and decreased body weight during gestation & lactation male & female. In addition decreased food consumption in females and hydro-nephritic kidneys in males.
Oral, Short-Term (1 to 7 days) (Residential)	None	None	No residential uses. An endpoint was not selected.
Oral, Intermediate-Term (1 week to several months) (Residential)	None	None	No residential uses. An endpoint was not selected.
Dermal and Inhalation Short-Term (1 to 7 days) (Residential)	Maternal NOAEL= 100 mg/kg/day Dermal absorption = 100% Inhalation absorption = 100%	LOC for MOE = 100	Developmental rat study Maternal LOAEL = 300 mg/kg/day, based on chromorhinorrhea and abdominogenital staining
Dermal and Inhalation, Intermediate-term (1 week - several months) and Long-Term (several months - lifetime) (Residential)	Oral NOAEL= 84.4 mg/kg/day	LOC for MOE = 100	2–year rat feeding study LOAEL > 84.4 mg/kg/day (HDT) 90–day oral rat

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
	Dermal Absorption = 100% Inhalation absorption = 100%		LOAEL = 319.3 mg/kg/day based on based on decreased body weight, body weight gains, food consumption and increased absolute and relative liver weights in females and increased absolute liver weights in males 2–Generation Reproduction LOAEL = 100 mg/kg/day based on statistically significantly decreased body weight and body weight gain during premating, and decreased body weight during gestation & lactation male & female. In addition decreased food consumption in females and hydro-nephritic kidneys in males.

* 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 180.425) for the residues of clomazone, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from clomazone 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) 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: A Tier 1 acute analysis was performed for females 13–50 years old using existing and recommended tolerance level residues, 100% crop treated.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the 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: A Tier 1 chronic analysis was performed for the general U.S. population and all population subgroups using existing and recommended tolerance level residues, 100% crop treated.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for clomazone 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 clomazone. Clomazone's major environmental degradate, FMC 65317 (*N*-[2- chlorophenol)methyl] -3-hydroxy-2,2-dimethyl propanamide) was also included in the drinking water assessment.

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 clomazone they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the EECs of clomazone and FMC 65317 for acute exposures are estimated to be 95 parts per billion (ppb) for surface water and 2.4 ppb for ground water. The EECs for chronic exposures are estimated to be 23 ppb for surface water and 2.4 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, flea and tick control on pets).

Clomazone 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 clomazone 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, clomazone 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 clomazone 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*. The prenatal and postnatal toxicology data base for clomazone is complete with respect to FQPA considerations. There is no quantitative or qualitative evidence of increased susceptibility of rats or rabbit fetuses to *in utero* exposure in developmental studies. Although there was a suggestion of susceptibility in the rat developmental study based on the presence of delayed ossification in the fetuses, the EPA concluded that the fetal effects were no more severe than the maternal effects because: There is no dose response relationship for delayed ossification (i.e., absence of increased incidence with increase in dose); low fetal/litter incidences; delayed ossifications were not considered to be severe; and no visceral or skeletal malformations were seen.

iii. *Conclusion*. There is a complete toxicity data base for clomazone and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The FQPA factor was reduced to 1X because of the following reasons: There is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure; a developmental neurotoxicity study is not required; and the dietary (food and drinking water) exposure assessments will not under estimate the potential exposures for infants and children (there are currently no registered residential uses).

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 US EPA Office of Water are used to calculate DWLOCs: 2Liters (L)/70kilograms (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 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*. A Tier 1 acute dietary exposure analysis for clomazone was performed using existing and proposed tolerance level residues, 100 CT for all commodities, and DEEM default processing factors. The acute analysis was performed for females 13–50 years old. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to clomazone will occupy <1% of aPAD for females 13–50 years and older at the 95th percentile. In addition, there is potential for acute dietary exposure to clomazone 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 aPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO CLOMAZONE

Scenario/Population Subgroup	aPAD, mg/kg/day	% aPAD (Food)	Surface Water, ppb	Ground Water, ppb	DWLOC ppb
Females 13–50 yrs old	1	1%	95	2.4	30,000

2. *Chronic risk.* A Tier 1 chronic dietary exposure analysis for clomazone was performed using existing and proposed tolerance level residues, 100% CT for all commodities, and DEEM default processing factors. The chronic analysis applied to the U.S. population and all population subgroups. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to clomazone from food will utilize <1% of the cPAD for the U.S. population and all population subgroups. There are no residential uses for clomazone that result in chronic residential exposure to clomazone. 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 4:

TABLE 4. — AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO CLOMAZONE

Scenario/Population Subgroup	cPAD, mg/kg/day	% cPAD (Food)	Surface Water, ppb	Ground Water, ppb	DWLOC, ppb
U.S. Population	0.84	<1	23	2.4	29,000
All infants (< 1 year old)	0.84	<1	23	2.4	8,400
Children (1–6 years old)	0.84	<1	23	2.4	8,400
Children (7–12 years old)	0.84	<1	23	2.4	8,400
Females (13–50 years old)	0.84	<1	23	2.4	25,000

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).

Clomazone 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 do not exceed the Agency's level of concern.

4. *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 clomazone residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methods are available for the determination of the residues of clomazone in plants. Briefly, samples are acid hydrolyzed, hexane extracted, Na_2CO_3 washed, and cleaned-up with a FlorisilR column. The resulting samples are analyzed by gas chromatography (GC) using a nitrogen phosphorus detector (NPD) or mass spectrometer (MS). The limit of quantitation (LOQ) for this method is 0.05 ppm. A confirmatory procedure (GC/MS-SIM) is available (Method I, PAM II).

B. International Residue Limits

There is neither a Codex proposal, nor Canadian or Mexican limits for residues of clomazone in/on the subject crops. Therefore, a compatibility issue is not relevant to the proposed tolerance.

V. Conclusion

Therefore, tolerances are established for residues of clomazone, [2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone], in or on the tuberous and corm vegetable (except potato) crop subgroup and cucurbit vegetable crop group at 0.05 ppm.

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–301101 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before April 16, 2001.

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–301101, 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 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: January 18, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.425 is amended by alphabetically adding commodities to the table in paragraph (a) to read as follows:

§ 180.425 Clomazone; tolerances for residues.

(a) *General.** * *

Commodity	Parts per million
* * * *	*
Vegetable, cucurbit, group	0.05
Vegetable, tuberous and corm, except potato, subgroup	0.05

* * * * *

[FR Doc. 01–3619 Filed 2–13–01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[WT Docket No. 99–168; CS Docket No. 98–120; MM Docket No. 00–39; FCC 01–25]

Clearing of the 740–806 MHz Band; Conversion to Digital Television

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts mechanisms and makes determinations intended to facilitate the clearing of the 740–806 MHz band to allow for the introduction of new wireless services, and to promote the early transition of analog television licensees to digital television service (''DTV''). The Commission adopts rules and policies that allow the private sector to determine the band-clearing mechanisms that will best suit broadcasters' and potential new 700 MHz licensees' needs. By this action, the Commission also builds upon the policies adopted in the Memorandum Opinion and Order and Further Notice of Proposed Rule Making in this proceeding (''*700 MHz MO&O and FNPRM*'') in which it provided guidance regarding its review of regulatory requests filed in connection with voluntary private agreements that would accelerate the DTV transition and open the 700 MHz band for new uses.

DATES: Effective February 14, 2001.

FOR FURTHER INFORMATION CONTACT: Nese Guendelsberger or Bill Huber of the Auctions and Industry Analysis Division at (202) 418–0660 (voice), (202) 418–7233 (TTY), or Martin Liebman or Stanley Wiggins of the Policy Division at (202) 418–1310 (voice), (202) 418–7233 (TTY), Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of a Third Report and Order (''*Third R&O*'') in WT Docket No. 99–168, adopted on January 18, 2001, and released on January 23, 2001. The complete text of the *Third R&O* is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.), 445 12th Street, SW, Room CY–B400, Washington, DC 20554, (202) 314–3070. The *Third R&O* is also available on the Internet at the Commission's web site: *http://www.fcc.gov/Bureaus/Wireless/Orders/2001/fcc01025.* Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418–0260, TTY (202) 418–2555, or at mcontee@fcc.gov.

Synopsis of the Third Report and Order

1. By this *Third R&O*, the Commission adopts mechanisms and makes determinations intended to facilitate the clearing of the 740–806 MHz band to allow for the introduction of new wireless services, and to promote the early transition of analog television licensees to DTV. The 746–806 MHz band at issue has historically been used exclusively by television stations (Channels 60–69). The incumbent television broadcasters are permitted by statute to continue operations until their markets are converted to digital television, which is not scheduled to occur until December 31, 2006, and that date may be extended under certain circumstances. Congress has, however, mandated that the Commission commence competitive bidding for the commercial licenses well before the scheduled termination date of the DTV transition. In the *700 MHz MO&O and FNPRM*, (65 FR 42879 and 65 FR 42960, July 12, 2000), the Commission provided guidance on its review of applications for approval of regulatory requests associated with voluntary agreements accelerating the transition of incumbent analog television licensees and opening these bands for new 700 MHz licensee use. The *Third R&O* announces additional policies to facilitate voluntary band clearing agreements among incumbent broadcasters and new wireless licensees.

2. *Cost-Sharing Rules.* The Commission concludes that it is not necessary or appropriate to adopt cost-sharing rules to assist in clearing the 700 MHz band. Based on the record, the Commission finds that the new 700 MHz commercial wireless licensees should be able to enter into cost-sharing agreements without Commission rules. Therefore, the Commission leaves all cost-sharing arrangements to negotiations among successful auction bidders in this band.

3. *Three-Way Voluntary Transition Agreements.* The Commission adopts a general presumption, standards of review, and policies for three-way agreements among incumbent Channel 59–69 broadcasters and new 700 MHz wireless licensees that are similar to those adopted in the *700 MHz MO&O and FNPRM* for bilateral agreements between broadcasters and new 700 MHz wireless licensees. Three-way band clearing agreements would provide for TV incumbents in the 700 MHz band to relocate their operations to lower band TV channels that would be voluntarily cleared by the lower band TV incumbents. The Commission finds that adopting guidelines for three-way agreements similar to those established for bilateral agreements should help negotiating parties and serve the public interest by providing a measure of certainty regarding the conditions under which a regulatory request to implement a three-way agreement may be approved. The presumption the Commission will apply to three-way agreements will be the same as the presumption adopted for bilateral agreements. Thus, the Commission will presume that the public interest is substantially furthered when an applicant demonstrates that the grant of its request will both result in certain specific benefits and avoid specific detriments. To obtain this presumption, an applicant must first demonstrate that grant of its request would result in one of the following: (i) Make new or

expanded wireless service, such as ''2.5G'' or ''3G'' services, available to consumers; (ii) clear commercial frequencies that enable provision of public safety services; or (iii) result in the provision of wireless service to rural or other underserved communities. To obtain the presumption, the applicant must also show that grant of its request would not result in any one of the following: (i) The loss of any of the four stations in the designated market area with the largest audience share; (ii) the loss of the sole service licensed to the local community; or (iii) the loss of a community's sole service on a channel reserved for noncommercial educational broadcast service.

4. As was stated in the *700 MHz MO&O and FNPRM,* the presumption is not conclusive or dispositive. In specific cases where the presumption applies, for instance, the Commission will consider whether special or unique factors involving loss of broadcast service are sufficient to rebut the presumption. When the presumption is not established or is rebutted, the Commission will review regulatory requests by weighing the loss of service and the advent of new wireless service on a case-by-case basis. In conducting this analysis, the Commission will consider all relevant public interest factors regarding the provision of wireless services, the acceleration of the DTV transition, and the loss of broadcast service. The Commission will consider as a relevant factor in its public interest determination, for instance, the extent to which a station's signal will remain available, after implementation of the agreement, to a significant number of its viewers in the licensee's service area.

5. The standards adopted in the *Third R&O* for reviewing regulatory requests made in connection with three-way voluntary agreements will enable the Commission to weigh both the benefits associated with recovery of the spectrum for new wireless uses and any loss of service to the broadcast community. The same loss of service analysis will be applied to both bilateral and three-way band clearing agreements in light of the fact that they will contribute to the same process of facilitating the transition to DTV and clearing the 700 MHz band for new services.

6. Although the factors involved in a loss-of-service analysis will be the same for three-way and bilateral agreements, their application to three-way agreements may in some circumstances require two loss-of-service analyses to assure that effectuation of the agreement would be consistent with the public interest. In those cases, the Commission will do such an analysis separately for: (i) People in the service area of the relocation channel that is temporarily suspending service, and (ii) people in the service area of the Channel 59–69 incumbent. If the two signals— *i.e.,* the relocation channel's signal (Channel 2–58 range) and the relocating channel's signal (Channel 59–69 range)—have been provided from the same location with the same coverage characteristics, the loss-of-service analysis would appear to be identical to that for a bilateral agreement, but with the focus on the loss of the relocation signal rather than the Channel 59–69 signal. Because the Channel 59–69 signal would continue to be available within approximately the same service area, the only loss the Commission would need to focus on would be that of the signal of the relocation channel. In other words, the Commission would need to ascertain that the presumption is met only for the relocation channel. In other circumstances, however, the Commission would need to conduct two separate loss-of-service analyses and each station involved should separately satisfy the requirements set forth to qualify for the favorable presumption. If one of the channels involved does not qualify for the presumption, then the Commission will make a public interest determination on a case-by-case basis. A three-way agreement may also, in some cases, expand a service area. Such expansion, which would generally tend to promote the public interest, would have to be considered in conjunction with any interference issues. The Commission will consider as relevant factors in its public interest determination the extent to which a station's signal remains available to viewers located within its previous service area, as well as the substitution of a relocating station's programming for the programming previously available to viewers of the relocation channel.

7. *Interference Issues.* Interference issues may arise under a three-way agreement that do not arise under a bilateral agreement. Specifically, while a bilateral agreement contemplates that a broadcaster relinquish one of its two TV allotments, a three-way agreement involves the relocation of a Channel 59–69 operation into a lower band allotment, which may potentially give rise to interference issues with respect to neighboring TV stations.

8. The *Third R&O* finds that no interference issues should arise if the relocating station's signal is to be broadcast in the same mode (*i.e.,* the relocation involves an analog operation moving into an analog allotment or a digital operation relocating into a digital allotment) from the same location as the lower band incumbent's signal using the same or lower power and the same or lower antenna height. In all other situations the proposed change must satisfy the Commission's prescribed interference protection standards for digital or analog operations, as applicable, and the Commission will address each such proposed assignment on a case-by-case basis.

9. A modification could, for instance, involve either the relocation of an analog operation or the relocation of a digital operation. If the modification involves the relocation of a digital operation either (i) into an analog allotment; or (ii) into a digital allotment, where the relocated station does not operate at the same location or with the same or lower power and the same or lower antenna height as the lower band incumbent, the Commission will require such modification to comply with the provisions of § 73.623(c) of its rules. That rule section spells out technical criteria for DTV modifications, including minimum desired-to-undesired (''D/U'') signal ratios, which protect co- and adjacent channel DTV and analog assignments from interference. If the modification involves the relocation of an analog operation either (i) into a digital allotment; or (ii) into an analog allotment, where the relocated station does not operate at the same location or with the same or lower power and the same or lower antenna height as the lower band incumbent, the Commission will require such modification to comply with the provisions of §§ 73.610 and 73.698 of its rules in instances where an analog operation may affect the operation of another analog allotment, and the provisions of § 73.623(c) in instances where an analog operation may affect the operation of a digital allotment.

10. The Commission declines to adopt a new ''no interference'' standard that would prohibit any new involuntary interference to existing licensees. The Commission believes that relocation proposals that can be achieved in a manner consistent with its existing interference protection standards should be encouraged so as to facilitate the congressional intent underlying the allocation of these bands for new wireless uses.

11. The Commission will entertain negotiated interference agreements pursuant to § 73.623(g) of its rules, which is limited to possible agreements between relocating DTV stations and any existing TV stations that are entitled to interference protection under the

Commission's rules. Pursuant to that section, parties may reach negotiated agreements, notwithstanding the fact that the agreements would result in increased interference to a DTV or analog television station above the minimum technical criteria for DTV allotments, provided that the station agrees in writing to accept the interference and/or to implement an exchange of channel allotments in the same community, same market, or adjacent markets. Under § 73.623(g), the grant of such applications must be consistent with the public interest. These cases will be reviewed on a case-by-case basis. As with interference agreements negotiated under § 73.623(g) in other contexts, the Mass Media Bureau will evaluate these cases in the first instance, and it is the Commission's intent that the significance of any service gains and losses should be considered seriously in the evaluation of whether the negotiated interference agreement should be approved.

12. The *Third R&O* also confirms that broadcasters may file applications for exchanges of DTV allotments on an intra-community, intra-market, or inter-market basis, provided that the exchanges do not result in additional interference beyond the Commission's *de minimis* standard to other stations or that all affected stations agree to accept any additional interference that would result from the exchange, and that all other requirements of the DTV allotment rules are satisfied with respect to the application(s).

13. The *Third R&O* notes that any interference-related requests in connection with a voluntary band clearing agreement will be considered together with the other regulatory requests to implement that agreement.

14. *Procedural Issues.* In the *Third R&O*, the Commission makes clear its commitment to processing all regulatory requests associated with band clearing agreements as expeditiously as possible. The Commission also clarifies the procedures that will apply to such requests and adopts certain procedural changes designed to streamline the review process. Requests that require a change to the DTV Table of Allotments will generally be subject to existing procedures found in § 73.622 of the Commission's rules. Under certain circumstances, however, the Commission will not use a rulemaking proceeding to make a DTV allotment change. Moreover, the following principles will govern whether the Commission will employ routine part 73 application procedures or rulemaking proceedings, regardless of whether a DTV assignment is being exchanged with another DTV assignment, an analog TV assignment is being exchanged with another analog TV assignment, a DTV assignment is being moved to an analog TV allotment, or an analog TV assignment is being moved to a DTV allotment. Proposals submitted in connection with three-way band clearing agreements where both broadcasters are licensed to the same community and the result will not be the dereservation of a noncommercial educational allotment, will be processed under routine application procedures (*i.e.*, a rulemaking proceeding would not be necessary) and will be subject to public notice and comment procedures. In addition, proposals to change the community of license will be processed under routine application procedures so long as the relocating broadcaster complies with all community-of-license obligations and coverage requirements for both communities, and the situation for the community that is losing a station is consistent with the 700 MHz band-clearing presumptions. In both such cases, the Mass Media Bureau will evaluate these proposals in the first instance, and it is the Commission's intent that the significance of any service gains and losses should be considered seriously in the evaluation of whether the proposal should be approved. The Commission also delegates to the Mass Media Bureau authority to make minor, administrative changes to the analog or DTV Table to reflect changes authorized by the grant of applications, such as changing an analog TV allotment to a DTV allotment. In addition, consistent with the Commission's existing rules, broadcasters will be permitted to negotiate swaps of DTV channel allotments pursuant to application procedures, provided that they comport with existing policies (*i.e.,* exchanges of DTV allotments on an intra-community, intra-market, or adjacent-market basis will be entertained, provided that the exchanges do not result in additional interference beyond the Commission's *de minimis* standard to other stations or that all affected stations agree to accept any additional interference that would result from the exchange, and that all other requirements of the DTV allotment rules are satisfied with respect to the application(s)). The *Third R&O* does note, however, that a rulemaking proceeding will be required in situations in which a broadcaster proposes to add a new channel allotment, to change the community of license of an existing allotment (except in the circumstances mentioned), or to dereserve an existing noncommercial educational allotment, and existing Commission allotment policies will be applied. The *Third R&O* also clarifies that in such rulemaking proceedings to modify the DTV Table of Allotments in conjunction with band clearing agreements, the proposals would not be subject to counterproposals from other parties, as is usually the case in broadcast allotment rulemaking proceedings.

15. In managing the transition to DTV, the Commission has, as a general matter, prohibited broadcasters from terminating their analog service early, and has determined that analog television and DTV facilities should be licensed under a single, paired license. In the *700 MHz MO&O and FNPRM*, the Commission decided to allow early termination of analog service to accommodate voluntary agreements. To effectuate that policy, the *Third R&O* clarifies that a broadcaster will not be jeopardizing its license by agreeing to relinquish one of the two allotments under its license, subject to prior Commission authorization, to effectuate a band clearing agreement. This is a narrow departure from the general principle that the DTV/analog license is a single license and thus that neither channel can be transferred separately. The Commission believes that this approach will, without an undue adverse effect on the public's overall receipt of broadcasting service, expedite the full commercial and public safety use of the 700 MHz spectrum specified in section 337 of the Communications Act of 1934, as amended, and the transition to DTV. The *Third R&O* also clarifies that if as a result of a three-way agreement a broadcaster is left with only an analog television channel, it must convert to DTV by the applicable date set forth in § 73.624(d) of the Commission's rules.

16. *Temporary Relocation to Channels 52–58.* The *Third R&O* does not prohibit voluntary agreements that would result in TV stations currently operating on Channels 60–69 relocating temporarily into Channels 52–58, which will be subject to future licensing for wireless services. The Commission recognizes that there are potential benefits and costs associated with temporary relocation to Channels 52–58 resulting from voluntary agreements. The potential benefit includes allowing the incumbent broadcasters the opportunity to continue operating, while clearing the spectrum for new wireless licensees. The Commission will consider any public interest costs in its review of any requests submitted in connection with voluntary agreements to relocate temporarily into Channels

52–58 under the standards that have been set out in this proceeding.

17. *Secondary Auctions.* A secondary band clearing auction would be a mechanism to determine the price that would be paid by 700 MHz licensees to TV incumbents who agree to clear their channels in the 700 MHz band. The Commission recognized in the *700 MHz MO&O and FNPRM* that a secondary auction mechanism may produce significant benefits, and does not depart from that finding in the *Third R&O.* The Commission also finds that the private sector is better suited to determine what mechanisms interested parties might demand and to implement a secondary auction in a manner that is most responsive to broadcasters' and potential bidders' needs. The Commission does not therefore intend at this time to conduct a secondary auction.

18. The Commission will rely on private secondary auctions and any other such voluntary, comprehensive band clearing arrangements among new 700 MHz licensees and incumbent broadcasters that would result in the voluntary early transition of this band to new services. The Commission cannot know whether individually negotiated arrangements or private auctions will be the more effective voluntary clearing mechanism and supports giving parties a choice, so long as the approach is consistent with Commission policies and rules. Based on the record, the Commission finds that a privately conducted secondary auction may be conducted in a manner that would not interfere with the integrity and operations of the Commission's spectrum auction process. The *Third R&O* reminds parties that where a secondary auction leads to private band clearing agreements, the Commission must approve any regulatory requests necessary to the effectuation of such agreements.

19. *Collusion Issues.* The *Third R&O* clarifies that the Commission's anti-collusion rules, set forth at § 1.2105(c), do not prohibit participation in a secondary auction or band clearing agreements, but that parties need to keep those requirements in mind. For instance, to the extent that negotiating a band clearing agreement or the terms of participation in a secondary auction conveys information about bids, bidding strategies, or settlements to other applicants for licenses in the same geographic license areas in the Commission's auction, such communications would be prohibited while the anti-collusion rule is in effect, unless the parties have identified each other on their short-form applications as parties to a bidding arrangement under § 1.2105(a)(2)(viii). However, to the extent that such negotiations are not with other ''applicants'' for licenses in the same geographic license areas or do not convey prohibited information, such communications would not be prohibited under the anti-collusion rule and negotiations could continue after the short-form deadline. Many of the parties conducting and participating in private secondary band clearing auctions are not likely to be ''applicants'' subject to the Commission's prohibition on collusion.

20. Accordingly, the Commission reminds parties participating in secondary auctions or entering into three-way agreements to remain mindful of their obligations under the Commission's anti-collusion rules. In this regard, the Commission notes that with respect to auctions of licenses in the 700 MHz band, a band clearing agreement or contract to participate in a secondary auction constitutes an agreement that relates to licenses being auctioned, and is covered by the disclosure requirement of § 1.2105(a)(2)(viii). Disclosure of the parties to any agreements on short-form auction applications also provides a ''safe harbor'' against allegations that communications in connection with such agreements constitute communications prohibited under the anti-collusion rules. Where agreements are not reached before the short-form filing deadline, participants in secondary auctions or parties entering into three-way agreements should educate all involved in such activities about these obligations, and might consider establishing procedures to insulate individuals from others' auction-related communications or taking other precautionary steps to prevent collusive conduct from occurring.

21. *Proposal to Cap Clearing Costs.* The Commission will not adopt cost recovery guidelines at this time. The Commission believes that both voluntary clearing agreements and a private secondary auction plan would be more likely to succeed without the use of cost guidelines. Further, the record of this proceeding contains little detail about how to structure any such guidelines.

22. *Digital Must-Carry.* Although the Commission did not seek comment in the *700 MHz MO&O and FNPRM* on the digital must-carry issue, a number of commenters urge the Commission to adopt DTV must-carry rules in order to encourage band clearing. The Commission finds in the *Third R&O* that the requests of commenters in this proceeding for adoption of various DTV must-carry rules have in most respects been resolved in Carriage of Digital Television Broadcast Signals, CS Docket No. 98–120, First Report and Order and Further Notice of Proposed Rulemaking, FCC 01–22, ¶¶52–56 (released January 23, 2001), as well as in WHDT–DT Channel 59, Stuart, Florida, Petition for Declaratory Ruling that Digital Broadcast Stations Have Mandatory Carriage Rights, CSR–5562–Z, Memorandum Opinion and Order, FCC 01–23, ¶¶12–15 (released January 23, 2001). The Commission also defers consideration of other issues raised by commenters, such as the mandatory dual carriage of a station's digital and analog signals during the digital television transition, pending development of an improved record in the DTV Must-Carry proceeding.

23. *Other Relocation Proposals.* Certain commenters argue that, should there be a ''lone holdout'' of an incumbent broadcaster in a market where substantial clearing has occurred, it might well threaten the success of the transition to DTV and the ability of new 700 MHz licensees to deploy rapidly new wireless technologies in this spectrum. Holdouts may be a sign of a market imperfection or failure that might impede the proper functioning of the market, and may prevent efficient outcomes of secondary auctions and band clearing negotiations among new 700 MHz wireless licensees and incumbent Channel 59–69 broadcasters.

24. In the *Third R&O,* the Commission cites its previous observation that in the majority of cases efficient spectrum markets will lead to use of spectrum for the highest value end use, and states its belief that voluntary agreements between broadcasters and licensees should result in the effective clearing of the 700 MHz band. The Commission notes that this view is broadly shared by most commenters, which advocate a voluntary, market-based approach to clearing incumbent broadcast operations from Channels 59–69. However, the Commission will revisit this issue in the future if necessary.

25. *Other Proposals to Accelerate the DTV Transition.* In light of the limited scope of comments on proposals regarding sharing of spectrum, the Commission concludes that there is insufficient interest to warrant adoption of rules of general applicability at this time.

26. *Band Clearing Relating to the Auction of Channels 52–59.* The Commission finds that it is appropriate to gain additional experience with innovative, voluntary band clearing mechanisms before making judgments

about whether to extend them for use in bands other than those used for Channels 60–69. Thus, the Commission defers the issue of employing such mechanisms in conjunction with the auction of spectrum used for Channels 52–59 to its upcoming proceeding on service rules for this spectrum.

Procedural Matters

Regulatory Flexibility Act and Paperwork Reduction Act

27. Section 213 of the Consolidated Appropriations Act, 2000, Public Law 106–113, 113 Stat. 2502, states that the Regulatory Flexibility Act (as well as certain provisions of the Contract With America Advancement Act of 1996 and the Paperwork Reduction Act) shall not apply to the rules and competitive bidding procedures governing the frequencies in the 746–806 MHz band (currently used for television broadcasts on channels 60–69). Because the policies and rules adopted in the *Third R&O* relate only to assignments of those frequencies, no Final Regulatory Flexibility Analysis or Paperwork Reduction Analysis is necessary.

Ordering Clauses

28. Authority for issuance of this *Third R&O* is contained in sections 1, 2, 4(i), 5(c), 7(a), 301, 302, 303, 307, 308, 309(j), 309(k), 311, 316, 319, 324, 331, 332, 333, 336, 337, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157(a), 301, 302, 303, 307, 308, 309(j), 309(k), 311, 316, 319, 324, 331, 332, 333, 336, 337, 614, and 615, the Consolidated Appropriations Act, 2000, Public Law 106–113, 113 Stat. 2502, and § 1.425 of the Commission's rules, 47 CFR 1.425.

29. Accordingly, it is ordered that part 73 of the Commission's rules is amended as specified. Pursuant to section 213 of the Consolidated Appropriations Act, 2000, these rule amendments are effective February 14, 2001. It is further ordered that the Petition for Rulemaking filed by Spectrum Exchange Group, LLC on April 24, 2000 is granted to the extent discussed in the *Third R&O.*

List of Subjects in 47 CFR Part 73

Radio broadcast services, Wireless telecommunications.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

2. Section 73.607 is amended by redesignating the undesignated text as paragraph (a) and adding new paragraph (b) to read as follows:

§ 73.607 Availability of channels.

* * * * *

(b) Notwithstanding paragraph (a) of this section, an application may be filed for a channel or community not listed in the TV Table of Allotments if it is consistent with the rules and policies established in the Third Report and Order in WT Docket 99–168 (FCC 01–25), adopted January 18, 2001. Where such a request is approved, the Mass Media Bureau will change the Table of Allotments to reflect that approval.

3. Section 73.622 is amended by redesignating paragraph (c) as paragraph (c)(1) and adding new paragraph (c)(2) to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(c) * * *

(2) Notwithstanding paragraph (c)(1) of this section, an application may be filed for a channel or community not listed in the DTV Table of Allotments if it is consistent with the rules and policies established in the Third Report and Order in WT Docket 99–168 (FCC 01–25), adopted January 18, 2001. Where such a request is approved, the Mass Media Bureau will change the DTV Table of Allotments to reflect that approval.

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[FR Doc. 01–3711 Filed 2–13–01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 001226367-0367-01; I.D. 1215OOE]

Magnuson-Stevens Act Provisions; Foreign Fishing; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Corrections

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Corrections to the 2001 specifications for the Pacific Coast groundfish fishery.

SUMMARY: This document contains corrections to the 2001 groundfish fishery specifications and management measures for the Pacific Coast groundfish fishery, which were published on January 11, 2001.

DATES: Effective Febraury 14, 2001.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Becky Renko, NMFS, (206) 526–6140.

SUPPLEMENTARY INFORMATION:

Background

The 2001 fishery specifications and management measures for groundfish taken in the U.S. exclusive economic zone and state waters off the coasts of Washington, Oregon, and California, as authorized by the Pacific Coast Groundfish Fishery Management Plan, were published in the **Federal Register** on January 11, 2001 (66 FR 2338). The specifications contained a number of errors that need to be corrected.

Corrections

In the rule FR Doc. 01-560, in the issue of Thursday, January 11, 2001 (66 FR 2338), make the following corrections:

1. On page 2359, in the third column, the first five lines of paragraph IV.A (6)(e)(ii), and paragraph IV.A (6)(e)(ii)(A) are corrected to read as follows: ''used. To determine the round weight, multiply the processed weight times the conversion factor.

(A) Headed and gutted. The conversion factor for headed and gutted lingcod is 1.5.''

2. On page 2362 in the second and third columns, paragraphs IV.A. (20)(i) and (ii) are corrected to read as follows:

''(i) The western CCA is an area south of Point Conception that is bound by

straight lines connecting all of the following points in the order listed:

33°50′ N. lat., 119°30′ W. long.;
33°50′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 119°30′ W. long.;
33°00′ N. lat., 119°30′ W. long.;
33°00′ N. lat., 119°50′ W. long.;
33°30′ N. lat., 119°50′ W. long.;
33°30′ N. lat., 119°30′ W. long.;

and connecting back to 33°50′ N. lat, 119°30 W. long''.

''(ii) The Eastern CCA is a smaller area west of San Diego that is bound by straight lines connecting all of the following points in the order listed:

32°40′ N. lat., 118°00′ W. long.;

32°40′ N. lat., 117°50′ W. long.;

32°30′ N. lat., 117°50′ W. long.;

32°30′ N. lat., 118°00′ W. long.;

and connecting back to 32°40′ N. lat., 118°00′ W. long''.

3. On page 2363, in the first column at the bottom of the page, insert ''B.'' before ''Limited Entry Fishery''.

4. Tables 3 and 4 on pages 2365-2366 are corrected to read as follows:

BILLING CODE 3510–22–S

Table 3. 2001 Trip Limits [1/] and Gear Requirements [2/] for Limited Entry Trawl Gear
Read Section IV.A. NMFS Actions before using this table.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	1,500 lb/ 2 months		1,500 lb/ 2 months			1,500 lb/ 2 months
3	South	14,000 lb/ 2 months		14,000 lb/ 2 months			14,000 lb/ 2 months
4	**Splitnose - South**	8,500 lb/ 2months		14,000 lb/ 2 months			4,000 lb/ 2 months
5	**Pacific ocean perch[6/]**	1,500 lb/ month		2,500 lb/ month			1,500 lb/ month
6	**DTS complex - North**						
7	Sablefish	5,000 lb/ 2 months		14,000 lb/ 2 months			5,000 lb/ 2 months
8	Longspine thornyhead	6,000 lb/ 2 months		6,000 lb/ 2 months			6,000 lb/ 2 months
9	Shortspine thornyhead	1,500 lb/ 2 months		1,500 lb/ 2 months			1,500 lb/ 2 months
10	Dover sole	65,000 lb/ 2 months		20,000 lb/ 2 months			20,000 lb/ 2 months
11	**DTS complex - South**						
12	Sablefish	8,000 lb/ 2 months		11,000 lb/ 2 months			8,000 lb/ 2 months
13	Longspine thornyhead	6,000 lb/ 2 months		6,000 lb/ 2 months			6,000 lb/ 2 months
14	Shortspine thornyhead	1,500 lb/ 2 months		1,500 lb/ 2 months			1,500 lb/ 2 months
15	Dover sole	35,000 lb/ 2 months		35,000 lb/ 2 months			35,000 lb/ 2 months
16	**Flatfish - North**						
17	Arrowtooth flounder	20,000 lb/ trip		Small footrope: 30,000 lb/ month for all flatfish except Dover sole. Large footrope: arrowtooth, 5,000 lb/trip; petrale sole, prohibited; rex sole, included in all other flatfish; all other flatfish, 1,000 lb/ trip.			20,000 lb/ trip
18	Petrale sole	No restriction					No restriction
19	Rex sole	No limit					No limit
20	All other flatfish [3/]	small footrope, no limit; large footrope, 1,000 lb/ trip					small footrope, no limit; large footrope, 1,000 lb/ trip
21	**Flatfish - South**						
22	Arrowtooth flounder	20,000 lb/ trip		small footrope, no limit; large footrope, 5,000 lb/ trip			20,000 lb/ trip
23	Petrale sole	No restriction		No limit (small footrope required)			No restriction
24	Rex sole	No limit					
25	All other flatfish [3/]	small footrope, no limit; large footrope, 1,000 lb/ trip					
26	**Whiting shoreside [4/]**	20,000 lb/ trip		Primary Season			20,000 lb/ trip
27	**Use of small footrope bottom trawl[5/] or midwater trawl required for landing all of the following species:**						
28	**Minor shelf rockfish**						
29	North	300 lb/ month		1,000 lb/ month			300 lb/ month
30	South	500 lb/ month		1,000 lb/ month			500 lb/ month
31	**Canary rockfish**	100 lb/ month		300 lb/ month			100 lb/ month
32	**Widow rockfish**						
33	mid-water trawl	20,000 lb/ 2 months		10,000 lb/ 2 months		20,000 lb/ 2 months	10,000 lb/ 2 months
34	small footrope trawl	1,000 lb/ month					
35	**Yellowtail - North[6/]**						
36	mid-water trawl	30,000 lb/ 2 months		15,000 lb/ 2 months			20,000 lb/ 2 months
37	small footrope trawl	Without flatfish, 1,500 lb/ month. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 2,500 lb/ trip and 30,000 lb/ 2 months.		Without flatfish, 1,500 lb/ month. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 7,500 lb/ trip and not to exceed 15,000 lb/ 2 months.			Without flatfish, 1,500 lb/ month. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 2,500 lb/ trip and 20,000 lb/ 2 months
38	**Bocaccio - South[6/]**	300 lb/ month		500 lb/ month			300 lb/ month
39	**Chilipepper - South[6/]**						
40	mid-water trawl	25,000 lb/ 2 months					
41	small footrope trawl	7,500 lb/ 2 months					
42	**Cowcod**	**Retention is Prohibited**					
43	**Minor nearshore rockfish**						
44	North	200 lb/ month					
45	South	200 lb/ month					
46	**Lingcod[7/]**	No retention		400 lb/ month			No retention

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. To the U.S.-Canada border. "South" means 40°10' N. lat. To the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.

2/ Gear requirements and prohibitions are explained at paragraph IV.A.(14)

3/ "Other" flatfish means all flatfish at 50 CFR 660.302 except those in this Table 3 with a trip limit.

4/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. See IV.B.(3)c). The 20,000 lb/ trip limit applies before and after the primary season.

5/ Small footrope trawl means a bottom trawl net with a footrope no larger than 8 inches (20 cm) in diameter. Midwater gear also may be used; the footrope must be bare. See paragraph IV.A. (14).

6/ Yellowtail rockfish and POP in the south, and bocaccio, and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area (Table 2).

7/ The size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4. 2001 Trip Limits[1/] for Limited Entry Fixed Gear
Read Section IV.A. NMFS Actions before using this table.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG SEP-OCT	NOV-DEC
1	**Minor slope rockfish**					
2	North	1,500 lb/ 2 months		1,500 lb/ 2 months		1,500 lb/ 2 months
3	South	14,000 lb/ 2 months		14,000 lb/ 2 months		14,000 lb/ 2 months
4	**Splitnose - South**	8,500 lb/ 2months		14,000 lb/ 2 months		4,000 lb/ 2 months
5	**Pacific ocean perch 5/**	1,500 lb/ month		2,500 lb/ month		1,500 lb/ month
6	**Sablefish**					
7	North of 36° N. lat.	300 lb/ day, 2,700 lb/ 2 months				
8	South of 36° N. lat.	350 lb/ day, or I landing per week of up to 1,050 lb				
9	**Longspine thornyhead**	6,000 lb/ 2 months		6,000 lb/ 2 months		6,000 lb/ 2 months
10	**Shortspine thornyhead**	1,500 lb/ 2 months		1,500 lb/ 2 months		1,500 lb/ 2 months
11	**Dover sole**					
12	North	65,000 lb/ 2 months		20,000 lb/ 2 months		20,000 lb/ 2 months
13	South	35,000 lb/ 2 months		35,000 lb/ 2 months		35,000 lb/ 2 months
14	**Flatfish - North**					
15	Arrowtooth flounder	20,000 lb/ trip		30,000 lb/ month for all flatfish except Dover sole		20,000 lb/ trip
16	Petrale sole	No restriction				No restriction
17	Rex sole	No limit				No limit
18	All other flatfish 2/	No limit				No limit
19	**Flatfish - South**					
20	Arrowtooth flounder	20,000 lb/ trip		No limit		20,000 lb/ trip
21	Petrale sole	No limit				
22	Rex sole	No limit				
23	All other flatfish 2/	No limit				
24	**Whiting 3/**	20,000 lb/ trip		Primary Season		20,000 lb/ trip
25	**Minor shelf rockfish**					
26	North	300 lb/ month		1,000 lb/ month		300 lb/ month
27	South					
28	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED 4/		1,000 lb/ month	500 lb/ month
29	South of 34°27' N. lat.	CLOSED 4/	500 lb/ month			
30	**Canary rockfish**					
31	North	100 lb/ month		300 lb/ month		100 lb/ month
32	South					
33	40°10' - 34°27' N. lat.	100 lb/ month	CLOSED 4/		300 lb/ month	100 lb/ month
34	South of 34°27' N. lat.	CLOSED 4/	100 lb/ month			
35	**Widow rockfish**					
36	North	3,000 lb/ month				
37	South					
38	40°10' - 34°27' N. lat.	3,000 lb/ month	CLOSED 4/		3,000 lb/ month	
39	South of 34°27' N. lat.	CLOSED 4/	3,000 lb/ month			
40	**Yellowtail - North 5/**	1,500 lb/ month				
41	**Bocaccio - South 5/**					
42	40°10' - 34°27' N. lat.	300 lb/ month	CLOSED 4/		500 lb/ month	300 lb/ month
43	South of 34°27' N. lat.	CLOSED 4/	300 lb/ month			
44	**Chilipepper - South 5/**					
45	40°10' - 34°27' N. lat.	2,500 lb/ month	CLOSED 4/		2,500 lb/ month	
46	South of 34°27' N. lat.	CLOSED 4/	2,500 lb/ month			
47	**Cowcod**	**CLOSED 4/ -- All Retention is Prohibited**				
48	**Minor nearshore rockfish**					
49	North	10,000 lb/ 2 months, no more than 4,000 lb of which may be species other than black or blue rockfish 6/				
50	South					
51	40°10' - 34°27' N. lat.	2,000 lb/ 2 months	CLOSED 4/	Shoreward of 20 ftm depth: 2,000 lb/ 2 months, otherwise CLOSED 4/	2,000 lb/ 2 months	
52	South of 34°27' N. lat.	Shoreward of 20 ftm depth: 2,000 lb/ 2 months, otherwise CLOSED 4/	2,000 lb/ 2 months			
53	**Lingcod 7/**					
54	North	CLOSED 4/		400 lb/ month		CLOSED 4/
55	South					
56	40°10' - 34°27' N. lat.	CLOSED 4/			400 lb/ month	CLOSED 4/
57	South of 34°27' N. lat.	CLOSED 4/		400 lb/ month		CLOSED 4/

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. To the U.S.-Canada border. "South" means 40°10' N. lat. To the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.
2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 4 with a trip limit.
3/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. See IV.B.(3)c).
4/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7). in the time or area indicated. See IV.A.(7).
5/ Yellowtail rockfish and POP in the south, and bocaccio, and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area (Table 2).
6/ The "per trip limit for black rockfish off Washington also applies. See paragraph IV.B.(4).
7/ The size limit for lingcod is 24 inches (61 cm) in the north, and 26 inches (66 cm) in the south, total length.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Dated: February 7, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–3771 Filed 2–13–01; 8:45 am]

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Proposed Rules

Federal Register

Vol. 66, No. 31

Wednesday, February 14, 2001

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. 01–03]

RIN 1557–AB14

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R–1097]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AC47

Capital; Leverage and Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Nonfinancial Equity Investments

AGENCIES: Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The OCC, Board, and FDIC (collectively, the agencies) are requesting comment on a proposed rule that would establish special minimum regulatory capital requirements for equity investments in nonfinancial companies. The proposed capital treatment would apply symmetrically to equity investments of banks and bank holding companies. As described in detail below, the proposal would apply a series of marginal capital charges on covered equity investments that increase with the level of a banking organization's overall exposure to equity investments relative to the organization's Tier 1 capital. The proposal replaces the capital proposal issued for public comment by the Board in March 2000 (Docket No. R–1067).

DATES: Comments must be received by April 16, 2001.

ADDRESSES:

OCC: Comments should be addressed to Docket No. 01–03, Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by facsimile transmission to fax number (202) 874–5274 or by electronic mail to regs.comments@occ.treas.gov. Comments will be available for inspection and photocopying at the same location.

Board: Comments directed to the Board should refer to Docket No. R–1097 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 Ms. Johnson also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m., weekdays, or the security control room in the Eccles Building courtyard on 20th Street, NW (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: Written comments should be addressed 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. Comments may be submitted electronically to *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.

FOR FURTHER INFORMATION CONTACT:

OCC: Tommy Snow, Director, Capital Policy (202/874–5070); Karen Solomon, Director (202/874–5090), or Ron Shimabukuro, Senior Attorney (202/874–5090), Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Scott G. Alvarez, Associate General Counsel (202/452–3583), Kieran J. Fallon, Senior Counsel (202/452–5270), or Camille M. Caesar, Counsel (202/452–3513), Legal Division; Jean Nellie Liang, Chief, Capital Markets (202/452–2918), Division of Research & Statistics; Michael G. Martinson, Associate Director (202/452–3640) or James A. Embersit, Assistant Director (202/452–5249), Capital Markets, Division of Banking Supervision and Regulation; Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, D.C. 20551.

FDIC: Mark S. Schmidt, Associate Director, (202/898–6918), Stephen G. Pfeifer, Examination Specialist, Accounting Section (202/898–8904), Curtis Vaughn, Examination Specialist (202/898–6759), Division of Supervision; Michael B. Phillips, Counsel, (202/898–3581); Thelma W. Diaz, Counsel (202/898–3765), Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

A. Background

1. Description of Original Capital Proposal

In March, 2000, the Board in connection with publishing an interim rule implementing provisions of the Gramm-Leach-Bliley Act (GLB Act) that allow financial holding companies to engage in merchant banking activities, invited public comment on a proposal to establish capital requirements governing investments by bank holding companies in nonfinancial companies. (See 65 FR 16480). The capital proposal would assess, at the holding company level, a 50 percent capital charge on the carrying value of each investment.

The capital proposal applied to investments, including equity and debt instruments under some circumstances, made by a bank holding company under any of its equity investment authorities, including its merchant banking authority, investment authority under Regulation K, authority to make investments through small business investment companies, authority to hold indirectly investments under section 24 of the Federal Deposit Insurance Act, and authority to make investments in

less than 5 percent of the shares of any company under sections 4(c)(6) and 4(c)(7) of the Bank Holding Company Act (BHC Act). This capital proposal did not apply, however, to shares that a bank holding company acquires in a company engaged only in financial activities, acquires in connection with its securities underwriting, dealing or market making activities and held in trading accounts, or acquires through an insurance underwriting company.

2. Brief Summary of Comments

The Board and the Secretary of the Treasury together received more than 130 comments on the capital proposal. Commenters included members of Congress, other federal agencies, state banking departments, banking organizations, securities firms, trade associations for the banking and securities industries, law firms and individuals. Many commenters acknowledged that equity investment activities involve greater risks than traditional banking activities. For example, a trade association for the banking industry fully supported the proposed capital charge as appropriate to protect banking organizations and the financial system from the risks associated with merchant banking investment activities.

Most commenters, however, opposed the capital proposal or one or more aspects of the proposal. Some commenters contended that the proposal, by applying a uniform 50-percent charge to all equity investments, failed adequately to take into account risk variances between different types of equity investments (*e.g.,* private equity investments vs. investments in publicly traded stocks) or between different investment portfolios. A number of commenters argued that the proposal would frustrate Congress' desire to permit a ''two-way street'' between securities firms and banking organizations or would place bank holding companies, and particularly those with large equity investment portfolios, at a disadvantage in competing with nonbanking organizations and foreign banking organizations in the market for making equity investments. Some commenters also contended that the Board lacked the authority to establish special capital requirements for merchant banking and similar equity investments.

Many commenters acknowledged that the internal capital models developed by banking organizations and securities firms frequently require equity investment activities to be supported by significant amounts of capital. Some commenters argued that banking organizations should be permitted to use their internal capital models to determine the appropriate amount of regulatory capital needed to support their investment activities. Others argued that, because banking organizations use internal models for a variety of purposes, it is not appropriate for the agencies to rely on selected data from those models as a principal basis for establishing a minimum regulatory capital requirement for equity investments. Commenters also argued that the banking agencies should not use data derived from internal models to support establishing a high regulatory capital requirement for equity investments without also using the data from these models to reduce the amount of regulatory capital needed to support more traditional banking assets, such as consumer and commercial loans.

Many commenters suggested specific amendments or alternatives to the proposed capital charge. For example, some commenters suggested that the Board rely solely on the examination and supervisory process, as well as market discipline, to ensure that a bank holding company maintains adequate capital to support its equity investment activities. Other commenters argued that the proposal should be replaced with a rule that prohibits bank holding companies from including any unrealized gains on equity investments in their regulatory capital. Some commenters argued that the proposal should be amended to impose a lower capital charge on equity investments such as, for instance, by assigning equity investments a 200 percent risk-weight or by applying a capital charge higher than the current minimums only to equity investments that exceed some threshold amount of the banking organization's Tier 1 capital (*e.g.,* 30 percent).

Some commenters argued that a higher capital charge should be limited only to merchant banking investments made by financial holding companies under the new merchant banking authority in the GLB Act, and should not be applied to past or future investments made by banking organizations under other statutory authorities. Other commenters requested that specific investment authorities be excluded from the proposal. For example, a number of commenters argued that the proposal should not apply to investments made by small business investment company (SBIC) subsidiaries of a banking organization because SBICs are an important source of capital for small businesses, are subject to oversight by the Small Business Administration, and have not historically caused significant losses at banking organizations. Many state banking institutions also argued that the proposal should not apply to the equity investments made by state banks under the special grandfather provisions of section 24(f)(2) of the Federal Deposit Insurance Act (FDI Act). Others asserted that the capital charge should not be applied to investments approved on a case-by-case basis by the FDIC under section 24 of the FDI Act, to investments made under section 4(c)(6) or 4(c)(7) of the BHC Act, or to debt instruments.

A number of commenters asserted that a capital charge higher than the current minimums should not be applied to equity investments actually made prior to issuance of the capital proposal. Commenters argued that the business decisions concerning these investments were made based on the capital rules then in effect, and that applying a new, higher capital charge to these pre-existing investments would be unfair.

B. Revised Capital Adequacy Proposal

The Board has carefully reviewed the comments regarding its initial capital proposal. In addition, the Board has consulted with the Treasury Department and has worked with the other Federal banking agencies to improve the proposal and to develop capital standards that would apply uniformly to equity investments held by bank holding companies and those held by depository institutions.

The new proposal attempts to balance the concerns of commenters with the belief of the Federal banking agencies that banking organizations must maintain sufficient capital to offset the risk of an activity that generally involves risks that are higher than the risks associated with many traditional banking activities. In striking this balance, the new proposal focuses on establishing a regulatory capital requirement that the Federal banking agencies believe represents the minimum capital levels consistent with the safe and sound conduct of equity investment activities. The agencies fully expect that individual banking organizations in most cases will allocate higher economic capital levels, as appropriate, commensurate with the risk in the individual investment portfolios of the company.

The banking agencies have been guided by several principles in considering the appropriate levels of capital that should be required as a regulatory minimum to support equity investment activities. First, equity investment activities in nonfinancial

companies generally involve greater risks than traditional bank and financial activities. Analysis of the annual returns for a diversified portfolio of publicly-traded small cap stocks over the past seventy-five years indicates that capital levels well in excess of the current regulatory minimum capital levels for banking organizations may be needed to support equity investment activities with the level of financial soundness expected of organizations that control insured depository institutions. Over the past twenty-five years, a study of venture capital investment firms indicates that, while some of these firms did very well, nearly 20 percent of these firms failed and a substantial number of others achieved only modest returns. Two national rating agencies have indicated that the private equity business is largely funded with equity capital and that equity portfolios, including mature and well diversified equity portfolios, require substantially more capital than loans.

Firms and institutional investors that engage to a significant degree in equity investment activities typically support their equity investment activities with high levels of capital—often dollar for dollar—due to the greater risk and illiquidity of these types of investments and the higher leverage that often is employed by portfolio companies. In fact, the vast majority of commenters did not disagree that equity investment activities are riskier than traditional banking activities or that it is prudent to fund these types of investment activities with higher levels of capital.

For these reasons, the agencies believe that capital in excess of the current regulatory minimum capital levels for more traditional banking activities should be required to allow a banking organization to conduct equity investment activities in a safe and sound manner.

A second and related principle that guided the agencies in considering this new proposal is that the financial risks to an organization engaged in equity investment activities increase as the level of their investments accounts for a larger portion of the organization's capital, earnings and activities. Banking organizations have for some time engaged in equity investment activities using various authorities, including primarily SBICs and authority to make limited passive investments under sections 4(c)(6) and (7) of the BHC Act. When the current capital treatment, which requires a minimum of 4% Tier 1 capital (6% in the case of depository institutions that must meet the regulatory well-capitalized definition) was developed, these equity investment activities by bank holding companies and banks were small in relation to the more traditional lending and other activities of these organizations.

The level of these investment activities has grown significantly in recent years, however. For example, investments made through SBICs owned by banking organizations have alone more than doubled in the past 5 years. In addition, the merchant banking authority granted to financial holding companies by the GLB Act provides significant new authority to make equity investments without many of the restrictions that apply to other authorities currently used by banking organizations to make these investments. The agencies believe that it is appropriate to revisit the regulatory capital requirements applicable to equity investment activities in light of the dramatic growth in banking organizations' equity investment activities through existing authorities and the grant of this new and expanded merchant banking authority.

A third principle guiding the agencies' efforts is that the risk of loss associated with a particular equity investment is likely to be the same regardless of the legal authority used to make the investment or whether the investment is held in the bank holding company or in the bank. In fact, the agencies' supervisory experience is that banking organizations are increasingly making investment decisions and managing equity investment risks across legal entities as a single business line within the organization. These organizations use different legal authorities available to different legal entities within the organization to conduct a unified equity investment business.

In light of these principles, the agencies propose to amend their respective capital regulations and guidelines to establish special minimum regulatory capital requirements for equity investments in nonfinancial companies as described herein. This capital treatment would apply symmetrically to equity investment activities of bank holding companies and banks. Importantly, this new proposal applies a series of marginal capital charges that increase with the level of a banking organization's overall exposure to equity investment activities relative to the institution's Tier 1 capital.

The Board, the OCC, and the FDIC each propose to amend their respective capital regulations and guidelines applicable to banks to incorporate the capital treatment described below. In addition, the Board proposes to amend its capital guidelines and regulations that apply on a consolidated basis to bank holding companies as described below.

The agencies invite comment on all aspects of the proposal.

1. Scope of Coverage

The proposed capital treatment discussed below would apply only to equity investments in nonfinancial companies. Specifically, the proposed capital treatment would apply to equity investments made in nonfinancial companies:

- By financial holding companies under the merchant banking authority of section 4(k)(4)(H) of the BHC Act;
- By bank holding companies (including financial holding companies) in less than 5 percent of the shares of a nonfinancial company under the authority of section 4(c)(6) or 4(c)(7) of the BHC Act;
- By bank holding companies (including financial holding companies) or banks in nonfinancial companies through SBICs;
- By bank holding companies (including financial holding companies) or banks under Regulation K; and
- By banking organizations under section 24 of the Federal Deposit Insurance Act.

Many commenters, including a number of members of Congress, argued that investments in SBICs should not be subject to higher capital requirements. These commenters contended that SBICs serve the important public purpose of encouraging the development and funding of small businesses and that SBICs owned by banking organizations have generally been profitable to date.

Congress has, through the Small Business Investment Act, expressed its desire to facilitate the funding of small businesses through SBICs and has by statute imposed limits on the formation, operation, funding and investments of SBICs. Congress has also imposed special limitations on the amount of capital that a banking organization may invest in an SBIC. In light of this congressional intent and these statutory limits, the revised proposal would not apply any special capital charge to investments in nonfinancial companies held by SBICs owned by banks or bank holding companies so long as these investments remain within traditional limits.

The agencies note, however, that SBICs have grown significantly in the past few years, in part because of the appreciation of the value of SBIC investments on their books. Reflecting both the specific congressional

preference for SBICs and the appreciation in the value of SBIC investments, the proposal would apply special capital charges to equity investments made through SBICs only when the carrying value of those investments exceeds certain high thresholds relative to Tier 1 capital. The agencies note that nearly all SBICs owned by banking organizations currently are below the thresholds proposed.

Commenters requested clarification regarding whether the capital charge would apply to certain other types of equity investments, including in particular investments in companies that engage solely in banking and financial activities that the investing company could conduct directly. Banking organizations have special expertise in managing the risks associated with financial activities. As a result, neither the original proposal made by the Board nor the new proposal by the banking agencies would apply to equity investments made in companies that engage in banking or financial activities that are permissible for the investing bank holding company or bank, as relevant, to conduct directly. The proposal also would not apply to an equity investment made under Regulation K in any company that is engaged solely in activities that have been determined to be financial in nature or incidental to financial services.

A number of commenters, requested that the agencies clarify whether the capital proposal would apply to equity securities held in a trading account. The new proposal does not apply to securities that are held in a trading account in accordance with applicable accounting principles and as part of an underwriting, market making or dealing activity. Several commenters also requested clarification regarding whether the proposal would apply to investments that the primary supervisor of the bank or bank holding company has determined to be designed primarily to promote the public welfare and are held in community development corporations. The proposal would not apply to these investments.

Many commenters argued that the proposed capital treatment should not be applied to investments in nonfinancial companies held by state banks in accordance with section 24 of the FDI Act. Commenters argued that state banks, especially state banks located in New England, have been authorized to make limited amounts of equity investments for more than 50 years and that these investments have provided diversification to their earnings when loans have been unprofitable.

Section 24 of the FDI Act allows state banks to retain equity investments in nonfinancial companies made pursuant to state law under certain circumstances. In particular, section 24(f) permits certain state banks to retain shares of publicly traded companies and registered investment companies if the investment was permitted under a state law enacted as of a certain date, the state bank engaged in the investment activity as of a certain date and the total amount of equity investments made by the bank does not exceed the capital of the bank. Commenters argued that Congress specifically considered the risks to state banks from these investments when deciding to grandfather these equity investment activities.

In addition to this grandfathered investment authority, a state bank may hold equity in other nonfinancial companies if the FDIC determines that the investment does not pose a significant risk to the deposit insurance fund. The FDIC is empowered to establish and has established higher capital requirements and other limitations on equity investments of state banks held under this authority, such as investments in companies engaged in real estate investment and development activities. The FDIC has to date in most cases required state banks that make these investments to limit the amount of the investment and to deduct these investments from the bank's capital, effectively imposing a 100 percent capital charge on these investments.

For these reasons, the agencies propose to exclude from the special capital charge any investment in a nonfinancial company held by a state bank in accordance with the grandfather provisions of section 24(f) of the FDI Act. The proposal would apply to other equity investments in nonfinancial companies held by state banks in accordance with other provision of section 24.[1]

A few commenters argued that the capital proposal should not be applied to any equity investment made by a bank or bank holding company prior to March 13, 2000. These investments were made at a time when the agencies had not proposed a higher regulatory capital charge, are modest in amount at most banking organizations, and will be liquidated over time. As explained below, the new capital proposal establishes a marginal capital structure that is different and, on average, lower than the original proposal. The new proposal also provides that no special capital charge would be imposed on investments made through an SBIC within certain thresholds. SBICs hold a very large portion of the investments made prior to March 13, 2000, by banking organizations. In light of these changes, the agencies request comment on whether it is necessary or appropriate to grandfather the individual investments made prior to March 13, 2000. The agencies also request comment on the alternative of allowing banking organizations to phase in over a period of time (such as 3 years) the proposed capital standards with regard to investments made prior to March 13, 2000.

Commenters also argued that capital charges should not apply to debt that is extended to companies in which an organization has made an equity investment. The original proposal would have applied the proposed capital charge to any debt instrument with equity features (such as conversion rights, warrants or call options). In addition, the proposal would have applied a higher capital charge to any other type of debt extended to a company if the debt instrument is held by a banking organization that also owns at least 15 percent of the equity of the company. The original proposal included exceptions for short-term, secured credit provided for working capital purposes, any extension of credit that meets the collateral requirements of section 23A of the Federal Reserve Act, any extension of credit that is guaranteed by the U.S. Government, and any extension of credit at least 50 percent of which is sold or participated out to unaffiliated parties.

Commenters noted that the legal doctrine of equitable subordination affects the ability of investors to make loans to portfolio companies that serve as the functional equivalent of equity. Under this doctrine, courts in bankruptcy proceedings have, under certain circumstances, subordinated the claims of creditors that are also investors in a company to the claims of other creditors, effectively treating the debt held by the investor as if the debt were equity.

After considering the comments on this matter, the agencies have revised the approach to debt instruments with

[1] Under the proposal, the Board of Directors of the FDIC, acting directly, may, in exceptional cases and after a review of the proposed activity, permit a lower capital deduction for investments approved by the Board of Directors under section 24 of the FDI Act so long as the bank's investments under section 24 and SBIC investments represent, in the aggregate, less than 15 percent of the Tier 1 capital of the bank. The FDIC and the other banking agencies reserve the authority to impose higher capital charges where appropriate.

equity features. The new proposal applies the proposed capital treatment to equity features of debt (such as warrants and options to purchase equities in nonfinancial companies) and to debt instruments convertible into equity investments in nonfinancial companies where the equity feature or instrument is held under one of the authorities listed above. The primary supervisor will monitor the use of debt held under any authority as a method for providing the equivalent of equity funding to portfolio companies, and may, on a case-by-case basis in the supervisory process, require banking organizations to maintain higher capital against debt where circumstances indicate that the debt serves as the functional equivalent of equity.

The original capital proposal made by the Board did not apply to equity investments made under section 4(k)(4)(I) of the BHC Act by an insurance underwriting affiliate of a financial holding company, and the revised proposal continues that approach. These investments generally are already subject to higher capital charges under state insurance laws. The Board requests comment regarding whether special capital requirements or other supervisory restrictions should be applied to assure that financial holding companies do not use insurance underwriting companies to arbitrage any differences in the capital requirements on equity investment activities that apply to insurance companies and other financial holding company affiliates. To the extent appropriate, the Board will address these matters in a separate proposal regarding the appropriate method for accounting for insurance companies under the Board's consolidated capital adequacy guidelines applicable to financial holding companies.

The agencies believe that the authorities discussed above cover the principal authorities available to banking organizations to make equity investments in companies that engage in nonfinancial activities. The agencies request comment on whether there are other investment activities that should be covered by this capital proposal.

As noted above, the new proposal would apply the special capital charge to investments in nonfinancial companies made in accordance with the portfolio investment provisions of Regulation K. This includes investments made through so-called Edge Act and Agreement corporations. This special capital treatment would not apply, for example, to the ownership of equity securities held by an Edge Act or Agreement corporation to hedge equity derivative transactions for foreign customers. The agencies request comment on whether it is appropriate to apply the capital charge to investments made through Edge Act corporations and Agreement corporations in nonfinancial companies overseas.

2. Capital Charges

As noted above, the agencies propose to amend their respective capital guidelines and rules to apply a different charge to equity investments in nonfinancial companies than is currently applied to traditional banking investments and activities. This proposal would apply symmetrically to banks and bank holding companies. This proposal would not have a significant effect on the capital levels of any major banking organization based on current investment levels.

The proposal involves a progression of capital charges that increases with the size of the aggregate equity investment portfolio of the banking organization relative to its Tier 1 capital. This approach takes account of the greater impact that losses in a larger portfolio of equity investments relative to capital may have on the financial condition of a banking organization.

As explained in the attached proposed amendment to the capital rules, the proposed capital charge would be applied by making a deduction from the organization's Tier 1 capital. This deduction would be based on the adjusted carrying value of equity investments in nonfinancial companies. The adjusted carrying value is the value at which the relevant investment is recorded on the balance sheet, reduced by net unrealized gains that are included in carrying value but that have not been included in Tier 1 capital and associated deferred tax liabilities.

For the reasons explained above, no additional capital charge would be applied to SBIC investments made by a bank or bank holding company, so long as the adjusted carrying value of the investments does not exceed 15 percent of the Tier 1 capital of the depository institution that holds the investment or, in the case of an SBIC held directly by the bank holding company, 15 percent of the pro rata Tier 1 capital of all depository institutions controlled by the bank holding company. These investments would be included, however, in determining the aggregate size of the organization's investment portfolio for purposes of applying the marginal capital charges discussed below.

For all investments other than SBIC investments, an 8 percent Tier 1 capital charge would be applied so long as the adjusted carrying value of all such investments (plus all SBIC investments and other covered investments) represent less than 15 percent of Tier 1 capital. This difference in treatment for investments made outside of an SBIC recognizes the special limits that have been imposed on the operations of SBICs and preferences that Congress has granted to SBICs.

In the case of a portfolio of covered investments that, in the aggregate (including SBIC investments and other covered investments), exceeds 15 percent of the organization's Tier 1 capital, a 12 percent Tier 1 capital charge would apply to the portion of the portfolio above the 15 percent threshold. The 12 percent marginal charge would apply to the adjusted carrying value of equity investments up to 25 percent of Tier 1 capital. In the case of a portfolio of covered investments that, in the aggregate, exceeds 25 percent of the organization's Tier 1 capital, a 25 percent marginal Tier 1 capital charge would apply to the portion of the portfolio above the 25 percent threshold. The following table, which is included in the proposed regulation, reflects these capital charges.

TABLE 1.—DEDUCTION FOR NONFINANCIAL EQUITY INVESTMENTS

Aggregate adjusted carrying value of all nonfinancial equity investments held by the bank or bank holding company (as a percentage of the Tier 1 capital of the bank or bank holding company) [2]	Deduction from Tier 1 Capital (as a percentage of the adjusted carrying value of the investment)
Less than 15 percent	8 percent
15 percent to 24.99 percent.	12 percent
25 percent and above	25 percent

[2] For purposes of calculating the percentage of equity investments relative to Tier 1 capital, 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, but prior to the deduction for deferred tax assets and nonfinancial equity investments.

The agencies propose to apply heightened supervision to the equity investment activities of banking organizations as appropriate, including in the event that the adjusted carrying value of all nonfinancial equity investments represents more than 50 percent of the organization's Tier 1 capital. The agencies may in any case impose a higher minimum capital charge on an organization as appropriate in light of the risk management systems;

risk, nature, size and composition of the organization's investments; market conditions; and other relevant information and circumstances.

In the event that the agencies determine not to apply this special capital charge to equity investments made by a banking organization prior to March 13, 2000, the agencies propose to include the adjusted carrying value of an organization's investment portfolio made in grandfathered investments for purposes of determining the appropriate marginal capital charge on investments that are not grandfathered.

Commenters questioned how the original capital proposal would apply to investments held through equity investment funds, in particular, through investment partnerships where the holding company may control the fund, usually through its role as general partner, but is not the sole participant in the fund. As noted in the original proposal, the capital charge in such instances would apply only to the holding company's proportionate share of the fund's investments. Such treatment would apply even if the partnership is consolidated in the holding company's financial reporting statements. Similarly, the new proposal provides that minority interest resulting from any such consolidation would not be included in the Tier 1 capital of the holding company. Such minority interest is not available to support the overall financial business of the holding company.

Similar treatment is proposed for minority interest with respect to investments in nonfinancial companies under the authorities covered by the proposal. Generally, it would not be expected that any nonfinancial company whose shares are acquired pursuant to these authorities would be consolidated, either because the investment is temporary as in the case of merchant banking investments, or limited to a minority interest. However, if consolidation does occur, any resulting minority interest must be excluded from Tier 1 capital because the minority interest is not available to support the general financial business of the banking organization.

The agencies invite comment on all aspects of the proposal, including in particular on the proposed marginal capital charges and the methods for calculating and applying the deduction to capital. The agencies recognize that the proposed capital deduction may have an effect on the calculation of the leverage ratio for the banking organization. Accordingly, the agencies also request comment on whether this effect is likely to be significant, whether an adjustment should be permitted to account for this effect, and, if so, what type of adjustment is appropriate.

3. Alternatives Suggested by Commenters

Commenters offered a variety of alternatives to the original capital proposal. Among these suggestions were to rely on internal capital models, to rely on the supervisory process for determining appropriate capital charges on a case-by-case basis, to require banking organizations to adopt the regulatory equivalent of available-for-sale accounting, and to adopt a reduced capital charge.

Many commenters suggested that the agencies rely fully on internal capital models developed by each banking organization to measure the capital needs of the organization across all of its activities. A number of commenters argued that the original capital proposal was flawed because it adopted a higher capital charge on equity investments in a manner similar to the internal capital models used by many banking organizations without at the same time allowing banking organizations to adopt features of these models that allocate less capital than the regulatory minimum capital requirements against other, less risky, activities.

The agencies believe that internal capital models that take account of the different risks and capital needs of each of the activities of a particular banking organization ultimately represent an effective method for determining the capital adequacy of an organization. The agencies have encouraged the development of comprehensive internal capital models, and many banking organizations have begun to develop their own internal capital models. As yet, however, these models are largely untested and unable to capture the risks of many activities conducted by banking organizations. Moreover, the stage of development and sophistication of models varies greatly across organizations. In addition, as noted by many commenters, assessing the adequacy of capital by reference to risk models is most effective when applied across the entire organizational risk structure, rather than piece meal for selected assets or portfolios. As a result, the agencies do not believe that it is appropriate at this time to rely on internal modeling of equity portfolios as a replacement for regulatory minimum capital requirements. The agencies believe, however, that robust internal modeling can be an effective method for addressing capital adequacy. Accordingly, the agencies will review a banking organization's internal models in assessing the adequacy of the organization's capital levels in relation to its equity investment activities and expect to revisit the need for regulatory minimum capital requirements for equity investment activities as internal models become more sophisticated and reliable.

Another alternative suggested by many commenters was that the agencies assess the appropriate regulatory capital levels for equity investment activities on a case-by-case basis through the supervisory process. These commenters argued that it was inappropriate for the agencies to adopt a single regulatory minimum capital requirement that would apply in the same way to all banking organizations engaged in equity investment activities, regardless of the differences in portfolio risks at different organizations. These commenters believed that the capital needs of individual organizations could be best assessed through the individual examination of each organization, with the agencies assessing higher capital requirements on a case-by-case basis to address particular risks at individual organizations.

The agencies agree that examination and supervision are important methods for assuring that individual organizations are conducting equity investment activities in a safe and sound manner and have adequate capital to support those activities. The agencies expect to pay particular attention to the investment activities of banking organizations and to heighten that supervision as the level of concentration in these activities increases at an organization. The supervisory process will consider, among other things, the institution's internal allocation of capital to equity investment activities as an important element in assessing capital adequacy.

However, the agencies believe that supervisory experience and analysis of equity investment activities over a long period of time indicate that it is prudent to establish minimum capital requirements for equity investment activities in addition to effective supervision and examination. Establishing minimum capital requirements by rule also reduces the potential that capital requirements at an organization will be arbitrarily set during the examination process. A uniform regulatory minimum capital rule also indicates to organizations that are entering this business line for the first time the agencies' expectations for additional capital to support these activities.

Some commenters suggested that the agencies require that banking

organizations adopt the regulatory equivalent of available-for-sale (AFS) accounting. Commenters argued that this approach improves the capital strength of an organization by eliminating from Tier 1 capital, at least for regulatory reporting purposes, any reliance on unrealized gains on equity investments. This arguably reduces the volatility in capital that results from changes in the value of equity investments, which often occur unpredictably and quickly during the life of the investment, by preventing banking organizations from taking unrealized gains into income, and thus capital, for regulatory purposes.

AFS accounting has been adopted by many organizations and represents a prudent and appropriate approach to accounting for equity investments in many situations. Nonetheless, the agencies have determined not to require the regulatory equivalent of this accounting treatment for regulatory capital calculations for several reasons. First, this approach does not address the risk associated with the initial cost of the investment. Instead, it effectively applies a 100 percent capital charge on unrealized gains while maintaining the normal capital charge on the initial investment cost. For investments that are very profitable, this charge may be too high, while for investments that are not performing well, this capital charge is likely to be too low.

In addition, an AFS approach creates differences in capital treatment for companies that acquired the same equity investment, with the same risk, on different dates. Under the AFS approach, an investor that has acquired an investment in the initial offering of stock of the portfolio company would be effectively required to hold more capital against the investment than a second investor that acquires the same amount of shares of the same company for a higher price at a later date.

Moreover, a capital charge based on the AFS approach is easily manipulated through the sale and repurchase of equity of the same company. This manipulation would be difficult to monitor and prevent.

While the agencies have not proposed adopting the regulatory equivalent of the AFS accounting approach, the agencies recognize that a regulatory minimum capital charge must take account of situations in which an investor determines to adopt this approach for GAAP reporting purposes. Accordingly, the capital charge proposed by the agencies is based on the ''adjusted carrying value'' of the relevant investment and the proposal would require deduction of the adjusted carrying value from risk-weighted assets for purposes of calculating the risk-based capital ratio. This treatment retains the flexibility of an investor to adopt AFS accounting or other accounting treatments permitted under GAAP.

C. Regulatory Flexibility Act Analysis

OCC: This proposal would amend the OCC's risk-based capital guidelines and leverage capital rules for national banks. The amendments made by the proposal would establish the regulatory capital requirements applicable to a national bank's equity investment in a nonfinancial company made through a SBIC pursuant to section 302(b) of the Small Business Investment Act of 1958 or under the portfolio investment provisions of the Board's Regulation K.

The OCC hereby certifies, pursuant to section 5(b) of the Regulatory Flexibility Act (5 U.S.C. 603(a)), that the proposed amendments will not, if promulgated in final rule form, have a significant economic impact on a substantial number of small entities.

For the purposes of the Regulatory Flexibility Act, small entities are defined to include any national bank that has $100 million in assets or less. *See* 5 U.S.C. 601(3) and (6), 15 U.S.C. 632(a), and 13 CFR 121.201. With respect to national banks, this proposal would only apply to equity investments in a nonfinancial company either made through a SBIC pursuant to section 302(b) of the Small Business Investment Act of 1958 or under the portfolio investment provisions of Regulation K. The OCC does not believe that it is likely that a substantial number of small national banks engage in these kinds of equity investment activities. Moreover, even with respect to any small national banks that might engage in the types of equity investments covered by this proposal, the OCC does not believe that the proposal rule will require these banks to raise significant amounts of new capital. For these reasons, the OCC does not believe that this proposal, if promulgated in final rule form, will have a significant economic impact on a substantial number of small national banks.

Nevertheless, the OCC specifically seeks comment on any burden that this proposal would impose on small national banks.

Board: In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a)), the Board must publish an initial regulatory flexibility analysis with this rulemaking. The rule proposes and requests comment on amendments to the Board's consolidated risk-based and leverage capital adequacy guidelines for bank holding companies (Part 225, Appendix A and Appendix D) and state member banks (Part 208, Appendix A and Appendix D).

These amendments would establish the regulatory capital requirements applicable to the merchant banking investments of financial holding companies and similar investment activities of bank holding companies and state member banks. The Board hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed capital amendments will not, if promulgated through a final rule, have a significant economic impact on a substantial number of small entities because small entities that the Board regulates, specifically, financial or bank holding companies or state member banks that have less than $150 million in consolidated assets, generally do not engage in these investment activities to any significant degree. In addition, because the Board's risk-based and leverage capital guidelines do not generally apply to bank holding companies, including financial holding companies, that have less than $150 million in consolidated assets, the proposed rule will have no impact upon such organizations.

For the reasons discussed above, the Board believes that the proposed amendments to its capital guidelines are necessary and appropriate to ensure that bank holding companies and state member banks maintain capital commensurate with the levels of risk associated with their equity investment activities and that these activities do not pose an undue risk to the safety and soundness of insured depository institutions. This notice of proposed rulemaking contains a detailed discussion of the Board's reasons for issuing the proposed rule and of the alternatives to the rule that the Board has considered.

The Board specifically seeks comment on the likely burden that the proposed rule will impose on bank holding companies and state member banks.

FDIC: The rule proposes and requests comment on amendments to the FDIC's risk-based and leverage capital standards for state nonmember banks (Part 325). These amendments would establish the regulatory capital requirements applicable to certain nonfinancial equity investments of state nonmember banks. The FDIC hereby certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the proposed capital amendments will not, if promulgated through a final rule, have a significant economic impact on a substantial number of small entities because small

entities that the FDIC regulates, specifically, state nonmember banks that have less than $100 million in consolidated assets, generally do not engage in nonfinancial equity investment activities covered by this proposed rule to any significant degree.

D. Paperwork Reduction Act

OCC: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 App. A.1), the OCC has reviewed the proposal under the authority delegated to the OCC by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the proposal.

Board: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 App. A.1), the Board has reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the proposed rule.

FDIC: The FDIC has determined that this proposal does not involve a collection of information pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

E. Executive Order 12866 Determination

OCC: The Comptroller of the Currency has determined that this proposed rule, if adopted as a final rule, would not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

F. Unfunded Mandates Act of 1995

OCC: Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in 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 the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. The OCC has determined that this proposed regulation will not result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

G. Solicitation of Comments on Use of ''Plain Language''

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

(1) Have the agencies organized the material in an effective manner? If not, how could the material be better organized?

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

(3) Does the rule contain technical language or jargon this is unclear? If so, which language requires clarification?

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

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

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

The agencies also solicit comment about whether including factual examples in the rule in order to illustrate its terms is appropriate. Are there alternatives that the agencies should consider to illustrate the terms in the rule?

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, State non-member banks.

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 preamble, part 3 of chapter I of title 12 of the Code of Federal Regulations is proposed to be amended 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.

2. In Appendix A to part 3:

A. In section 1, paragraphs (c)(17) through (c)(31) are redesignated as paragraphs (c)(20) through (c)(34); paragraphs (c)(12) through (c)(16) are redesignated as paragraphs (c)(14) through (c)(18); and paragraphs (c)(1) through (c)(11) are redesignated as paragraphs (c)(2) through (c)(12);

B. In section 1, new paragraphs (c)(1), (c)(13) and (c)(19) are added;

C. In section 2, paragraph (a)(3) is revised;

D. In section 2, new paragraph (c)(1)(iv) is added;

E. In section 2, paragraph (c)(4) is redesignated as paragraph (c)(5); and

F. In section 2, new paragraph (c)(4) is added to read as follows:

Appendix A to Part 3—Risk-Based Capital Guidelines

Section 1. Purpose, Applicability of Guidelines, and Definitions

* * * * *

(c) * * *

(1) Adjusted carrying value means, for purposes of section 2(c)(4) of this appendix A, the aggregate value that investments are carried on the balance sheet of the bank reduced by any unrealized gains on the investments that are reflected in such carrying value but excluded from the bank's Tier 1 capital. For example, for investments held as available-for-sale (AFS), the adjusted carrying value of the investments would be the aggregate carrying value of the investments (as reflected on the consolidated balance sheet of the bank) less any unrealized gains on those investments that are included in other comprehensive income and that are not reflected in Tier 1 capital, and less any associated deferred tax liabilities. Unrealized losses on AFS equity investments must be deducted from Tier 1 capital in accordance with section 1(c)(8) of this appendix A. The treatment of small business investment companies that are consolidated for accounting purposes is discussed in section 2(c)(4)(iv) of this appendix A. For investments in a nonfinancial company that is consolidated for accounting purposes, the

bank's adjusted carrying value of the investment is determined under the equity method of accounting (net of any intangibles associated with the investment that are deducted from the bank's Tier 1 capital in accordance with section 2(c)(2) of this appendix A). Even though the assets of the nonfinancial company are consolidated for accounting purposes, these assets (as well as the credit equivalent amounts of the company's off-balance sheet items) are excluded from the bank's risk-weighted assets.

* * * * *

(13) Equity investment means, for purposes of section 1(c)(19) and section 2(c)(4) of this appendix A, any equity instrument including warrants and call options that give the holder the right to purchase an equity instrument, any equity feature of a debt instrument (such as a warrant or call option), and any debt instrument that is convertible into equity. An investment in subordinated debt or other types of debt instruments may be treated as an equity investment if the OCC determines that the instrument is the functional equivalent of equity.

* * * * *

(19) Nonfinancial equity investment means any equity investment in a nonfinancial company made by the bank through a small business investment company (SBIC) under section 302(b) of the Small Business Investment Act of 1958 (15 U.S.C. 682(b)) or under the portfolio investment provisions of Regulation K (12 CFR 211.5(b)(1)(iii)). An equity investment in a SBIC made under section 302(b) of the Small Business Investment Act of 1958 that is not consolidated with the bank is treated as a nonfinancial equity investment in the manner provided in section 2(c)(4)(iv)(C) of this appendix A. A nonfinancial company is an entity that engages in any activity that has not been determined to be permissible for the bank to conduct directly or to be financial in nature or incidental to financial activities under section 4(k) of the Bank Holding Company Act (12 U.S.C. 1843(k)).

* * * * *

Section 2. Components of Capital

* * * * *

(a) * * *

(3) Minority interests in the equity accounts of consolidated subsidiaries, except that minority interests in a small business investment company or investment fund that holds nonfinancial equity investments and minority interests in a subsidiary that is engaged in nonfinancial activities and is held under one of the legal authorities listed in section 1(c)(19) of this appendix A are not included in Tier 1 capital or total capital.

* * * * *

(c) * * *

(1) * * *

(iv) Nonfinancial equity investments as provided by section 2(c)(4) of this appendix A.

* * * * *

(4) Nonfinancial equity investments. (i) General. A bank must deduct from its Tier 1 capital the appropriate percentage, as determined in accordance with Table 1, of the adjusted carrying value of all nonfinancial equity investments made by the bank or by its direct or indirect subsidiaries.

(ii) Nonfinancial equity investments in the trading account. Section 2(c)(4) of this appendix A does not apply to, and no deduction is required for, any nonfinancial equity investment that is held in the trading account in accordance with applicable accounting principles and as part of an underwriting, market making or dealing activity.

(iii) Amount of deduction from Tier 1 capital. (A) The bank must deduct from its Tier 1 capital the appropriate percentage, as determined in accordance with Table 1, of the adjusted carrying value of all nonfinancial equity investments held by the bank and its subsidiaries.

TABLE 1.—DEDUCTION FOR NONFINANCIAL EQUITY INVESTMENTS

Aggregate adjusted carrying value of all nonfinancial equity investments held directly or indirectly by the bank (As a percentage of the Tier 1 capital of the bank) [1]	Deduction from Tier 1 Capital (As a percentage of the adjusted carrying value of the investment)
Less than 15 percent	8.0 percent.
15 percent but less than 25 percent.	12.0 percent.
25 percent or greater	25.0 percent.

[1] For purposes of calculating the adjusted carrying value of nonfinancial equity investments as a percentage of Tier 1 capital, Tier 1 capital is defined as the sum of the Tier 1 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, but prior to the deduction for deferred tax assets and nonfinancial equity investments.

(B) Deductions for nonfinancial equity investments must be applied on a marginal basis to the portions of the adjusted carrying value of nonfinancial equity investments that fall within the specified ranges of the bank's Tier 1 capital. For example, if the adjusted carrying value of all nonfinancial equity investments held by a bank equals 20 percent of the Tier 1 capital of the bank, then the amount of the deduction would be 8 percent of the adjusted carrying value of all investments up to 15 percent of the bank's Tier 1 capital, and 12 percent of the adjusted carrying value of all investments in excess of 15 percent of the bank's Tier 1 capital.

(C) The total adjusted carrying value of any nonfinancial equity investment that is subject to deduction under section 2(c)(4) of this appendix A is excluded from the bank's weighted risk assets for purposes of computing the denominator of the bank's risk-based capital ratio. For example, if 8 percent of the adjusted carrying value of a nonfinancial equity investment is deducted from Tier 1 capital, the entire adjusted carrying value of the investment will be excluded from risk-weighted assets in calculating the denominator of the risk-based capital ratio.

(D) Banks engaged in equity investment activities, including those banks with a high concentration in nonfinancial equity investments (e.g., in excess of 50 percent of Tier 1 capital) will be monitored and may be subject to heightened supervision, as appropriate, by the OCC to ensure that such banks maintain capital levels that are appropriate in light of their equity investment activities, and the OCC may impose a higher capital charge in any case where the circumstances, such as the level of risk of the particular investment or portfolio of investments, the risk management systems of the bank, or other information, indicate that a higher minimum capital requirement is appropriate.

(iv) Small business investment company investments. (A) Notwithstanding section 2(c)(4)(iii) of this appendix A, no deduction is required for nonfinancial equity investments that are made by a bank or its subsidiary through a SBIC that is consolidated with the bank, or in a SBIC that is not consolidated with the bank, to the extent that such investments, in the aggregate, do not exceed 15 percent of the Tier 1 capital of the bank. Except as provided in paragraph (c)(4)(iv)(B) of this section, any nonfinancial equity investment that is held through or in a SBIC and not deducted from Tier 1 capital will be assigned to the 100 percent risk-weight category and included in the bank's consolidated risk-weighted assets.

(B) If a bank has an investment in a SBIC that is consolidated for accounting purposes but the SBIC is not wholly owned by the bank, the adjusted carrying value of the bank's nonfinancial equity investments held through the SBIC is equal to the bank's proportionate share of the SBIC's adjusted carrying value of its nonfinancial equity investments. The remainder of the SBIC's adjusted carrying value (i.e., the minority interest holders' proportionate share) is excluded from the risk-weighted assets of the bank.

(C) If a bank has an investment in a SBIC that is not consolidated for accounting purposes and has current information that identifies the percentage of the SBIC's assets that are nonfinancial equity investments, the bank may reduce the adjusted carrying value of its investment in the SBIC proportionately to reflect the percentage of the adjusted carrying value of the SBIC's assets that are not nonfinancial equity investments. The amount by which the adjusted carrying value of the bank's investment in the SBIC is reduced under this provision will be risk weighted at 100 percent and included in the bank's risk-weighted assets.

(D) To the extent the adjusted carrying value of all nonfinancial equity investments that the bank holds through a consolidated SBIC or in a nonconsolidated SBIC exceeds, in the aggregate, 15 percent of the Tier 1 capital of the bank, the appropriate percentage of such amounts, as set forth in Table 1, must be deducted from the bank's Tier 1 capital. In addition, the aggregate adjusted carrying value of all nonfinancial equity investments held through a consolidated SBIC and in a nonconsolidated SBIC (including any investments for which no deduction is required) must be included

in determining for purposes of Table 1 the total amount of nonfinancial equity investments held by the bank in relation to its Tier 1 capital.

(v) Transition period. [Comment requested].

Dated: January 26, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

Federal Reserve System

Authority and Issuance

For the reasons set forth in the 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), 1823(j), 1828(o), 1831o, 1831p–1, 1831r–1, 1831w, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 781(b), 781(g), 781(i), 78o–4(c)(5), 78q, 78q–1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. In Appendix A to part 208, the following amendments are made:

a. In section II.*A.*, one sentence is added at the end of paragraph 1.c., *Minority interest in equity accounts of consolidated subsidiaries;*

b. In section II.*B.*, a new paragraph (v) is added at the end of the introductory text and a new paragraph 5 is added at the end of section II.B; and

c. In sections III. and IV., footnotes 24 through 57 are redesignated as footnotes 29 through 62, respectively.

Appendix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

* * * * *

II. * * *

A. * * *

1. * * *

c. * * * Minority interests in small business investment companies and investment funds that hold nonfinancial equity investments (as defined in section II.*B*.5.b. of this appendix) and minority interests in subsidiaries that are engaged in nonfinancial activities and held under one of the legal authorities listed in section II.*B*.5.b are not included in the bank's Tier 1 or total capital base.

B. * * *

(v) Nonfinancial equity investments-portions are deducted from the sum of core capital elements in accordance with section II.*B*.5 of this appendix.

* * * * *

5. *Nonfinancial equity investments*—a. *General.* A bank must deduct from its Tier 1 capital the appropriate percentage (as determined below) of the adjusted carrying value of all nonfinancial equity investments made by the parent bank or by its direct or indirect subsidiaries.

b. *Scope of nonfinancial equity investments.* i. A nonfinancial equity investment means any equity investment made by the bank in a nonfinancial company through a small business investment company (SBIC) under section 302(b) of the Small Business Investment Act of 1958 [24] or under the portfolio investment provisions of the Board's Regulation K (12 CFR 211.5(b)(1)(iii)).[25] A nonfinancial company is an entity that engages in any activity that has not been determined to be permissible for the bank to conduct directly, or to be financial in nature or incidental to financial activities under section 4(k) of the Bank Holding Company Act (12 U.S.C. 1843(k)).

ii. This section II.*B*.5. does not apply to, and no deduction is required for, any nonfinancial equity investment that is held in the trading account in accordance with applicable accounting principles and as part of an underwriting, market making or dealing activity.

c. *Amount of deduction from core capital.* i. The bank must deduct from its Tier 1 capital the appropriate percentage, as set forth in Table 1, of the adjusted carrying value of all nonfinancial equity investments held by the bank and its subsidiaries. The amount of the deduction increases as the aggregate amount of nonfinancial equity investments held by the bank and its subsidiaries increases as a percentage of the bank's Tier 1 capital.

TABLE 1.—DEDUCTION FOR NONFINANCIAL EQUITY INVESTMENTS

Aggregate adjusted carrying value of all nonfinancial equity investments held directly or indirectly by the bank (as a percentage of the Tier 1 capital of the bank) [1]	Deduction from Tier 1 Capital (as a percentage of the adjusted carrying value of the investment)
Less than 15 percent	8 percent.
15 percent to 24.99 percent.	12 percent.

TABLE 1.—DEDUCTION FOR NONFINANCIAL EQUITY INVESTMENTS—Continued

Aggregate adjusted carrying value of all nonfinancial equity investments held directly or indirectly by the bank (as a percentage of the Tier 1 capital of the bank) [1]	Deduction from Tier 1 Capital (as a percentage of the adjusted carrying value of the investment)
25 percent and above	25 percent.

[1] For purposes of calculating the adjusted carrying value of nonfinancial equity investments as a percentage of Tier 1 capital, 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, but prior to the deduction for deferred tax assets and nonfinancial equity investments.

ii. These deductions are applied on a marginal basis to the portions of the adjusted carrying value of nonfinancial equity investments that fall within the specified ranges of the parent bank's Tier 1 capital. For example, if the adjusted carrying value of all nonfinancial equity investments held by a bank equals 20 percent of the Tier 1 capital of the bank, then the amount of the deduction would be 8 percent of the adjusted carrying value of all investments up to 15 percent of the bank's Tier 1 capital, and 12 percent of the adjusted carrying value of all investments in excess of 15 percent of the bank's Tier 1 capital.

iii. The total adjusted carrying value of any nonfinancial equity investment that is subject to deduction under this paragraph is excluded from the bank's risk-weighted assets for purposes of computing the denominator of the bank's risk-based capital ratio.[26]

iv. As noted in section I, this Appendix establishes minimum risk-based capital ratios and banks are at all times expected to maintain capital commensurate with the level and nature of the risks to which they are exposed. The risk to a bank from nonfinancial equity investments increases with its concentration in such investments and strong capital levels above the minimum requirements are particularly important when a bank has a high degree of concentration in nonfinancial equity investments (*e.g.,* in excess of 50 percent of Tier 1 capital). The Federal Reserve intends to monitor banks and apply heightened supervision to equity investment activities as appropriate, including where the bank has a high degree of concentration in nonfinancial equity investments, to ensure that banks maintain capital levels that are appropriate in light of their equity investment activities. The Federal Reserve also reserves authority to impose a higher capital charge in any case where the circumstances, such as the level of

[24] An equity investment made under section 302(b) of the Small Business Investment Act of 1958 in a SBIC that is not consolidated with the bank is treated as a nonfinancial equity investment.

[25] *See* 12 CFR 211.5(b)(1)(iii); and 15 U.S.C. 682(b).

[26] For example, if 8 percent of the adjusted carrying value of a nonfinancial equity investment is deducted from Tier 1 capital, the entire adjusted carrying value of the investment will be excluded form risk-weighted assets in calculating the denominator for the risk-based capital ratio.

risk of the particular investment or portfolio of investments, the risk management systems of the bank, or other information, indicate that a higher minimum capital requirement is appropriate.

d. *SBIC investments.* i. No deduction is required for nonfinancial equity investments that are made by a bank through an SBIC that is consolidated with the bank or in an SBIC that is not consolidated with the bank to the extent that such investments, in the aggregate, do not exceed 15 percent of the bank's Tier 1 capital. Any nonfinancial equity investment that is held through or in an SBIC and not deducted from Tier 1 capital will be assigned a 100 percent risk-weight and included in the bank's consolidated risk-weighted assets.[27]

ii. To the extent the adjusted carrying value of all nonfinancial equity investments that a bank holds through a consolidated SBIC or in a non-consolidated SBIC exceeds, in the aggregate, 15 percent of the bank's Tier 1 capital, the appropriate percentage of such amounts (as set forth in Table 1) must be deducted from the bank's Tier 1 capital. In addition, the aggregate adjusted carrying value of *all* nonfinancial equity investments held through a consolidated SBIC and in a non-consolidated SBIC (including any investments for which no deduction is required) must be included in determining for purposes of Table 1 the total amount of nonfinancial equity investments held by the bank in relation to its Tier 1 capital.

e. *Transition provisions.* [Comment requested.]

f. *Adjusted carrying value.* i. For purposes of this section II.B.5., the ''adjusted carrying value'' of investments is the aggregate value at which the investments are carried on the balance sheet of the bank reduced by any unrealized gains on those investments that are reflected in such carrying value but excluded from the bank's Tier 1 capital. For example, for investments held as available-for-sale (AFS), the adjusted carrying value of the investments would be the aggregate carrying value of the investments (as reflected on the consolidated balance sheet of the bank) less: any unrealized gains on those investments that are included in other comprehensive income and not reflected in Tier 1 capital; and associated deferred tax liabilities.[28]

ii. As discussed above with respect to consolidated SBICs, some equity investments may be in companies that are consolidated for accounting purposes. For investments in a nonfinancial company that is consolidated for accounting purposes under generally accepted accounting principles, the bank's adjusted carrying value of the investment is determined under the equity method of accounting (net of any intangibles associated with the investment that are deducted from the bank's core capital in accordance with section II.B.1 of this appendix). Even though the assets of the nonfinancial company are consolidated for accounting purposes, these assets (as well as the credit equivalent amounts of the company's off-balance sheet items) should be excluded from the bank's risk-weighted assets for regulatory capital purposes.

g. *Equity investments.* For purposes of this section II.B.5., an equity investment means any equity instrument (including warrants and call options that give the holder the right to purchase an equity instrument), any equity feature of a debt instrument (such as a warrant or call option), and any debt instrument that is convertible into equity where the instrument or feature is held under one of the legal authorities listed in section II.*B*.5.b. of this appendix. An investment in subordinated debt or other types of debt instruments may be treated as an equity investment if, in the judgment of the Federal Reserve, the instrument is the functional equivalent of equity.

* * * * *

3. In Appendix B to part 208, in section II.b., footnote 2 is revised and the fourth sentence of 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. * * *[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, and purchased credit card relationships that, in the aggregate, are in excess of 100 percent of Tier 1 capital; amounts of nonmortgage servicing assets and purchased credit card relationships 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 Tier 1 capital; deferred tax assets that are dependent upon future taxable income, net of their valuation allowance, in excess of the limitations set forth in section II.B.4 of Appendix A of this part; and the total adjusted carrying value of nonfinancial equity investments that are subject to a deduction from capital.

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), 1843(k), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

2. In Appendix A to part 225, the following revisions are made:

a. In section II.*A*., one sentence is added at the end of paragraph 1.c., *Minority interest in equity accounts of consolidated subsidiaries*;

b. In section II.*B*., a new paragraph (v) is added at the end of the introductory text and a new paragraph 5 is added at the end of section II.B; and

c. In sections III. and IV., footnotes 24 through 57 are redesignated as footnotes 29 through 62, respectively.

Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure

* * * * *

II. * * *

A. * * *

1. * * *

c. * * * Minority interests in small business investment companies and investment funds that hold nonfinancial equity investments (as defined in section II.*B*.5.b. of this appendix) and minority interests in subsidiaries that are engaged in nonfinancial activities and held under one of the legal authorities listed in section II.*B*.5.b are not included in a banking organization's Tier 1 or total capital base.

* * * * *

B. * * *

(v) Nonfinancial equity investments—portions are deducted from the sum of core capital elements in accordance with section II.*B*.5 of this appendix.

* * * * *

[27] If a bank has an investment in a SBIC that is consolidated for accounting purposes but that is not wholly owned by the bank, the adjusted carrying value of the bank's nonfinancial equity investments through the SBIC is equal to the bank's proportionate share of the SBIC's adjusted carrying value of its nonfinancial equity investments. The remainder of the SBIC's adjusted carrying value (*i.e.*, the minority interest holders' proportionate share) is excluded from the risk-weighted assets of the bank. If a bank has an investment in a SBIC that is not consolidated for accounting purposes and has current information that identifies the percentage of the SBIC's assets that are nonfinancial equity investments, the bank may reduce the adjusted carrying value of its investment in the SBIC proportioantely to reflect the percentage of the adjusted carrying value of the SBIC's assets that are not nonfinancial equity investments. The amount by which the adjusted carrying value of the bank's investment in the SBIC is reduced under this provision will be risk weighted at 100 percent and included in the bank's risk-weighted assets.

[28] Unrealized gains on AFS investments may be included in supplementary capital to the extent permitted under section II.A.2.e of this appendix. In addition, the unrealized losses on AFS equity investments are deducted from Tier 1 capital in accordance with section II.A.1.a of this appendix.

[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, and purchased credit card relationships that, in the aggregate, exceed 100 percent of Tier 1 capital; nonmortgage servicing assets and purchased credit card relationships that, in the aggregate, exceed 25 percent of Tier 1 capital; other identifiable intangible assets; deferred tax assets that are dependent upon future taxable income, net of their valuation allowance, in excess of certain limitations; and a percentage of the bank's nonfinancial equity investments. The Federal Reserve may exclude certain other investments in subsidiaries or associated companies as appropriate.

5. *Nonfinancial equity investments*—a. *General.* A bank holding company must deduct from its Tier 1 capital the appropriate percentage (as determined below) of the adjusted carrying value of all nonfinancial equity investments made by the parent bank holding company or by its direct or indirect subsidiaries.

b. *Scope of nonfinancial equity investments.* i. A nonfinancial equity investment means any equity investment made by the bank holding company: pursuant to the merchant banking authority of section 4(k)(4)(H) of the BHC Act and subpart J of the Board's Regulation Y (12 CFR part 225); under section 4(c)(6) or 4(c)(7) of BHC Act in a nonfinancial company or in a company that makes investments in nonfinancial companies; in a nonfinancial company through a small business investment company (SBIC) under section 302(b) of the Small Business Investment Act of 1958; [24] in a nonfinancial company under the portfolio investment provisions of the Board's Regulation K (12 CFR 211.5(b)(1)(iii)); or in a nonfinancial company under section 24 of the Federal Deposit Insurance Act (other than section 24(f)).[25] A nonfinancial company is an entity that engages in any activity that has not been determined to be financial in nature or incidental to financial activities under section 4(k) of the Bank Holding Company Act (12 U.S.C. 1843(k)).

ii. This section II.*B*.5. does not apply to, and no deduction is required for, any nonfinancial equity investment that is held in the trading account in accordance with applicable accounting principles and as part of an underwriting, market making or dealing activity.

c. *Amount of deduction from core capital.* i. The bank holding company must deduct from its Tier 1 capital the appropriate percentage, as set forth in Table 1, of the adjusted carrying value of all nonfinancial equity investments held by the bank holding company and its subsidiaries. The amount of the deduction increases as the aggregate amount of nonfinancial equity investments held by the bank holding company and its subsidiaries increases as a percentage of the bank holding company's Tier 1 capital.

TABLE 1.—DEDUCTION FOR NONFINANCIAL EQUITY INVESTMENTS

Aggregate adjusted carrying value of all nonfinancial equity investments held directly or indirectly by the bank holding company (as a percentage of the Tier 1 capital of the parent banking organization)[1]	Deduction from Tier 1 Capital (as a percentage of the adjusted carrying value of the investment)
Less than 15 percent	8 percent.
15 percent to 24.99 percent.	12 percent.
25 percent and above	25 percent.

[1] For purposes of calculating the adjusted carrying value of nonfinancial equity investments as a percentage of Tier 1 capital, 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, but prior to the deduction for deferred tax assets and nonfinancial equity investments.

ii. These deductions are applied on a marginal basis to the portions of the adjusted carrying value of nonfinancial equity investments that fall within the specified ranges of the parent holding company's Tier 1 capital. For example, if the adjusted carrying value of all nonfinancial equity investments held by a bank holding company equals 20 percent of the Tier 1 capital of the bank holding company, then the amount of the deduction would be 8 percent of the adjusted carrying value of all investments up to 15 percent of the company's Tier 1 capital, and 12 percent of the adjusted carrying value of all investments in excess of 15 percent of the company's Tier 1 capital.

iii. The total adjusted carrying value of any nonfinancial equity investment that is subject to deduction under this paragraph is excluded from the bank holding company's risk-weighted assets for purposes of computing the denominator of the company's risk-based capital ratio.[26]

iv. As noted in section I, this appendix establishes minimum risk-based capital ratios and banking organizations are at all times expected to maintain capital commensurate with the level and nature of the risks to which they are exposed. The risk to a banking organization from nonfinancial equity investments increases with its concentration in such investments and strong capital levels above the minimum requirements are particularly important when a banking organization has a high degree of concentration in nonfinancial equity investments (*e.g.,* in excess of 50 percent of Tier 1 capital). The Federal Reserve intends to monitor banking organizations and apply heightened supervision to equity investment activities as appropriate, including where the banking organization has a high degree of concentration in nonfinancial equity investments, to ensure that organizations maintain capital levels that are appropriate in light of their equity investment activities. The Federal Reserve also reserves authority to impose a higher capital charge in any case where the circumstances, such as the level of risk of the particular investment or portfolio of investments, the risk management systems of the banking organization, or other information, indicate that a higher minimum capital requirement is appropriate.

d. *SBIC investments.* i. No deduction is required for nonfinancial equity investments that are made by a bank holding company or a subsidiary through an SBIC that is consolidated with the bank holding company or in a SBIC that is not consolidated with the bank holding company to the extent that such investments, in the aggregate, do not exceed 15 percent of the aggregate Tier 1 capital of the subsidiary banks of the bank holding company. Any nonfinancial equity investment that is held through or in an SBIC and not deducted from Tier 1 capital will be assigned a 100 percent risk-weight and included in the parent holding company's consolidated risk-weighted assets.[27]

ii. To the extent the adjusted carrying value of all nonfinancial equity investments that a bank holding company holds through a consolidated SBIC or in a non-consolidated SBIC exceeds, in the aggregate, 15 percent of the aggregate Tier 1 capital of the company's subsidiary banks, the appropriate percentage of such amounts (as set forth in Table 1) must be deducted from the bank holding company's Tier 1 capital. In addition, the aggregate adjusted carrying value of *all* nonfinancial equity investments held through a consolidated SBIC and in a non-consolidated SBIC (including any investments for which no deduction is required) must be included in determining for purposes of Table 1 the total amount of nonfinancial equity investments held by the bank holding company in relation to its Tier 1 capital.

e. *Transition provisions.* [Comment requested.]

[24] An equity investment made under section 302(b) of the Small Business Investment Act of 1958 in a SBIC that is not consolidated with the parent banking organizations is treated as a nonfinancial equity investment.

[25] *See* 12 U.S.C. 1843(c)(6), (c)(7) and (k)(4)(H); 15 U.S.C. 682(b); 12 CFR 211.5(b)(1)(iii); and 12 U.S.C. 1831a(f). In a case in which the Board of the FDIC, acting directly in exceptional cases and after a review of the proposed activity, has permitted a lesser capital deduction for an investment approved by the Board of Directors under section 24 of the Federal Deposit Insurance Act, such deduction shall also apply to the consolidated bank holding company capital calculation so long as the bank's investments under section 24 and SBIC investments represent, in the aggregate, less than 15 percent of the Tier 1 capital of the bank.

[26] For example, if 8 percent of the adjusted carrying value of a nonfinancial equity investment is deducted from Tier 1 capital, the entire adjusted carrying value of the investment will be excluded from risk-weighted assets in calculating the denominator for the risk-based capital ratio.

[27] If a bank holding company has an investment in a SBIC that is consolidated for accounting purposes but that is not wholly owned by the bank holding company, the adjusted carrying value of the bank holding company's nonfinancial equity investments through the SBIC is equal to the holding company's proportionate share of the SBIC's adjusted carrying value of its nonfinancial equity investments. The remainder of the SBIC's adjusted carrying value (*i.e.* the minority interest holders' proportionate share) is excluded from the risk-weighted assets of the bank holding company. If a bank holding company has an investment in a SBIC that is not consolidated for accounting purposes and has current information that identifies the percentage of the SBIC's assets that are nonfinancial equity investments, the bank holding company may reduce the adjusted carrying value of its investment in the SBIC proportionately to reflect the percentage of the adjusted carrying value of the SBIC's assets that are not nonfinancial equity investments. The amount by which the adjusted carrying value of the company's investment in the SBIC is reduced under this provision will be risk weighted at 100 percent and included in the bank holding company's risk-weighted assets.

f. *Adjusted carrying value.* i. For purposes of this section II.*B*.5., the ''adjusted carrying value'' of investments is the aggregate value at which the investments are carried on the balance sheet of the consolidated bank holding company reduced by any unrealized gains on those investments that are reflected in such carrying value but excluded from the bank holding company's Tier 1 capital. For example, for investments held as available-for-sale (AFS), the adjusted carrying value of the investments would be the aggregate carrying value of the investments (as reflected on the consolidated balance sheet of the bank holding company) less: any unrealized gains on those investments that are included in other comprehensive income and not reflected in Tier 1 capital; and associated deferred tax liabilities.[28]

ii. As discussed above with respect to consolidated SBICs, some equity investments may be in companies that are consolidated for accounting purposes. For investments in a nonfinancial company that is consolidated for accounting purposes under generally accepted accounting principles, the parent banking organization's adjusted carrying value of the investment is determined under the equity method of accounting (net of any intangibles associated with the investment that are deducted from the consolidated bank holding company's core capital in accordance with section II.B.1 of this Appendix). Even though the assets of the nonfinancial company are consolidated for accounting purposes, these assets (as well as the credit equivalent amounts of the company's off-balance sheet items) should be excluded from the banking organization's risk-weighted assets for regulatory capital purposes.

g. *Equity investments.* For purposes of this section II.*B*.5, an equity investment means any equity instrument (including warrants and call options that give the holder the right to purchase an equity instrument), any equity feature of a debt instrument (such as a warrant or call option), and any debt instrument that is convertible into equity where the instrument or feature is held under one of the legal authorities listed in section II.*B*.5.b. above. An investment in subordinated debt or other types of debt instruments may be treated as an equity investment if, in the judgment of the appropriate federal banking agency, the instrument is the functional equivalent of equity.

* * * * *

3. In Appendix D to part 225, in section II.b., footnote 3 is revised and the fourth sentence of 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. * * *[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, and purchased credit card relationships that, in the aggregate, are in excess of 100 percent of Tier 1 capital; amounts of nonmortgage servicing assets and purchased credit card relationships that, in the aggregate, are in excess of 25 percent of Tier 1 capital; all other identifiable intangible assets; deferred tax assets that are dependent upon future taxable income, net of their valuation allowance, in excess of the limitations set forth in section II.B.4 of appendix A of this part; the total adjusted carrying value of nonfinancial equity investments that are subject to a deduction from capital; and other investments in subsidiaries or associated companies that the Federal Reserve determines should be deducted from Tier 1 capital.

By order of the Board of Governors of the Federal Reserve System, February 1, 2001.

Jennifer J. Johnson,

Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the joint preamble, part 325 of chapter III of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 325–CAPITAL MAINTENANCE

1. The authority citation for part 325 continues 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).

2. In § 325.2, paragraphs (t) and (v) are revised to read as follows:

§ 325.2 Definitions.

(t) 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, and purchased credit card relationships 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:*

(1) 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);

(2) Investments in financial subsidiaries subject to 12 CFR part 362, subpart E; and

(3) A percentage of the bank's nonfinancial equity investments as set forth in section I.B of appendix A to this part.

* * * * *

(v) 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 a savings association, 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:*

(1) 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));

(2) Deferred tax assets in excess of the limit set forth in § 325.5(g);

(3) Assets classified loss and any other assets that are deducted in determining Tier 1 capital; and

(4) The total adjusted carrying value of nonfinancial equity investments subject to a deduction from Tier 1 capital under section I.B. of appendix A to this part.

3. In appendix A to part 325, the following amendments are made:

a. A new paragraph is added at the end of section I.A.1.

b. In section I.B., a new paragraph (6) is added at the end.

c. In section II of Appendix A to part 325, footnotes 11 through 42 are

[28] Unrealized gains on AFS investments may be included in supplementary capital to the extent permitted under section II.A.2.e of this Appendix. In addition, the unrealized losses on AFS equity investments are deducted from Tier 1 capital in accordance with section II.A.1.a of this Appendix.

[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, and purchased credit card relationships that, in the aggregate, exceed 100 percent of Tier 1 capital; nonmortgage servicing assets and purchased credit card relationships that, in the aggregate, exceed 25 percent of Tier 1 capital; all other identifiable intangible assets; deferred tax assets that are dependent upon future taxable income, net of their valuation allowance, in excess of certain limitations; and a percentage of the organization's nonfinancial equity investments. The Federal Reserve may exclude certain other investments in subsidiaries or associated companies as appropriate.

redesignated as footnotes 17 through 48, respectively.

Appendix A to Part 325—Statement of Policy on Risk-Based Capital

* * * * *

I. * * *

A. * * *

1. * * *

Minority interests in small business investment companies and investment funds that hold nonfinancial equity investments (as defined in section I.B(6)(ii) of this appendix) and minority interests in subsidiaries that are engaged in nonfinancial activities and held under one of the legal authorities listed in section I.B(6)(ii)are not included in a bank's Tier 1 or total capital base.

* * * * *

B. * * *

(6) Nonfinancial equity investments. (i) General. A bank must deduct from its Tier 1 capital the appropriate percentage (as determined below) of the adjusted carrying value of all nonfinancial equity investments.

(ii) Scope of nonfinancial equity investments. (A) A nonfinancial equity investment means any equity investment made by the bank: in a nonfinancial company through a small business investment company (SBIC) under section 302(b) of the Small Business Investment Act of 1958;[11] and in a nonfinancial company under the portfolio investment provisions of Regulation K issued by the Board of Governors of the Federal Reserve System (12 CFR 211.5(b)(1)(iii)).[12] It also includes any bank investment made in a nonfinancial company under section 24 of the Federal Deposit Insurance Act (12 U.S.C. 1831a(f)), other than an investment held in accordance with section 24(f) of that Act.[13] A nonfinancial company is an entity that engages in any activity that has not been determined to be permissible for the bank to conduct directly, or to be financial in nature or incidental to financial activities under section 4(k) of the Bank Holding Company Act.

(B) This section I.B.(6) does not apply to, and no deduction is required for, any nonfinancial equity investment that is held in the trading account in accordance with applicable accounting principles and as part of an underwriting, market making or dealing activity.

(iii) Amount of deduction from core capital. (A) The bank must deduct from its Tier 1 capital the appropriate percentage, as set forth in the table following this paragraph, of the adjusted carrying value of all nonfinancial equity investments held by the bank and its subsidiaries. The amount of the deduction increases as the aggregate amount of nonfinancial equity investments held by the bank and its subsidiaries increases as a percentage of the bank's Tier 1 capital.

DEDUCTION FOR NONFINANCIAL EQUITY INVESTMENTS

Aggregate adjusted carrying value of all nonfinancial equity investments held directly or indirectly by the bank (as a percentage of the Tier 1 capital of the bank [1]	Deduction from Tier 1 Capital (as a percentage of the adjusted carrying value of the investment)
Less than 15 percent	8 percent.
15 percent to 24.99 percent.	12 percent.
25 percent and above	25 percent.

[1] In determining the adjusted carrying value of nonfinancial equity investments as a percentage of Tier 1 capital, the capital amount used in calculating this percentage is 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 deferred tax assets, and before the deduction of any nonfinancial equity investments.

(B) These deductions are applied on a marginal basis to the portions of the adjusted carrying value of nonfinancial equity investments that fall within the specified ranges of the parent bank's Tier 1 capital. For example, if the adjusted carrying value of all nonfinancial equity investments held by a bank equals 20 percent of the Tier 1 capital of the bank, then the amount of the deduction would be 8 percent of the adjusted carrying value of all investments up to 15 percent of the bank's Tier 1 capital, and 12 percent of the adjusted carrying value of all investments in excess of 15 percent of the bank's Tier 1 capital.

(C) The total adjusted carrying value of any nonfinancial equity investment that is subject to deduction under this paragraph is excluded from the bank's risk-weighted assets for purposes of computing the denominator of the bank's risk-based capital ratio and from total assets for purposes of calculating the denominator of the leverage ratio.[14]

(D) This appendix establishes minimum risk-based capital ratios and banks are at all times expected to maintain capital commensurate with the level and nature of the risks to which they are exposed. The risk to a bank from nonfinancial equity investments increases with its concentration in such investments and strong capital levels above the minimum requirements are particularly important when a bank has a high degree of concentration in nonfinancial equity investments (*e.g.,* in excess of 50 percent of Tier 1 capital). The FDIC intends to monitor banks and apply heightened supervision to equity investment activities as appropriate, including where the bank has a high degree of concentration in nonfinancial equity investments, to ensure that banks maintain capital levels that are appropriate in light of their equity investment activities. The FDIC also reserves authority to impose a higher capital charge in any case where the circumstances, such as the level of risk of the particular investment or portfolio of investments, the risk management systems of the bank, or other information, indicate that a higher minimum capital requirement is appropriate.

(iv) SBIC investments. (A) No deduction is required for nonfinancial equity investments that are made by a bank through an SBIC that is consolidated with the bank or in an SBIC that is not consolidated with the bank to the extent that such investments, in the aggregate, do not exceed 15 percent of the bank's Tier 1 capital. Any nonfinancial equity investment that is held through an SBIC or in an SBIC and not deducted from Tier 1 capital will be assigned a 100 percent risk-weight and included in the bank's consolidated risk-weighted assets.[15]

(B) To the extent the adjusted carrying value of all nonfinancial equity investments held through a consolidated SBIC or held in a non-consolidated SBIC exceed, in the aggregate, 15 percent of the bank's Tier 1 capital, the appropriate percentage of such amounts (as set forth in the table in section I.B.(6)(iii)(A)) must be deducted from the common stockholders' equity in determining the bank's Tier 1 capital. In addition, the aggregate adjusted carrying value of *all* nonfinancial equity investments held by a bank through a consolidated SBIC and in a non-consolidated SBIC (including any investments for which no deduction is required) must be included in determining for purposes of the table in section I.B.(6)(iii)(A) the total amount of nonfinancial equity investments held by the bank in relation to its Tier 1 capital.

(v) Transition provisions. [Comment requested.]

[11] An equity investment made under section 302(b) of the Small Business Investment Act of 1958 in a SBIC that is not consolidated with the bank is treated as a nonfinancial equity investment.

[12] *See* 12 CFR 211.5(b)(1)(iii); and 15 U.S.C. 682(b).

[13] The Board of Directors of the FDIC, acting directly, may, in exceptional cases and after a review of the proposed activity, permit a lower capital deduction for investments approved by the Board of Directors under section 24 of the FDI Act so long as the bank's investments under section 24 and SBIC investments represent, in the aggregate, less than 15 percent of the Tier 1 capital of the bank. The FDIC and the other banking agencies reserve the authority to impose higher capital charges where appropriate.

[14] For example, if 8 percent of the adjusted carrying value of a nonfinancial equity investment is deducted from the numerator for Tier 1 capital, the entire adjusted carrying value of the investment will be excluded from both risk-weighted assets and total assets in calculating the respective denominators for the risk-based capital and leverage ratios.

[15] If a bank has an investment in a SBIC that is consolidated for accounting purposes but that is not wholly owned by the bank, the adjusted carrying value of the bank's nonfinancial equity investments through the SBIC is equal to the bank's proportionate share of the SBIC's adjusted carrying value of its nonfinancial equity investments. The remainder of the SBIC's adjusted carrying value (*i.e.,* the minority interest holders' proportionate share) is excluded from the risk-weighted assets of the bank. If a bank has an investment in a SBIC that is not consolidated for accounting purposes and has current information that identifies the percentage of the SBIC's assets that are nonfinancial equity investments, the bank may reduce the adjusted carrying value of its investment in the SBIC proportionately to reflect the percentage of the adjusted carrying value of the SBIC's assets that are not nonfinancial equity investments. The amount by which the adjusted carrying value of the bank's investment in the SBIC is reduced under this provision will be risk weighted at 100 percent and included in the bank's risk-weighted assets.

(vi) Adjusted carrying value. (A) For purposes of this section I.B.(6), the ''adjusted carrying value'' of investments is the aggregate value at which the investments are carried on the balance sheet of the bank reduced by any unrealized gains on those investments that are reflected in such carrying value but excluded from the bank's Tier 1 capital. For example, for nonfinancial equity investments held as available-for-sale, the adjusted carrying value of the investments would be the aggregate carrying value of those investments (as reflected on the balance sheet of the bank) less: any unrealized gains on those investments that are included in other comprehensive income and not reflected in Tier 1 capital; and associated deferred tax liabilities.[16]

(B) As discussed above with respect to consolidated SBICs, some equity investments may be in companies that are consolidated for accounting purposes. For investments in a nonfinancial company that is consolidated for accounting purposes under generally accepted accounting principles, the bank's adjusted carrying value of the investment is determined under the equity method of accounting (net of any intangibles associated with the investment that are deducted from the bank's core capital in accordance with section I.A.1 of this Appendix). Even though the assets of the nonfinancial company are consolidated for accounting purposes, these assets (as well as the credit equivalent assets of the company's off-balance sheet items) should be excluded from the bank's risk-weighted assets for regulatory capital purposes.

(vii) Equity investments. For purposes of this section I.B.(6), an equity investment means any equity instrument (including warrants and call options that give the holder the right to purchase an equity instrument), any equity feature of a debt instrument (such as a warrant or call option), and any debt instrument that is convertible into equity where the instrument or feature is held under one of the legal authorities listed in section I.B.(6)(ii) of this appendix. An investment in subordinated debt or other types of debt instruments may be treated as an equity investment if, in the judgment of the FDIC, the instrument is the functional equivalent of equity.

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

Dated at Washington, D.C., this 19th day of January, 2001.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–3131 Filed 2–13–01; 8:45 am]

BILLING CODE 4810–33–P, 6210–01–P, 6714–01–P

[16] Unrealized gains on available-for-sale equity investments may be included in Tier 2 capital to the extent permitted under section I.A.2.(f) of this Appendix. In addition, the net unrealized loss on available-for-sale equity investments are deducted from Tier 1 capital in accordance with section I.A.1. of this Appendix.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–25–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Models F33A, A36, B36TC, 58/58A, C90A, B200, and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Raytheon Aircraft Company (Raytheon) Beech Model F33A, A36, B36TC, 58/58A, C90A, B200, and 1900D airplanes equipped with a KA–33 cooling blower. The proposed AD would require you to incorporate certain electrical parts to protect cooling blowers. Several reports of circuit breakers failing to protect cooling blowers on the affected airplanes have prompted the proposed action. The actions specified by the proposed AD are intended to provide protection to the blower motor circuit, thus reducing the possibility of emission of smoke or a burning odor into the cockpit or passenger compartment as a result of a failed or seized blower motor.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule by April 6, 2001.

ADDRESSES: Send three copies of comments to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–25–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may look at comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

You may get the service information referenced in the proposed AD from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. You may look at this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Todd Dixon, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4152; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? We invite your comments on the proposed rule. You may send whatever written data, views, or arguments you choose. You need to include the rule's docket number and send your comments in triplicate to the address named under the caption **ADDRESSES**. We will consider all comments received by the closing date specified above, before acting on the proposed rule. We may change the proposals contained in this notice because of the comments received.

Are there any specific portions of the proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might call for a need to change the proposed rule. You may examine all comments we receive. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this proposal.

The FAA is reexamining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on the ease of understanding this document, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.faa.gov/language/.

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–25–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The FAA has received several reports of blower motors failing, seizing, smoking, and producing a burning odor that enters the cabin and passenger compartment. These events are the result of the blower motor having circuit protection of more than 1 ampere. This amount of circuit protection does not prevent the blower motor from smoking and creating a burning odor should it fail or seize.

What are the consequences if the condition is not corrected? This

condition could result in smoke or burning odor entering the cockpit or passenger compartments.

Relevant Service Information

What service information applies to this subject? Raytheon has issued these Service Bulletins:

—SB 34–3267, Issued: March 1999;
—SB 34–3268, Issued: April 2000;
—SB 34–3269, Issued: January 2000; and
—SB 34–3269, Revision 1, Revised: October 2000.

What are the provisions of these service bulletins? These service bulletins specify and include procedures for the following:

Service bulletin	Applies to	Specifies and includes procedures for
Raytheon Service Bulletin SB 34–3267	Certain Raytheon Models F33A, A36, B36TC, and 58/58A airplanes.	Inspecting for an installed KA–33 cooling blower. If the aircraft has a KA–33 cooling blower, installing a 1 ampere circuit breaker, part number (P/N) 7277–2–1, in place of the factory installed 3 ampere/5 ampere circuit breakers.
Raytheon Service Bulletin SB 34–3268	Certain Raytheon Model 1900D airplanes	Installing the in-line fuse holder, P/N HHJ–A, in wire J51500E–J039002. Installing the 1 ampere slow-burn fuse, P/N MDA1, in the fuse holder.
Raytheon Service Bulletin SB 34–3269 and SB 34–3269, Revision 1.	Certain Raytheon Models C90A and B200 airplanes.	Installing the in-line fuse holder, P/N HHJ–A, following SB 34–3269 Rev. 1, Figures 1 or 2 or 3 (whichever is applicable). Installing the 1 ampere slow-burn fuse, P/N MDL1, in the fuse holder In addition, for Model B200 aircraft, installing the GMW–3 fuse in the Avionics Junction Box.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD

What has FAA decided? After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

—the unsafe condition referenced in this document exists or could develop on other Raytheon Beech Model F33A, A36, B36TC, 58/58A, C90A, B200, and 1900D airplanes of the same type design;
—these airplanes should have the actions specified in the service bulletins incorporated; and
—FAA should take AD action to correct this unsafe condition.

What does this proposed AD require? This proposed AD would require you to incorporate the electrical installations presented in the service bulletin.

What are the differences between the service bulletin and the proposed AD? Raytheon specifies in the service information that you are to do this modification at the next scheduled inspection or before 6 months or 600 hours time-in-service, whichever comes first. We propose a requirement that you do the modification within the next 6 calendar months or 600 hours time-in-service (TIS), whichever comes first, after the effective date of the proposed AD. We cannot enforce a compliance time of ''at the next scheduled inspection.'' We believe that 6 calendar months or 600 hours TIS will give the owners/operators of the affected airplanes enough time to have the proposed actions done without compromising the safety of the airplanes. This will allow the owners/operators to work this proposed modification into regularly scheduled maintenance.

Cost Impact

How many airplanes does this proposed AD impact? We estimate the proposed AD would affect 3,403 airplanes in the U.S. registry:

Models	No. of U.S. airplanes affected
F33A, A36, B36TC, and 58/58A	2,385
C90A	275
B200	343
1900D	400

What is the cost impact of the proposed action for the affected airplanes on the U.S. Register? We estimate the following costs to do the proposed inspection for Beech Models F33A, A36, B36TC, and 58/58A airplanes:

Labor cost	Parts cost	Total cost for each airplane	Total cost on U.S. airplane operators
1 workhour × $60 each hour = $60	No parts needed for inspection	$60	$143,100

For Beech Models F33A, A36, B36TC, and 58/58A airplanes, we estimate the following costs to do any necessary circuit breaker installation that would be required based on the results of the proposed inspection. We have no way of knowing the number of airplanes that may need the circuit breaker installation:

Labor cost	Parts cost	Total cost for each airplane
1 workhour × $60 each hour = $60 to do each circuit breaker installation.	$32.50 for each airplane	$60 + $32.50 = $92.50

We estimate the following costs to do the proposed installation for Beech Model C90A airplanes. We have no way of knowing how many airplanes may need the in-line fuse holder and 1 ampere slow-burn fuse installation:

Labor cost	Parts cost	Total cost for each airplane
1 workhour × $60 each hour = $60 to do each inline fuse holder and 1-ampere slow-burn fuse installation.	$11.80 for each airplane	$60 + $11.80 = $71.80

We estimate the following costs to do the proposed installation for Beech Models B200 airplanes. We have no way of knowing how many airplanes may need the in-line fuse holder and 1 ampere slow-burn fuse installation:

Labor cost	Parts cost	Total cost for each airplane
2 workhours × $60 each hour = $120 to do each in-line fuse holder, 1-ampere slow-burn fuse installation and the Avionics Junction Box re-work.	$18.81 for each airplane	$120 + $18.81 = $138.81

We estimate the following costs to do the proposed installation for Beech Models 1900D airplanes. We have no way of knowing the number of airplanes that may need the in-line fuse holder and 1 ampere slow-burn fuse installation:

Labor cost	Parts cost	Total cost for each airplane
1 workhour × $60 each hour = $60 to do each in-line fuse holder and 1-ampere slow-burn fuse installation.	$11.80 for each airplane	$60 + $11.80 = $71.80.

The manufacturer will allow warranty credit for labor and parts to the extent noted in the service bulletin.

Regulatory Impact

Does this proposed AD impact relations between Federal and State governments? The proposed regulations would 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. We have determined that this proposed rule would not have federalism implications under Executive Order 13132.

Does this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if put into effect, 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. We have placed a copy of the draft regulatory evaluation prepared for this action in the Rules Docket. You may get a copy of it 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

Therefore, under 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. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Raytheon Aircraft Company: Docket No. 2000–CE–25–AD.

(a) *What airplanes are affected by this AD?* The following model airplanes, certificated in any category:

Model	Serial Numbers
Beech F33A	CE–1050 through CE–1791.
Beech A36	E–2205 through E–3217.
Beech B36TC	EA–443 through EA–628.
Beech 58/58A	TH–1436 through TH–1883.
Beech C90A	Do not have the EFIS–84 System.Installation equipped with factory installed KLN–88 LORAN: LJ–1278, LJ–1288, LJ–1293, LJ–1299, LJ–1314, AND LJ–1315.
Beech C90A	Equipped with Collins EFIS–84 System:LJ–1306, LJ–1316, LJ–1318, LJ–1320 through LJ–1334, LJ–1340 through LJ–1592.
Beech B200	BB–1314, BB–1449 through BB–1692 equipped with Collins EFIS–84 System.
1900D	UE–1 through UE–401.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to provide protection to the blower motor circuit, thus reducing the possibility of the emission of smoke or a burning odor in the cockpit or passenger compartment from a failed or seized blower motor.

(d) *What must I do to address this problem for Beech Models F33A, A36, B36TC, and 58/58A?* To address this problem, you must do the following actions:

Actions	Compliance times	Procedures
(1) Inspect for an installed and properly working KA–33 cooling blower.	Within the next 600 hours time-in-service (TIS) or within the next 6 calendar months after the effective date of this AD, whichever comes first, unless already performed.	Do this action following Raytheon Mandatory Service Bulletin SB 34–3267, Issued: March 1999.
(2) If the aircraft has a KA–33 cooling blower, install a 1 ampere circuit breaker, part number (P/N) 7277–2–1, in place of the factory installed 3 ampere/5 ampere circuit breakers.	Before further flight after the inspection	Do this action following Raytheon Mandatory Service Bulletin SB 34–3267, Issued: March 1999.
(3) Do not install, on any affected airplane, any 3 ampere/5 ampere circuit breakers to protect the KA–33 Cooling Blower.	As of the effective date of this AD..	

(e) *What must I do to address this problem for Beech Models C90A?* To address this problem, you must do the following actions:

Actions	Compliance times	Procedures
(1) Install the in-line fuse holder, P/N HHJ–A, per the Service Bulletin instructions, and install the 1-ampere slow-burn fuse, P/N MDL1 in the fuse holder.	Within the next 600 hours TIS or within the next 6 calendar months after the effective date of this AD, whichever comes first, unless already performed.	Do these actions following Raytheon Mandatory Service Bulletin SB 34–3269, Revision 1, Revised: October 2000.
(2) Doing this action following Raytheon Mandatory Service Bulletin SB 34–3269, Issued: January 2000, is considered an alternative method of compliance within this AD.	Within the next 600 hours TIS or within the next 6 calendar months after the effective date of this AD, whichever comes first, unless already performed..	Not Applicable.

(f) *What must I do to address this problem for Beech Models B200?* To address this problem, you must do the following actions:

Actions	Compliance times	Procedures
(1) Install the in-line fuse holder, P/N HHJ–A. Install the 1-ampere slow-burn fuse, P/N MDL1 in the fuse holder.	Within the next 600 hours TIS or within the next 6 calendar months after the effective date of this AD, whichever comes first, unless already performed..	Do these actions following Raytheon Mandatory Service Bulletin SB 34–3269, Revision 1, Revised: October 2000.
(2) Remove the P/N GMW–1 fuse and install the new P/N GMW–3 fuse in the Avionics Junction Box.	Within the next 600 hours TIS or within the next 6 calendar months after the effective date of this AD, whichever comes first, unless already performed..	Do these actions following Raytheon Mandatory Service Bulletin SB 34–3269, Revision 1, Revised: October 2000.
(3) Doing this action following Raytheon Mandatory Service Bulletin SB 34–3269, Issued: January 2000, is considered an alternative method of compliance within this AD.	Within the next 600 hours TIS or within the next 6 calendar months after the effective date of this AD, whichever comes first, unless already performed.	Not Applicable.

(g) *What must I do to address this problem for Model 1900D?* To address this problem, you must do the following actions:

Actions	Compliance times	Procedures
Install the in-line fuse holder, P/N HHJ–A, in wire J51500E–J039002. Install the 1-ampere slow-burn fuse, P/N MDA1 in the fuse holder.	Within the next 600 hours TIS or within the next 6 calendar months after the effective date of this AD, whichever comes first, unless already performed..	Do these actions following Raytheon Mandatory Service Bulletin SB 34–3268, Issued: April 2000.

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

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

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

Note: This AD applies to each airplane with a KA–33 cooling blower identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance following paragraph (h) of this AD. You should include in the request an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(i) *Where can I get information about any already-approved alternative methods of compliance?* Contact Todd Dixon, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4152; facsimile: (316) 946–4407.

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

(k) *How do I get copies of the documents referenced in this AD?* You may get the service information referenced in the AD from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; or you may look at the service information at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 7, 2001.

William J. Timberlake,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–3679 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–33–AD]

RIN 2120–AA64

Airworthiness Directives; Rolladen Schneider Flugzeugbau GmbH Models LS 3, LS 4, and LS 6c Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Rolladen Schneider Flugzeugbau GmbH (Rolladen Schneider) Models LS 3, LS 4, and LS 6c sailplanes. The proposed AD would require you to inspect the airbrake levers in the wing for lower end corrosion and for play in flight direction when fully extended and retracting under load; replace the bearings if there is jamming under load or if corrosion is found; and adjust the lower lever member (only for the Model LS 3). The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this proposed AD are intended to detect and correct corrosion damage to the airbrake levers and bearings caused by collection of water in the air brake boxes, not detected during postflight checks. This condition could result in the airbrakes locking in the extended position and a consequent off-field or short landing.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule by April 2, 2001.

ADDRESSES: Send three copies of comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–33–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may read comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

You may get service information that applies to the proposed AD from Rolladen-Schneider Flugzeugbau GmbH, Muhlstrasse 10, D–63329 Egelsbach, Germany; phone: ++ 49 6103 204126; facsimile: ++ 49 6103 45526. You may look at this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on the proposed AD? We invite your comments on the proposed rule. You may send whatever written data, views, or arguments you choose. You need to include the rule's docket number and send your comments in triplicate to the address specified under the caption **ADDRESSES.** We will consider all comments received by the closing date specified above, before acting on the proposed rule. We may change the proposals contained in this notice in light of the comments received.

Are there any specific portions of the proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might require a change to the proposed rule. You may look at all comments we receive. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this proposal.

We are re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on the ease of understanding this document, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.faa.gov/language/.

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–33–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The LBA, which is the airworthiness authority for Germany, recently notified FAA that an unsafe condition may exist on certain Rolladen Schneider Models LS 3, LS 4, and LS 6c sailplanes. The LBA reports one occurrence of corroded bearings on the lower ends of air brake levers found on the above-referenced sailplanes. The damage was possibly the result of improper postflight checks. It has been reported that in some cases, the corrosion, occurring over a long time, could cause bearing failure and consequent locking of air brakes in the extended position.

What are the consequences if the condition is not corrected? If the airbrakes lock in the extended position, inadvertent off-field or short landing conditions might occur.

Is there service information that applies to this subject? Rolladen Schneider has issued these technical bulletins dated September 14, 1999:

—No. 3051;
—No. 4043; and
—No. 6037.

What are the provisions of these service bulletins? These service bulletins specifies procedures for:

—Inspecting air brake levers in the wing for lower end corrosion and for play in flight direction when fully extended; inspect for retraction under load; replacing the bearings if there is jamming under load or if corrosion is found; and
—Adjusting the lower lever member (only for the Model LS 3).

What action did the LBA take? The LBA classified these service bulletins as mandatory and issued these German AD's, dated March 9, 2000, to ensure the continued airworthiness of these sailplanes in Germany:

—2000–076;
—2000–082; and
—2000–085.

Was this in accordance with the bilateral airworthiness agreement? These sailplane models are manufactured in Germany and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Complying with this bilateral airworthiness agreement, the LBA has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD

What has FAA decided? The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Rolladen Schneider Models LS 3, LS 4, and LS 6c sailplanes of the same type design;

—The actions specified in the previously-referenced service information should be done on the affected sailplanes; and
—AD action should be taken in order to correct this unsafe condition.

What would the proposed AD require? This proposed AD would require you to do the actions specified in the previously referenced service information.

Cost Impact

How many sailplanes would the proposed AD impact? We estimate that the proposed AD would affect 175 sailplanes in the U.S. registry.

What would be the cost impact of the proposed AD on owners/operators of the affected sailplanes? We estimate the following costs to do the proposed inspection:

Labor cost	Parts cost	Total cost per sailplane	Total cost on U.S. sailplane operators
2 workhours × $60 per hour = $120	Not applicable	$120	$21,000

We estimate the following costs to do any necessary bearing replacement that would be required because of the results of the proposed inspection. We have no way of determining the number of sailplanes that may need bearings replaced:

Labor cost	Parts cost	Total cost per sailplane
30 workhours × $60 per hour = $1,800.	$35 for bearings + $550 for levers = $585.	$2,385

Compliance Time of the Proposed AD

What would be the compliance time of the proposed AD? The compliance time of this proposed AD is within the next 30 calendar days after the effective date of this AD.

Why is the compliance time presented in calendar time instead of hours time-in-service (TIS)? Because of the typical use of sailplanes, calendar days compliance time was deemed more suitable than time in service. For example, one sailplane operator may use the sailplane 50 hours in 1 month while another may only accumulate 50 hours in 1 year.

Why is the compliance time of the proposed AD different from the German AD and the service information? The service information specifies the actions required in this proposed AD ''before next flight'' and the German AD mandates these actions ''before next take-off, when play at levers is existent'' for sailplanes registered for operation in Germany. The FAA does not have justification for requiring the action before further flight. Compliance times such as these are used for urgent safety of flight conditions. Instead, FAA has determined that 30 calendar days is a reasonable time period for doing the inspection in this proposed AD.

Regulatory Impact

Would this proposed AD impact various entities? The regulations proposed would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under 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. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Rolladen Schneider Flugzeugbau GMBH:
Docket No. 2000–CE–33–AD

(a) *What sailplanes are affected by this AD?* This AD affects Models LS 3, LS 4, and LS 6c sailplanes, all serial numbers, certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above sailplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct corrosion damage to the airbrake levers and bearings caused by collection of water in the air brake boxes not detected during postflight checks. This condition could result in the airbrakes locking in the extended position and a consequent off-field or short landing.

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

Actions	Compliance	Procedures
(1) Inspect the airbrake levers in the wing for lower end corrosion and for play in flight direction when fully extended, and retracting under load.	Within the next 30 calendar days after the effective date of this AD, and thereafter at every three calendar years.	Do these actions following the applicable Rolladen Schneider Technical Bulletin: Model LS 3: No. 3051, dated September 14, 1999; Model LS 4: No. 4043, dated September 14, 1999; or Model LS 6c: No. 6037, dated September 14, 1999.
(2) Replace the bearings if there is jamming under the load.	Before further flight after the inspection required by this AD.	Do this action following the applicable Rolladen Schneider Technical Bulletin: Model LS 3: No. 3051, dated September 14, 1999; Model LS 4: No. 4043, dated September 14, 1999; or Model LS 6c: No. 6037, dated September 14, 1999.
(3) If corrosion of the bearings is found, but no jamming, replace the bearings.	Within 6 calendar months after the inspection required by this AD.	Do this action following the applicable Rolladen Schneider Technical Bulletin: Model LS 3: No. 3051, dated September 14, 1999; Model LS 4: No. 4043, dated September 14, 1999; or Model LS 6c: No. 6037, dated September 14, 1999.
(4) For only the Model LS 3, adjust the lower lever member.	Within the next 30 calendar days after the effective date of this AD.	Do this action following the procedures contained in Rolladen Schneider Technical Bulletin No. 3051, dated September 14, 1999.

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

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

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

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

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

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

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Rolladen-Schneider Flugzeugbau GmbH, Muhlstrasse 10, D–63329 Egelsbach, Germany. You may read these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in these German AD's dated March 9, 2000:

—2000–076;
—2000–082; and
—2000–085.

Issued in Kansas City, Missouri, on January 22, 2001.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–3678 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–347–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 removing certain foam filters from the cabin ducting installation located below the dado panels on the left- and right-hand sides of the airplane. This action is necessary to prevent an increased risk of spreading a fire or failure of the cabin to pressurize adequately if certain foam filters are installed. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by March 16, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–347–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–347–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 Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, 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.

FOR FURTHER INFORMATION CONTACT: Dan Parrillo, Aerospace Engineer, Systems and Flight Test 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:

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 action 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–347–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–347–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 certain foam filters for the cabin exhaust system were incorporated erroneously on production airplanes. (There is no requirement that these filters be installed.) These filters failed to pass the flammability tests specified in Appendix F of part 25 of the Federal Aviation Regulations (14 CFR part 25). This condition, if not corrected, could increase the risk of spreading a fire on the airplane.

In addition, pressurization tests are required by § 25.843(b) of the Federal Aviation Regulations [14 CFR 25.843(b)]; however, these tests were conducted without foam filters installed in the cabin exhaust system of the airplane. The impact on pressurization of the airplane to proper levels is unknown for airplanes on which these filters are installed; therefore, pressurization tests would have to be reaccomplished on any airplane having the filters. Installation of these filters could result in failure of the cabin to pressurize adequately.

Explanation of Relevant Service Information

The manufacturer has issued Bombardier Repair Drawing RD8–21–23, Issue 2, dated December 16, 1999, which describes procedures for removing certain foam filters from the cabin ducting installation located below the dado panels on the left- and right-hand sides of the airplane. These procedures include: verifying that certain foam filters are installed behind the grille assemblies, inspecting the grille assemblies on both the port and starboard sides and along the entire length of the interior of the airplane, removing all foam filters and ensuring that no pieces remain, and reinstalling the grille assemblies by locating the fasteners and pressing each with a quarter-turn. Accomplishment of the actions specified in the repair drawing is intended to adequately address the identified unsafe condition. TCCA classified this repair drawing as mandatory and issued Canadian airworthiness directive CF–2000–25, dated August 28, 2000, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

These airplane models are manufactured in Canada and are type certificated for operation in the United States under the provisions of § 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 repair drawing described previously.

Cost Impact

The FAA estimates that 38 Bombardier Model DHC–8–100, –200, and –300 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $18,240, or $480 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. 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, Inc. (Formerly de Havilland, Inc.): Docket 2000–NM–347–AD.

Applicability: Model DHC–8–100, –200, and –300 series airplanes, certificated in any category, having serial numbers 408, 413, 434 through 463 inclusive, 465 through 489 inclusive, 491 through 505 inclusive, and 507.

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 an increased risk of spreading a fire, or failure of the cabin to pressurize adequately if certain foam filters are installed, accomplish the following:

Removal of Foam Filters

(a) Within 4 months after the effective date of this AD, remove the foam filters from the cabin ducting installation located below the dado panels on the left- and right-hand sides of the airplane (including verifying that the foam filters are installed behind the grille assemblies, inspecting the grille assemblies on both the port and starboard sides and along the entire length of the interior of the airplane, removing all foam filters and ensuring that no pieces remain, and reinstalling the grille assemblies by locating the fasteners and pressing each with a quarter-turn), per Bombardier Aerospace Repair Drawing RD8–21–23, Issue 2, dated December 16, 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.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–2000–25, dated August 28, 2000.

Issued in Renton, Washington, on February 7, 2001.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–3677 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–261–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 and Model A300 B4–600, A300 B4–600R, and A300 F4–600R (Collectively Called A300–600) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This amendment proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Model A310 and Model A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600) series airplanes. This proposal would require replacement of the ejection jack on the ram air turbine (RAT). This action is necessary to prevent the ejection jack on the RAT from failing when the RAT is deployed at high airspeeds, leading to a loss of ability to properly restrain the movement of the RAT, possibly resulting in damage to the RAT itself and to other airplane components. In the event of an emergency, failure of the ejection jack on the RAT could also result in a reduction of hydraulic pressure or electrical power on the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by April 2, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–261–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–261–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 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: Dan Rodina, Aerospace Engineer, FAA, Transport Airplane Directorate, ANM–116, 1601 Lind Ave., SW, Renton, Washington 98055–4056; telephone (425) 227–2125; 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 action 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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–261–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–261–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Generale 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 A310 and Model A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600) series airplanes.

The DGAC advises that an anomaly of the ejection jack of the ram air turbine (RAT) was found in production. Follow-up analyses showed that the nut at the end of the ejection jack piston rod has insufficient thread engagement to absorb impact loads when the RAT is deployed at high speed. This condition, if not corrected, could lead to a loss of ability to properly restrain the movement of the RAT, possibly resulting in damage to the RAT itself and to other airplane components. In the event of an emergency, failure of the ejection jack on the RAT could also result in a reduction of hydraulic pressure or electrical power on the airplane.

Explanation of Relevant Service Information

Airbus has issued service bulletin A300–29–6048, Revision 01 (for A300–600 series airplanes) and service bulletin A310–29–2086, Revision 01 (for A310 series airplanes), both dated July 12, 2000. These service bulletins describe procedures for replacing the ejection jack in the RAT and testing the modified RAT. Replacing the ejection jack reduces impact loads by dampening the deployment of the RAT. 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 directive 2000–284–317(B), dated July 12, 2000, to assure the continued airworthiness of these airplanes in France.

Explanation of Secondary Service Information

The Airbus service bulletins refer to Hamilton Sundstrand Service Bulletin No. ERPS03/04EJ–29–1 as an additional source of service information for accomplishment of the modification of the RAT and testing of the modified RAT.

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 21.19) 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 the 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 FAA estimates that 117 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed modification, and that the average labor rate is $60 per work hour. There would be no charge for required parts. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $42,120, or $360 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 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 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 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.

Adoption of the 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–261–AD.

Applicability: Model A310 and Model A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600) series airplanes; certificated in any category, except for airplanes on which Airbus Modification 12259 has been embodied.

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 per paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the ejection jack on the ram air turbine (RAT) from failing when the RAT is deployed at high airspeeds, leading to a loss of ability to properly restrain the movement of the RAT, possibly resulting in damage to the RAT itself and to other airplane components and in reduced hydraulic pressure or electrical power, if such failure occurs during an emergency, accomplish the following:

Modification

(a) Within 34 months after the effective date of this AD: Modify the RAT per Airbus Service Bulletin A310–29–2086, Revision 01 (for Model A310 series airplanes) or A300–29–6048, Revision 01 (for Model A300–600 series airplanes), both dated July 12, 2000, as applicable.

(b) As of the effective date of this AD, no person shall install on any airplane an ejection jack, part number 730820, unless it has been modified per paragraph (a) of this AD.

Note 2: The Airbus service bulletins refer to Hamilton Sundstrand Service Bulletin No. ERPS03/04EJ–29–1, as an additional source of service information for accomplishment of the modification of the RAT and testing of the modified RAT.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued per 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 directive 2000–284–317(B), dated July 12, 2000.

Issued in Renton, Washington, on February 7, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–3676 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–212–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model BAe.125 Series 800A (C–29A and U–125 Military), 1000A, and 1000B Airplanes; Hawker 800 (U–125A Military) Airplanes; and Hawker 800XP and 1000 Series Airplanes.

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Raytheon Model BAe.125, Hawker 800 (U–125A military) and Hawker 800XP series airplanes that would have required removal of existing clamps, bedding tapes, and rubber connecting sleeves at the ends of the turbine air discharge duct and the water separator, and replacement of the clamps and rubber connecting sleeves with new, improved components. This new action revises the proposed rule by adding airplanes to the applicability; and, for certain airplanes, adding a new requirement to remove aluminum bedding strips that are installed under the existing clamps. The actions specified by this new proposed AD are intended to prevent the turbine air discharge duct or water separator outlet duct from disconnecting from the cold air unit turbine or from the water separator, resulting in the loss of air supply to maintain adequate cabin pressure. Loss of adequate cabin pressure at high altitude would require emergency procedures, such as use of oxygen, auxiliary pressurization, or emergency descent.

DATES: Comments must be received by March 12, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–212–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–212–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 Raytheon Aircraft Company, Manager, Service Engineering, Product Support Department (62), P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Paul C. DeVore, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4142; fax (316) 946–4407.

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 action 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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–212–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–212–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Raytheon Model BAe.125, Hawker 800 (U–125A), and Hawker 800XP series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on August 14, 2000 (65 FR 49523). That NPRM would have required removal of existing clamps, bedding tapes, and rubber connecting sleeves at the ends of the turbine air discharge duct and the water separator, and replacement of the clamps and rubber connecting sleeves with new, improved components.

Actions Since Issuance of Previous Proposal

Since the issuance of that NPRM, the FAA has received reports indicating that aluminum bedding strips may inhibit proper torquing of the clamp. Such improper torquing of the clamp may allow separation of the turbine air discharge duct or water separator outlet duct from the cold air unit turbine or from the water separator, which could result in the loss of air supply to maintain adequate cabin pressure. Loss of adequate cabin pressure at high altitude would require emergency procedures, such as use of oxygen, auxiliary pressurization, or emergency descent.

Issuance of a New Service Bulletin

The FAA has reviewed and approved Raytheon Service Bulletin SB 21–3414, Revision 1, dated July 2000, that describes procedures for removing certain aluminum bedding strips on the air conditioning duct sleeves attached to both ends of the turbine air discharge duct and at the outlet end of the water separator. That service bulletin also specifies additional airplane models to the effectivity specified in Raytheon Service Bulletin SB 21–3377, Revision 1, dated July 2000, which was specified as the appropriate service information in the original NPRM.

Conclusion

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

There are approximately 270 Model BAe.125 series 800A (C–29A and U–125 military), 1000A, and 1000B airplanes, Hawker 800 (U–125A military) airplanes, and Hawker 800XP and 1000 series airplanes of the affected design in the worldwide fleet.

The FAA estimates that 154 airplanes of U.S. registry would be affected by paragraph (a) of this proposed AD. We estimate that the actions required by paragraph (a) of this AD would take approximately 8 work hours per airplane to accomplish, and that the average labor rate is $60 per work hour. Required parts would cost approximately $492 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $149,688, or $972 per airplane.

The FAA estimates that an additional 36 airplanes of U.S. registry would be affected by paragraph (b) of this proposed AD. We estimate that the actions required by paragraph (b) of this AD would take approximately 2 hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. There is no cost for required parts. Based on these figures, the cost impact of paragraph (b) of the proposed AD on U.S. operators is estimated to be $4,320, or $120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

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:

Raytheon Aircraft Company: Docket 2000–NM–212–AD.

Applicability: Model BAe.125 series 800A (C–29A and U–125 military), 1000A, and 1000B airplanes, Hawker 800 (U–125A military) airplanes; up to and including serial number 258406; and Hawker 800XP series airplanes, up to and including serial number 258483 and 1000 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the turbine air discharge duct or water separator outlet duct from disconnecting from the cold air unit turbine or from the water separator, resulting in the loss of air supply to maintain adequate cabin pressure, accomplish the following:

Replacement

(a) For Model BAe.125 series 800A (C–29A and U–125 military) series airplanes, Hawker 800 (U–125A military) airplanes up to and including serial number 258406, and Hawker 800XP series airplanes up to and including serial number 258459: Remove the clamps, bedding tapes, and rubber connecting sleeves at the ends of the air turbine discharge duct and the water separator, and replace the clamps and rubber connecting sleeves with new, improved components, in accordance with the Accomplishment Instructions of Raytheon Service Bulletin SB 21–3377, Revision 1, dated July 2000, at the earliest of the times specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Prior to any extended over-water operation.

(2) Within the next 300 hours time-in-service after the effective date of this AD.

(3) Within the next six months after the effective date of this AD.

Note 2: An extended over-water operation is defined in 14 CFR 1.1 as '' * * * an operation over water at a horizontal distance of more than 50 nautical miles from the nearest shoreline. * * * ''

(b) For Model Hawker 800XP series airplanes having serial numbers 258460 through 258483, Model BAe.125 series 1000A/1000B airplanes, and Hawker 1000 series airplanes: Remove the aluminum bedding strips from the air conditioning duct sleeves attached to both ends of the turbine air discharge duct and at the outlet end of the water separator, in accordance with the Accomplishment Instructions of Raytheon Service Bulletin SB 21–3414, Revision 1, dated July 2000, at the earliest of the times specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD.

(1) Prior to any extended over-water operation.

(2) Within the next 300 hours time-in-service after the effective date of this AD.

(3) Within the next six months after the effective date of this AD.

Actions Accomplished Previously and Terminating Actions

(c) For certain airplanes, actions described in the original issuance of Raytheon Service Bulletin SB 21–3377, may have been accomplished prior to the effective date of this AD. On those airplanes, those actions are not required to be repeated, as allowed by the phrase, ''unless accomplished previously.'' However, any action described in Raytheon Service Bulletin SB 21–3377, Revision 1, dated July 2000, or Raytheon Service Bulletin SB 21–3414, Revision 1, dated July 2000, that has not been accomplished on those airplanes must be accomplished in accordance with this AD. Accomplishment of the actions specified in both Raytheon Service Bulletin SB 21–3377, Revision 1, dated July 2000, and Raytheon Service Bulletin SB 21–3414, Revision 1, dated July 2000, is considered to be terminating action for the requirements of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on February 7, 2001.

Donald L. Riggin,

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

[FR Doc. 01–3675 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–45–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, –314, and –315 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, –314, and –315 series airplanes. This proposal would require revising the Bombardier maintenance program to incorporate repetitive inspections to detect fatigue cracking in certain structures; and corrective actions, if necessary. This proposal is prompted by issuance of

mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to ensure that fatigue cracking of certain principal structural elements is detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

DATES: Comments must be received by March 16, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–45–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–45–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 Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, 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.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; 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 action 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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–45–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–45–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 all Model DHC–8–102, –103, –106, –201, –202, –301, –311, –314, and –315 series airplanes. TCCA advises that fatigue cracks have been found in the outer closing angles at both front and rear spar locations on the airplane fuselage. The closing angles consist of three segments (left, center, and right), which are part of the structure that connects the fuselage to the wing front and rear spar webs located in the wing/fuselage interface area. Reports received by the FAA indicate that cracks were detected in the closing angles on a number of in-service Model DHC–8–102 and –103 series airplanes. Investigation revealed that those cracks were generated by metal fatigue due to cyclic loading on the wing. Cracking of any closing angles identified as principal structural elements (PSE's) could adversely affect the structural integrity of the airplanes.

Explanation of Relevant Service Information

The manufacturer has issued de Havilland Temporary Revisions (TR's) to the DHC–8 Maintenance Program Manuals, as listed in Table 1 of this AD. The TR documents include inspection procedures of the Airworthiness Limitations List, Structural Inspection Program Task No. 5310/31A, which specify threshold and repetitive inspections. Those documents are to be incorporated into the DHC–8 Maintenance Program Manuals to revise the Bombardier maintenance program.

TCCA has approved the TR documents and has issued Canadian airworthiness directive CF–2000–07, dated March 3, 2000, to assure the continued airworthiness of these airplanes in Canada. The Canadian airworthiness document includes procedures for revising the Bombardier maintenance program and detecting and correcting fatigue cracking in the wing/fuselage PSE closing angles.

Accomplishment of the actions specified in these documents is intended to adequately address the identified unsafe condition.

FAA's Conclusions

These airplane models are manufactured in Canada 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 TCCA has kept the FAA informed of the situation described above. The FAA has determined that the DHC–8 Maintenance Program Manuals, Airworthiness Limitations List (AWL), must be revised by incorporating the threshold and repetitive inspection intervals of the AWL, Structural Inspection Program Task No. 5310/31A, specified by the TR documents, into the Bombardier maintenance program. The FAA has examined the findings of the 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 TR documents and in this proposed AD, except as discussed below.

Difference Between Proposed Rule and Canadian Airworthiness Directive

Operators should note that the previously referenced Canadian airworthiness directive specifies contacting the manufacturer for the disposition of any cracking found in any closing angle identified as a principal structural element. However, this proposal would require the repair of any such cracking or replacement of the closing angles per a method approved by the FAA.

Difference Between TR Document, and Canadian Airworthiness Directive and Proposed Rule

Operators should note that TR AWL–71, dated September 3, 1999, lists Model DHC–8–101 series airplanes in the table of the Structural Inspection Program included in that TR. However, that airplane model is not cited in the Canadian airworthiness directive or in the applicability of the proposed rule. In addition, the manufacturer has informed the FAA that Model DHC–8–101 no longer exists, as it was converted into Model DHC–8–102 in 1986.

Cost Impact

The FAA estimates that 195 Model DHC–8–102, –103, –106, –201, –202, –301, –311, –314, and –315 series airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to revise the Bombardier maintenance program, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $11,700, or $60 per airplane.

It would take approximately 5 work hours per airplane to accomplish the structural inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $58,500, or $300 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

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, Inc. (Formerly de Havilland, Inc.): Docket 2000-NM–45–AD.

Applicability: Model DHC–8–102, –103, –106, –201, –202, –301, –311, –314, and –315 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure continued structural integrity of these airplanes, accomplish the following:

(a) Within 30 days after the effective date of this AD, accomplish the actions required by either paragraph (a)(1) or (a)(2) of this AD, as applicable.

Maintenance Program Revisions

(1) Revise the Bombardier maintenance program by incorporating the threshold and repetitive inspection intervals specified in the Temporary Revisions (TR's) to the DHC–8 Maintenance Program Manuals, Airworthiness Limitations List (AWL), Structural Inspection Program Task No. 5310/31A, into the Bombardier maintenance program. The TR's for specific airplane models are listed in Table 1, as follows:

TABLE 1.—LIST OF TEMPORARY REVISIONS

Bombardier models	TR number	Date
DHC–8–102, –103, and –106 series airplanes	TR AWL–71	September 3, 1999.
DHC–8–102, –103, –106, –201, –202, –301, –311, –314, and –315 series airplanes.	TR AWL 2–15	September 3, 1999.
DHC–8–301, –311, –314, and –315 series airplanes	TR AWL 3–78	November 19, 1999.

Note 2: When the TR documents listed in Table 1 in paragraph (a)(1) of thisAD are incorporated into the general revisions of the DHC–8 Maintenance Program Manual, you may insert the general revisions into the Bombardier maintenance program, provided

that the information contained in the general revisions is identical to that specified in the TR documents.

Structural Inspections

(2) For airplanes having closing angles that are identified as principal structural elements: Do the inspections specified by the applicable TR listed in Table 1 of paragraph (a) of this AD. Thereafter, repeat the inspection at intervals not to exceed 10,000 flight cycles at the time specified in paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this AD, as applicable.

(i) For airplanes that have accumulated less than 8,000 flight cycles as of the effective date of this AD: Do the threshold inspection prior to the accomplishment of 10,000 flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later.

(ii) For airplanes that have accumulated 8,000 flight cycles or more as of the effective date of this AD: Do the threshold inspection within 2,000 flight cycles after the effective date of this AD.

(iii) For airplanes on which a 40,000 flight cycle inspection specified by the applicable TR listed in Table 1 of paragraph (a) of this AD has been done, no cracks have been found, and/or the closing angles have been replaced: Start the 10,000 flight cycle repetitive inspection at the time specified by either paragraph (a)(2)(iii)(A) or (a)(2)(iii)(B) of this AD, as applicable.

(A) From the date at which the 40,000 flight cycle inspection was done.

(B) From the date the closing angles were replaced.

Corrective Actions

(b) If any crack is detected during any structural inspection required by paragraph (a)(2) of this AD, before further flight, repair any such cracking or replace the closing angles per a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or the Transport Canada Civil Aviation (or its delegated agent). For a repair or replacement method to be approved by the Manager, New York ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(c) Except as provided by paragraph (d) of this AD: After the actions specified in paragraphs (a) and (b) of this AD have been accomplished, no alternative inspections or inspection intervals may be approved for the structural elements specified by the documents listed in Table 1 of paragraph (a)(1) of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York ACO. 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 3: 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 4: The subject of this AD is addressed in Canadian airworthiness directive CF–2000–07, dated March 3, 2000.

Issued in Renton, Washington, on February 7, 2001.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–3674 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–38–AD]

RIN 2120–AA64

Airworthiness Directives; Marathon Power Technologies Company

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for certain nickel cadmium batteries produced by Marathon Power Technologies Company (Marathon). The AD would require visually inspecting screws installed on Marathon batteries and replacing certain unairworthy screws. This proposal is prompted by an explosion of a G.E./Saft battery due to failure of an unairworthy screw. Certain Marathon batteries are a similar design and could have the same unairworthy screws. The actions specified by the proposed AD are intended to prevent an explosion of a battery, structural damage, and subsequent loss of power to the electrical systems.

DATES: Comments must be received on or before April 16, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–38–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9–asw–adcomments@faa.gov. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Aaron Cornelius, Aviation Safety Engineer, FAA, Special Certification Office, Fort Worth, TX 76193–0190; telephone (817) 222–4637, fax (817) 222–5785.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–SW–38–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–38–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes adopting a new AD for certain nickel cadmium batteries produced by Marathon. The AD would require inspecting any affected battery to verify that each #10–32 socket head cap screw (screw) is part number (P/N) 10488–020 with two rows of straight knurls, which is the correct screw hardware. This AD also requires, before further flight, replacing any screw found with only one knurl or no knurl with a screw, P/N 10488–020, with two knurls. This proposal is

prompted by an explosion of a G.E./Saft battery during routine maintenance on a McDonnell Douglas DC–9 aircraft. Marathon battery, P/N 27183–001, is similar to the GE/Saft battery that exploded. A battery cell screw head broke off causing an electrical short circuit between the internal battery cell positive and negative posts. This resulted in a rapid discharge of energy, heat, and gases. Investigation revealed unapproved screws were installed, and maintenance procedures did not comply with the manufacturer's recommendations. Metallurgical tests cited chloride as a factor in causing the heads of the failed screws to shear and the eventual explosion of the battery. The actions specified by the proposed AD are intended to prevent an explosion of a battery, structural damage, and subsequent loss of power to the electrical systems.

We have identified an unsafe condition that is likely to exist or develop on other aircraft with Marathon batteries installed that are similar in design to the GE/Saft battery that exploded. Both are designed with similar #10–32 screws, P/N 10488–020. The proposed AD would require visually inspecting each #10–32 screw in certain Marathon batteries within 12 months or the next scheduled battery maintenance and, before further flight, replacing any unairworthy screw with an airworthy screw, P/N 10488–020.

The FAA estimates that 1814 aircraft would be affected by this proposed AD, that it would take approximately 2 work hours to replace any unairworthy screws with airworthy screws for each battery, and that the average labor rate is $60 per work hour. Required parts would cost approximately $100 per battery if all screws were replaced. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $399,080.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Marathon Power Technologies Company: Docket No. 2000–SW–33–AD.

Applicability: Marathon Power Technologies Company (Marathon) nickel cadmium batteries, installed in but not limited to the aircraft models shown in Table 1, certificated in any category:

TABLE 1

Marathon P/N	Battery type	Airframe manufacturer	Model aircraft
31718–002	TCA–1742	Aerospatiale	ATR 42, 72 Series
27515–002	CTCA–21H–1	Agusta	119 Koala
30703–002	TMA–5–20C	Agusta	412/212
29365–01C	CA–1700	Bell Helicopter Textron, Inc. (BHTI)	206A, B, L
30450–001	CA–170A	BHTI	206L–1, L–3
30135–001	SP–1700	BHTI	206A, B, L
30135–002	SP–1700L	BHTI	206A, B, L
30554–01C	SP–170A	BHTI	206L–1, L–3
32007–001	SP–170AL	BHTI	206l–1, 206l–2
32703–001	TMA–5–20	BHTI	204B, 205A, 205A–1, 212, 222, 222B, 222U, 412
31871–001	TSP–1722	BHTI	222, 222B
26069–001	KCA–727	Boeing	727 Series
29986–001	TCA–7	Boeing	234
31918–001	TSP–1760L	Bombardier/Canadair	CL 600–2B19
29094–002	BTCA–5–20	British Aerospace (Jetstream)	3101, 3201
31392–002	TSP–940	British Aerospace (Raytheon Corporate Jets Ltd)	146 Series 100A, 200A
30250–001	BTCA–9–20A	British Aerospace (Jetstream)	3101, 3201
29486–001	ATCA–21H	Cessna	441
29094–001	BTCA–5	DeHavilland (Boeing Canada)	DHC–6–1, –100, 200, 300, DHC–7–1, –100, –101, –102, –103
29360–002	BTMA–5–20	Embraer	EMB 110P1, 110P2
29206–001	CA–91–20	Fairchild (Swearingen)	SA26AT, SA226T, SA226AT, SA226T(B), SA226TC
28974–001	CA–9–20	Fairchild (Swearingen)	SA26AT, SA226T, SA226AT, SA226T(B), SA226TC
29341–001	CA–20H–20	Fokker	F27 Series
29017–002	TCA–5–20–1	Learjet	24, 25, 35
30839–001	CA–139	McDonnell Douglas	DC–9 Series
30695–001	TCA–1753	McDonnell Douglas (Hughes)	369D, H, HM, HE, serial number (S/N) 001 thru 1308, 369HS S/N 781S thru 874S
30896–001	TCA–1754	McDonnell Douglas (Hughes)	369HS S/N 001S thru 780S
30695–002	TCA–1753	McDonnell Douglas (Hughes)	369D, H, HM, HE, S/N 001 thru 1308, 369HS S/N 781S thru 874S

TABLE 1—Continued

Marathon P/N	Battery type	Airframe manufacturer	Model aircraft
30900–001 ...	TSP–1754	McDonnell Douglas (Hughes)	369HS S/N 001S thru 780S
30949–001 ...	TSP–1755	McDonnell Douglas (Hughes)	369D S/N 1309 & Sub., E S/N 125 & Sub., F S/N 55 & sub., FF S/N 55 & Sub.
30703–001 ...	TMA–5–20	Piaggio	P–166DL3, P–166
29248–001 ...	KTCA–21H–20	Short Brothers	SD3–30
29487–002 ...	CA–176	Sikorsky	S76A Series
29490–001 ...	CA–376	Sikorsky	S76A Series
31202–001 ...	SP–276	Sikorsky	S76B Series
27183–001 ...	CA–13	McDonnell Douglas	DC–9, MD–80

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

Compliance: Required within 12 months or the next scheduled battery maintenance, whichever occurs first.

To prevent an explosion of the battery, structural damage, and subsequent loss of power to the electrical systems, accomplish the following:

(a) Visually inspect each #10–32 screw in the battery at the terminals to verify that each screw has two (2) rows of straight knurls (see Figure 1). If a screw is found with only one knurl or no knurl (see Figure 1), before further flight, fully discharge the battery, remove the unairworthy screw and replace it with an airworthy screw, P/N 10488–020.

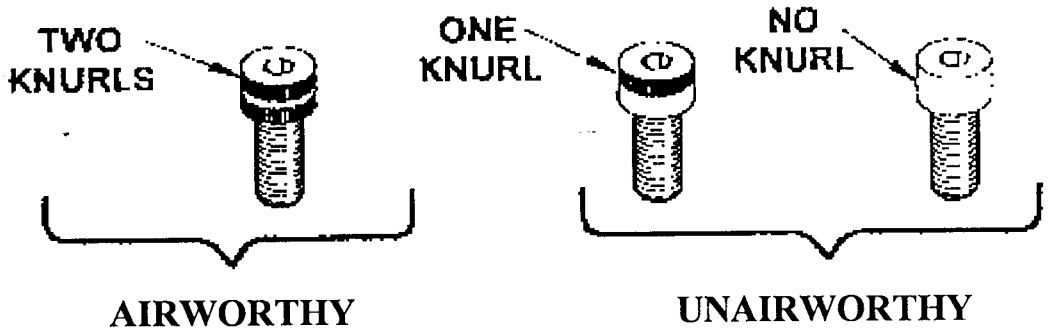

Figure 1

(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, Special Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Special Certification Office.

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

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

Issued in Fort Worth, Texas, on February 2, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–3673 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–298–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80, and C–9 (Military) Series Airplanes; Model MD–88 Airplanes; and Model MD–90 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes; Model MD–88 airplanes; and Model MD–90 airplanes that would have required, among other actions, a visual check to determine the part and serial numbers of the upper lock link assembly of the nose landing gear (NLG); repetitive inspections of certain upper lock link assemblies to detect fatigue cracking; and replacement of the upper lock link assembly with an assembly made from aluminum forging material, if necessary. Such replacement would constitute terminating action for the requirements of this AD. That proposal was prompted by a report indicating that an NLG upper lock link fractured prior to landing and jammed against the NLG shock strut, restricting the NLG from fully extending. This new action revises, among other actions, a list of suspect parts; delays accomplishment of a certain replacement; and revises the initial compliance time. The actions specified by this new proposed AD are intended to address the identified unsafe condition.

DATES: Comments must be received by March 12, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–298–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. 97–NM–298–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5237; 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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–98–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. 97–NM–298–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes, Model MD–88 airplanes, and Model MD–90 airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on October 14, 1999 (64 FR 55644). That NPRM would have required, among other actions, a visual check to determine the part and serial numbers of the upper lock link assembly of the nose landing gear (NLG); repetitive inspections of certain upper lock link assemblies to detect fatigue cracking; and replacement of the upper lock link assembly with an assembly made from aluminum forging material, if necessary. Such replacement would have constituted terminating action for the requirements of this AD. That NPRM was prompted by a report indicating that, due to fatigue cracking, a NLG upper lock link fractured prior to landing and jammed against the NLG shock strut, restricting the NLG from fully extending. That condition, if not corrected, could result in injury to passengers and flight crew, and damage to the airplane.

Actions Since Issuance of Previous Proposal

Due consideration has been given to the comments received in response to the NPRM.

Support for Proposed AD

One commenter supports the proposed AD.

Requests To Revise Compliance Time

Two commenters request that the compliance time of paragraph (a) of the proposed AD be revised to eliminate the words ''5,000 landings since the last inspection in accordance with paragraph (a) of AD 97–02–10, [amendment 39–9895 (62 FR 3781, January 27, 1997)] whichever occurs first.'' The commenters state that paragraph (a) of AD 97–02–10 requires classification of the subject links as exempt or non-exempt. According to AD 97–02–10, no further action is required if an airplane has an exempt link. One commenter also states that the proposed AD would require re-inspection of all NLG links regardless of classification findings in AD 97–02–10. As the compliance time is currently written in the proposed AD, the commenters state that their airplanes could exceed the

5,000-landing requirement for previously classified ''exempt'' links. The commenters also state that the proposed compliance time could severely limit the timeframe to inspect non-exempt links approaching the 5,000-landing repetitive inspection interval required by paragraph (c)(1) of AD 97–02–10.

Based on the commenters' statements and after reviewing the wording of the compliance time of paragraph (a) of the proposed AD, the FAA finds that clarification is necessary. As indicated in the preamble of the proposed AD, unlike in Boeing Alert Service Bulletins MD90–32A019 and DC9–32A298, there are no lock link assemblies specified as ''exempt'' or ''non-exempt'' in this proposed AD. Instead, a one-time inspection is required to determine whether the upper lock link assembly is from an ''affected lot,'' as specified in Boeing Service Bulletin MD90–32–033 or DC9–32–315.

In addition, we find that operators that are currently accomplishing the 5,000-landing repetitive inspection required by paragraph (c)(1) of AD 97–02–10 may have already exceeded or be near the threshold specified in paragraph (a) of the proposed AD [*i.e.,* 5,000 landings since the last inspection accomplished in accordance with paragraph (c)(1) of AD 97–02–10]. Therefore, we have determined that a 90-day grace period is necessary to preclude those airplanes from being grounded unnecessarily. In developing an appropriate compliance time for this action for the subject airplanes, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspections (one hour). In light of all of these factors, we find a 90-day grace period for initiating the proposed actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Therefore, for airplanes on which the inspection required by paragraph (c)(1) of AD 97–02–10 has been accomplished, the proposed actions required by paragraph (a) of this AD must be accomplished prior to accumulation of 5,000 landings since the last inspection accomplished in accordance with paragraph (c)(1) of AD 97–02–10, or within 90 days after the effective date of this AD, whichever occurs later. For airplanes on which the inspection required by paragraph (c)(1) of AD 97–02–10 has NOT been accomplished, the proposed actions required by paragraph (a) of the AD must be accomplished within 2,500 landings on the NLG after the effective date of this AD. We have revised paragraph (a) of the supplemental NPRM accordingly.

Request to Clarify the Requirements of Paragraph (c)(2)(iii) of the Proposed AD

One commenter questions whether the FAA's intent in paragraph (c)(2)(iii) of the proposed AD was to require both a high frequency eddy current (HFEC) inspection ''and'' Type 1 fluorescent penetrant inspection or to require either one of those inspections. The commenter notes that the service bulletins referenced in the proposed AD recommend performing either an HFEC ''or'' a Type 1 fluorescent inspection, and that AD 97–02–10 requires accomplishment of either inspection.

The FAA's intent was that paragraph (c)(2)(iii) of the proposed AD require either a HFEC inspection OR a Type 1 fluorescent penetrant inspection. We have revised paragraph (c)(2)(iii) of the supplemental NPRM accordingly.

Request to Delay Accomplishment of the Replacement

One commenter, the airplane manufacturer, requests that the FAA revise paragraph (c)(2)(iii)(A) of the proposed AD to require a second inspection and, within 2,500 landings following accomplishment of the second inspection, replacement of the lock link specified in that paragraph. The commenter states that this second inspection and eventual replacement were identified in the referenced service bulletins. The commenter also states that the 5,000-landing delay of the replacement is necessary because there may be a parts-availability problem.

The FAA agrees. Our intent was to follow the procedures recommended in the referenced service bulletins for these actions. We have revised paragraph (d) of the supplemental NPRM [paragraph (c)(2)(iii)(A) of the original NPRM] accordingly.

Explanation of New Service Information

Since issuance of the NPRM, the FAA has reviewed and approved Revision 01 of Boeing (McDonnell Douglas) Service Bulletins DC9–32–315 and MD90–32–033, both dated October 24, 2000. The effectivity listing of Revision 01 of the services bulletins has been revised to remove certain manufacturer's fuselage numbers from the effectivity listing and to add certain others. Revision 01 of these service bulletins also has been revised to:

1. Update the list of affected serial numbers of the NLG upper lock link that are identifed as hand forging material;
2. Redefine the type of etching method to be used when marking certain parts; and
3. Clarify that, under a certain condition, the upper lock link must be reidentified with a ''black'' paint stripe.

In addition, the revised service bulletins clarify the wording ''aluminum forging'' as die forged aluminum to differentiate from hand forged aluminum and provide a method to identify materials made from a specific process. We have revised the supplemental NPRM accordingly to reference Revision 01 of the subject service bulletins as an appropriate source of service information.

Operators should note that Revision 01 of Boeing Service Bulletin DC9–32–315 misidentifies the date of the original issue as June 21, 1999. The correct date is March 11, 1999. Boeing is planning to correct this error in the next revision of the service bulletin.

Explanation of Change to the Applicability

Because the effectivity listing in these revised service bulletins described above reflects the most current composition of operators and airplanes affected by this AD, the FAA has revised the applicability statement of the supplemental NPRM to reference these revised service bulletins.

Explanation of Change of Type of Inspection

The FAA finds that it is not necessary to perform a ''detailed visual'' inspection to to determine a certain serial number of the lock link in paragraph (b) of the proposed AD.

We have deleted the reference to ''detailed visual'' throughout the supplemental NPRM and deleted NOTE 2 (definition of a detailed visual inspection).

Conclusion

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

There are approximately 2,100 Model DC–9, DC–9–80, and C–9 (military) series airplanes; Model MD–88 airplanes; and Model MD–90 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,400 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspections of the NLG upper lock link, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection proposed by this AD on U.S. operators is estimated to be $84,000, or $60 per airplane.

It would take approximately 4 work hours per airplane to accomplish each proposed replacement of the NLG upper lock link, at an average labor rate of $60 per work hour. Required parts would cost approximately $5,803 per airplane. Based on these figures, the cost impact of each replacement proposed by this AD on U.S. operators is estimated to be $8,460,200, or $6,043 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

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 removing amendment 39–9895 (62 FR 3781, January 27, 1997), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 97–NM–298–AD. Supersedes AD 97–02–10, Amendment 39–9895.

Applicability: Model DC–9, DC–9–80, and C–9 (military) series airplanes; Model MD–88 airplanes; and Model MD–90 airplanes; as listed in Boeing Service Bulletins DC9–32–315, and MD90–32–033, both Revision 01, dated October 24, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if 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 upper lock link assembly of the nose landing gear (NLG) from fracturing due to fatigue cracking, and the NLG consequently failing to extend fully, which could result in injury to passengers and flight crew, and damage to the airplane, accomplish the following:

Removing and Retaining Upper Lock Link

(a) Remove and retain the upper lock link, part number (P/N) 3914464, and attaching parts; and do the inspections required by paragraphs (b) and (c) of this AD, per the applicable Boeing (McDonnell Douglas) service bulletin listed in Table 1 of this AD. The actions required by this paragraph shall be done at the applicable time specified in paragraph (a)(1) or (a)(2) of this AD. Table 1 is as follows:

TABLE 1.

Service bulletin	Revision level	Date	Model
DC9–32–315	Original or Revision 01	March 11, 1999 October 24, 2000	DC–9, DC–9–80, and C–9 (military) series airplanes; and MD–88 airplanes.
MD90–32–033	Original or Revision 01	March 11, 1999 October 24, 2000	MD–90 airplanes.

(1) For airplanes on which the inspection required by paragraph (c)(1) of AD 97–02–10 has been done: Do the actions before 5,000 landings since the last inspection done per paragraph (c)(1) of AD 97–02–10, or within 90 days after the effective date of this AD, whichever occurs later.

(2) For airplanes on which the inspection required by paragraph (c)(1) of AD 97–02–10 has NOT been done: Do the actions within 2,500 landings on the NLG after the effective date of this AD.

Inspection

(b) Do a one-time inspection of the NLG upper lock link assembly per Revision 01 of the applicable service bulletin listed in Table 1 of this AD to determine whether the serial number of the lock link is identified in the affected lot specified in Condition 1 of the Accomplishment Instructions of Revision 01 of the applicable Boeing (McDonnell Douglas) service bulletin listed in Table 1 of this AD.

Condition 1 (Hand Forging Serial Number)

(1) If the serial number of the upper lock link is not from the affected lot specified in Revision 01 of the applicable service bulletin (Condition 1), before further flight, do the etch inspection required by paragraph (c) of this AD.

(2) If the serial number of the upper lock link is from the affected lot specified in the Revision 01 of the applicable service bulletin (Condition 1), before further flight, replace the lock link with a new upper lock link, P/N 3914464–507; a reidentified upper lock

link by adding an ''F'' to the part number, using an electro chemical deep etch method; or a new upper lock link assembly, P/N 5965065–507; all made from die forged aluminum material; per the applicable service bulletin. Accomplishment of the replacement constitutes terminating action for the requirements of this AD.

Etch Inspection

(c) Perform a one-time etch inspection of the NLG upper lock link to determine whether the lock link is made from die forged aluminum material (Condition 2), or from plate or bar material (Condition 3); per the applicable Boeing (McDonnell Douglas) service bulletin listed in Table 1 of this AD.

Condition 2 (Die Forged Aluminum Material)

(1) If the upper lock link is made from die forged aluminum material, before further flight, restore the finish and reidentify the lock link by adding an ''F'' to the part number, using an electro chemical deep etch method, per the applicable service bulletin. Identification of the lock link as being made from die forged aluminum material constitutes terminating action for the requirements of this AD.

Condition 3 (Plate or Bar Material)

(2) If the NLG upper lock link is made from plate or bar material, before further flight, do either Condition 3, Option 1, as specified by paragraph (c)(2)(i) of this AD, or Condition 3, Option 2, as specified by paragraphs (c)(2)(ii) and (c)(2)(iii) of this AD.

Condition 3, Option 1

(i) Permanently remove any discrepant upper lock link and replace with a new upper lock link, P/N 3914464–507; a reidentified upper lock link by adding an ''F'' to the part number, using an electro chemical deep etch method; or a new upper lock link assembly, P/N 5965065–507; all made from die forged aluminum material; per the applicable service bulletin. Accomplishment of the replacement constitutes terminating action for the requirements of this AD.

Condition 3, Option 2

(ii) Restore the link finish and reidentify the upper lock link by adding a black paint stripe adjacent to the part number, indicating that the part is not made from die forged aluminum material, per the applicable service bulletin.

(iii) Do a high frequency eddy current (HFEC) or Type I fluorescent penetrant inspection of the upper lock link assembly, P/N 3914464—(any configuration), to detect cracking of the assembly; per McDonnell Douglas Alert Service Bulletin DC9–32A298, Revision 02 [for Model DC–9, DC–9–80, and C–9 (military) series airplanes; and Model MD–88 airplanes], or Alert Service Bulletin MD90–32A019, Revision 02 (for Model MD–90 airplanes), both dated October 29, 1997; as applicable.

Actions Following the Inspection Required by Paragraph (c)(2)(iii)

(d) If no crack is detected during the HFEC or Type I fluorescent penetrant inspection required by paragraph (c)(2)(iii) of this AD, within 2,500 landings on the NLG since accomplishment of the inspection performed per paragraph (c)(2)(iii) of this AD, as applicable, do that inspection a second time. If no crack is detected during this second inspection, within 2,500 landings after accomplishment of the second inspection, replace the upper lock link with a new upper lock link, P/N 3914464–507; a reidentified upper lock link by adding an ''F'' to the part number, using an electro chemical deep etch method; or a new upper lock link assembly, P/N 5965065–507; all made from die forged aluminum material; per the applicable Boeing (McDonnell Douglas) service bulletin listed in Table 1 of this AD. Accomplishment of the replacement action constitutes terminating action for the requirements of this AD.

(e) If any crack is detected during the HFEC or Type I fluorescent penetrant inspection required by paragraph (c)(2)(iii) or (d) of this AD, before further flight, replace the discrepant NLG upper lock link with a new upper lock link, P/N 3914464–507; a reidentified upper lock link by adding an ''F'' to the part number, using an electro chemical deep etch method; or a new upper lock link assembly, P/N 5965065–507; all made from die forged aluminum material; per the applicable Boeing (McDonnell Douglas) service bulletin listed in Table 1 of this AD. Accomplishment of the replacement constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(f)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles 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, 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.

(2) Alternative methods of compliance, approved previously in accordance with AD 97–02–10, amendment 39–9895, are approved as alternative methods of compliance with paragraph (f)(1) of this AD.

Special Flight Permits

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

Issued in Renton, Washington, on February 8, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–3700 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31 and 301

[REG–107186–00]

RIN 1545–AY50

Electronic Payee Statements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross reference to temporary regulations and notice of public hearing.

SUMMARY: The IRS is proposing regulations under sections 6041 and 6051 relating to the voluntary electronic furnishing of payee statements on Forms W–2. The proposed regulations also provide rules under section 6050S relating to the voluntary electronic furnishing of statements to individuals for whom Forms 1098–T, ''Tuition Payments Statement,'' and Forms 1098–E, ''Student Loan Interest Statement,'' are filed. The proposed regulations will affect persons required by the foregoing Internal Revenue Code sections to furnish these statements (furnishers) who wish to furnish these statements electronically. The proposed regulations will also affect individuals, principally employees, students, and borrowers (recipients), who consent to receive these statements electronically. The text of temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register** serves as the text of these proposed regulations. These proposed regulations do not affect the requirement to file copy A of Forms W–2 with the Social Security Administration or the requirement to file Forms 1098–T or Forms 1098–E with the IRS.

DATES: Written or electronic comments and requests to speak (with outlines of oral comments) at a public hearing scheduled for June 4, 2001, at 10 a.m. must be submitted by May 14, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–107186–00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG–107186–00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regulations'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet

site at http://www.irs.gov/tax_regs/regslist.html. The public hearing will be held in the IRS Auditorium, Seventh Floor, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Laura C. Nash (202) 622–4910; concerning submission of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Sonya Cruse (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S:O, Washington, DC 20224. Comments on the collection of information should be received by April 16, 2001. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collections of information in these proposed regulations are in §§ 1.6041–2(a)(5), 1.6050S–1(a), 1.6050S–2(a), and 31.6051–1(i). These temporary regulations state that furnishers may provide the written statements required by sections 6041(d), 6050S(d), and 6051 in an electronic format in lieu of a paper format. In addition, the proposed regulations provide furnishers with a method to furnish a statement in connection with a Form 1098-T or Form 1098-E under section 6050S(d), or a Form W–2 under section 6041(d) or 6051, electronically using website technology. In general, a furnisher may furnish the statement electronically using the method described in the proposed regulations if the recipient consents to receive the statement electronically, and if the furnisher makes certain disclosures to the recipient, annually notifies the recipient that the statement is available on a website, and provides access to the statement on that website for a prescribed period of time. This collection of information is required only for persons who wish to furnish the statements electronically using the method described in the proposed regulations. The likely respondents are businesses, other for-profit institutions, and eligible educational institutions.

Estimated total annual reporting/recordkeeping burden: 2,844,950 hours.

Estimated average annual burden hours per response: 6 minutes.

Estimated number of responses: 28,449,495.

Estimated annual frequency of responses: Once.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Regulations on Income Taxes (26 CFR part 1) relating to sections 6041 and 6050S(d), the Regulations on Employment Taxes and Collection of Income Tax at Source (26 CFR part 31) relating to section 6051, and the Regulations on Procedure and Administration (26 CFR part 301) relating to section 6724. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) does not apply to these regulations. An initial regulatory flexibility analysis has been prepared for this notice of proposed rulemaking under 5 U.S.C. 603 and is set forth under the heading ''Initial Regulatory Flexibility Act Analysis'' in this preamble. Pursuant to section 7805(f), this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Initial Regulatory Flexibility Act Analysis

This initial analysis is required under the Regulatory Flexibility Act. (5 U.S.C. chapter 6). The collection of information contained in §§ 1.6041–2(a)(5), 1.6050S–1(a), 1.6050S–2(a), and 31.6051–1(i) is required if a furnisher implements the method described in the proposed regulations to furnish statements electronically.

The types of small entities to which the proposed regulations may apply are small eligible educational institutions (such as colleges and universities), certain payees of interest on qualified education loans, and small employers. It is estimated that furnishers will seek consents from approximately 28,449,495 individuals to receive these statements electronically. There are no known Federal rules that duplicate, overlap, or conflict with these proposed regulations. The regulations proposed are considered to have the least economic effect on small entities of all alternatives considered.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for June 4, 2001, beginning at 10 a.m., in the IRS Auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to

building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by May 14, 2001. A period of ten minutes will be allotted to each person for making comments. An agenda showing the scheduling of speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Eric Lucas, formerly of the Office of Associate Chief Counsel (Procedure and Administration). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1, 31, and 301 are proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.6041–2 also issued under 26 U.S.C. 6041(d). * * *

Section 1.6050S–1 also issued under 26 U.S.C. 6050S(g).

Section 1.6050S–2 also issued under 26 U.S.C. 6050S(g). * * *

Par. 2. Section 1.6041–2 is amended by adding a new paragraph (a)(5) to read as follows:

§ 1.6041–2 Return of information as to payments to employees.

(a) * * *

(5) [The text of proposed paragraph (a)(5) is the same as the text of § 1.6041–2T(a)(5) published elsewhere in this issue of the **Federal Register**].

* * * * *

Par. 3. Sections 1.6050S–1 and 1.6050S–2 are added to read as follows:

§ 1.6050S–1 Information reporting for payments and reimbursements or refunds of qualified tuition and related expenses.

[The text of these proposed regulations is the same as the text of § 1.6050S–1T published elsewhere in this issue of the **Federal Register**].

§ 1.6050S–2 Information reporting for payments of interest on qualified education loans.

[The text of these proposed regulations is the same as the text of § 1.6050S–2T published elsewhere in this issue of the **Federal Register**].

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 4. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 5. Section 31.6051–1 is amended by:

1. Redesignating paragraph (i) as paragraph (j).

2. Adding a new paragraph (i).

The addition reads as follows:

§ 31.6051–1 Statements for employees.

* * * * *

(i) [The text of proposed paragraph (i) is the same as the text of § 31.6051–1T(j) published elsewhere in this issue of the **Federal Register**].

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

Par. 6. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 7. Section 301.6724–1 is amended by adding a new paragraph (d)(3) to read as follows:

§ 301.6724–1 Reasonable cause.

* * * * *

(d) * * *

(3) [The text of proposed paragraph (d)(3) is the same as the text of § 301.6724–1T(d)(3) published elsewhere in this issue of the **Federal Register**].

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 01–1293 Filed 2–13–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–101520–97]

RIN 1545–AV01

Return of Property in Certain Cases

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the return of property in certain cases. The proposed regulations reflect changes made to section 6343 of the Internal Revenue Code of 1986 by the Taxpayer Bill of Rights 2. The proposed regulations also reflect certain changes affecting levies enacted by the Internal Revenue Service Restructuring and Reform Act of 1998. The proposed regulations affect taxpayers seeking the return of property from the IRS.

DATES: Written comments and requests for a public hearing must be received by May 15, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–101520–97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered to: CC:M&S:RU (REG–101520–97), room 5226, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Taxpayers may also submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.gov/prod/tax__regs/regslist.html.

FOR FURTHER INFORMATION CONTACT: Kevin B. Connelly, (202) 622–3630 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Procedure and Administration Regulations (26 CFR part 301) relating to the return of property under section 6343 of the Internal Revenue Code (Code). Section 501(b) of the Taxpayer Bill of Rights 2 (TBOR2), Public Law 104–168 (110 Stat. 1452), amended section 6343 to authorize the IRS to return property in certain cases and, to the extent possible, but without payment of interest, return the taxpayer to the same position as if the levy had not been issued. These proposed regulations reflect the amendments made by section 501(b) of TBOR2.

These proposed regulations also reflect modifications made by the Internal Revenue Service Restructuring and Reform Act (RRA 1998), Public Law 105–206 (112 Stat. 685), which added new sections 6331(i) and (j) of the Code, prohibiting the issuance of levies during the pendency of proceedings for refund of divisible taxes or prior to completion of an investigation of the status of property (effective for unpaid tax attributable to tax periods beginning after December 31, 1998). RRA 1998 also added section 6331(k), prohibiting levies during the period an offer-in-compromise is pending or an installment agreement is pending or in effect (effective for offers-in-compromise pending on or made after December 31, 1999, and for installment agreements submitted after July 22, 1998). In addition, the RRA 1998 added section 6330, which provides in certain circumstances for notice and an opportunity for a hearing prior to the imposition of a levy.

Explanation of Provisions

Section 6343(b) provides for the return of levied upon property, including levied upon money and money received from the sale of levied upon property, if the property was wrongfully levied upon. Section 501(b) of TBOR2 enacted section 6343(d) of the Code authorizing the IRS to return levied upon property to the taxpayer in certain other prescribed circumstances. Property returned under new section 6343(d) will be returned in accordance with section 6343(b) of the Code as if the property had been wrongfully levied upon, except that no interest will be allowed. The provision is designed to permit the IRS, to the extent possible, to restore the taxpayer to a pre-levy position. These proposed regulations provide guidance on the circumstances under which levied upon property will be returned by the IRS and the manner in which a request for return of property must be made.

The proposed regulations apply to the return of (1) levied upon money that has been applied toward the taxpayer's liability, (2) money received from the sale of levied upon property under section 6335 of the Code, and (3) levied upon property that the United States has purchased in a sale under section 6335 of the Code. This property may be returned if one of the conditions enumerated in paragraph (c) of the proposed regulations exists.

The regulations also clarify that, other than as provided in § 301.6343–1(b) and paragraph (d) of this section, the IRS, in its discretion, may return levied upon property in its possession pending sale. The return of levied upon property in the IRS's possession pending sale is not limited by these proposed regulations. The IRS has the authority to determine what property of the taxpayer to levy. As part of that authority, the IRS may release a levy and return levied upon property in its possession pending sale.

Under paragraph (c) of the proposed regulations, the Commissioner may return levied upon property if one of the following conditions exist: (1) the levy was premature or otherwise not in accordance with the administrative procedures of the IRS; (2) the taxpayer has entered into an agreement under section 6159 of the Code to satisfy the liability for which the levy was imposed by means of installment payments, unless the agreement provides otherwise; (3) the return of property will facilitate collection of the tax liability; or (4) the return of property is in the best interest of the taxpayer, as determined by the National Taxpayer Advocate, and in the best interest of the United States, as determined by the Commissioner.

Section 6343(d)(2)(D) authorizes the return of property if it is in the best interests of both the United States and the taxpayer. Therefore, two distinct determinations must be made before the Commissioner may return property based on these grounds. Under the proposed regulations the Commissioner (or his delegate) will determine whether the return of property is in the best interest of the United States. The National Taxpayer Advocate (or his delegate) generally will determine whether the return of property is in the best interest of the taxpayer; however, a finding by the Commissioner (or his delegate) that the return of property is in the best interest of the taxpayer, as well as the United States, will be sufficient to support the return of property. Only the National Taxpayer Advocate (or his delegate) is authorized to determined that the return of property is not in the taxpayer's best interest.

Additionally, the proposed regulations provide that it is in the best interests of the United States and the taxpayer to release levies made in violation of the law. Any property received pursuant to a levy made in violation of the law will be returned unless the taxpayer gives permission to the IRS to keep the property. For example, section 6331(k)(2) of the Internal Revenue Code of 1986 prohibits levies during the period an offer to enter into an installment agreement is pending (and for a 30-day period after rejection of the offer or while a timely appeal from the rejection of an offer to enter into an installment agreement is pending) and during the period an installment agreement is in effect. If property has been received by the IRS as the result of a levy that is prohibited under section 6331(k)(2), the IRS will return the property to the taxpayer pursuant to section 6343(d)(2)(D). It may, however, be advantageous for a taxpayer in some circumstances to allow the IRS to keep the levied upon property and apply the proceeds of that levy to the taxpayer's outstanding tax liabilities. These proposed regulations allow the taxpayer to give permission to the IRS to retain the levied upon property and apply the proceeds of that levy to the taxpayer's outstanding tax liabilities. Absent taxpayer consent, the IRS is required to return the levied upon property (or the proceeds if the property had been sold) to the taxpayer.

Pursuant to the requirement of section 6343(d) that property to be returned under this provision be treated as if it were wrongfully levied upon, the proposed regulations also provide that if the United States purchases property, it will be treated as having received an amount of money equal to the minimum price determined by the Commissioner before the sale.

Property other than money may be returned at any time. Money may be returned any time within 9 months after the date of the levy. In addition, when a timely request for the return of money is filed in accordance with these regulations, or a determination to return an amount of money is made before the expiration of the 9-month period, the money may be returned within a reasonable period of time after the 9-month period if additional time is necessary for investigation or processing. This will ensure that if a timely request has been made, or the IRS timely decides to return money on its own initiative, the IRS will have

sufficient time for necessary investigation or processing.

Under the proposed regulations a taxpayer may request the return of property by writing to the address on the levy form or to the Commissioner (marked for the attention of the Chief, Special Procedures Function) of the IRS office in which the levy was made. A written request for the return of property must include: (1) the name, current address, and taxpayer identification number of the taxpayer requesting the return of property; (2) a description of the property levied upon; (3) the date of the levy; and (4) the grounds upon which the return of property is being requested.

The Commissioner must consider each taxpayer's request for the return of property, determine whether any of the conditions authorizing the return of property exist, and decide whether to return the property. The Commissioner also may return the property based on information received from a source other than the taxpayer. A decision to return the property is within the Commissioner's discretion, unless the levy was in violation of law, in which case the Commissioner must return the property.

If the Commissioner returns property, and the taxpayer fails to pay the previously assessed liability for which the levy was made on the returned property, the Commissioner may administratively collect the liability. Collection may include levying again on the returned property provided statutory and administrative requirements are followed.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight (8) copies) to the IRS. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.gov/prod/tax_regs/regslist.html. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Kevin B. Connelly, Office of Assistant Chief Counsel (General Litigation) CC:EL:GL, IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.63 43–3 is added to read as follows:

§ 301.6343–3 Return of property in certain cases.

(a) *In general.* If money has been levied upon and applied toward the taxpayer's liability, or property has been levied upon and sold, and the receipts have been applied toward the taxpayer's liability, or property has been levied upon and purchased by the United States and the United States still possesses the property, and the Commissioner determines that any of the conditions in paragraph (c) of this section exist, the Commissioner may return—

(1) An amount of money equal to the amount of money levied upon;

(2) An amount of money equal to the amount of money received by the United States from a sale of the property; or

(3) The specific property levied upon and purchased by the United States.

(b) *Return of levied upon property in possession of the Internal Revenue Service (IRS) pending sale under section 6335.* Other than as provided in § 301.6343–1(b) or in paragraph (d) of this section, the Commissioner, in his or her discretion, may return levied upon property that is in the possession of the United States pending sale under section 6335.

(c) *Conditions authorizing the return of property.* The Commissioner may return property upon determining that one of the following conditions exist:

(1) *Premature or not in accordance with administrative procedures.* The levy was premature or otherwise not in accordance with the administrative procedures of the Secretary.

(2) *Installment agreement.* Subsequent to the levy, the taxpayer enters into an agreement under section 6159 to satisfy the liability for which the levy was made by means of installment payments. If, however, the agreement specifically provides that already levied upon property will not be returned under section 6343(d), the Commissioner may not grant a request for return of property under this paragraph (c)(2).

(3) *Facilitate collection.* The return of property will facilitate the collection of the tax liability for which the levy was made.

(4) *Best interests of the United States and the taxpayer*—(i) *In general.* The taxpayer or the National Taxpayer Advocate (or his delegate) has consented to the return of property, and the return of property would be in the best interest of the taxpayer, as determined by the National Taxpayer Advocate (or his delegate), and in the best interest of the United States, as determined by the Commissioner.

(ii) *Best interest of the taxpayer.* The National Taxpayer Advocate (or his delegate) generally will determine whether the return of property is in the best interest of the taxpayer. If, however, a taxpayer requests the Commissioner to return property and has not specifically requested the National Taxpayer Advocate (or his delegate) to determine the taxpayer's best interest, a finding by the Commissioner that the return of property is in the best interest of the taxpayer will be sufficient to support the return of property. Only the National Taxpayer Advocate (or his or her delegate) may determine that a return of property is not in the best interest of the taxpayer.

(5) *Examples.* The following examples illustrate the provisions of this paragraph (c):

Example 1. A owes $1,000 in Federal income taxes. The IRS levies on a broker with respect to a money market account belonging to the taxpayer and receives payment from the broker which it applies to the taxpayer's outstanding liability. However, the IRS failed to follow procedure provided by the Internal Revenue Manual (but not required by statute) with regard to managerial approval prior to the making of the levy. The Commissioner may return an amount of money equal to the amount of money the IRS levied upon and applied toward the taxpayer's tax liability.

Example 2. B owes $1,000 in Federal income taxes. The IRS levies on a bank with respect to a savings account belonging to the taxpayer and receives funds from the bank which it applies to the taxpayer's liability. Subsequent to the levy, B enters into an installment agreement, under which it will pay timely installments to satisfy the entire liability. The installment agreement does not by its terms preclude the return of levied upon property. The revenue officer verifies that B is financially capable of paying the entire liability, including accruals, in the agreed-upon installment payments. The Commissioner may return an amount of money equal to the amount of money levied upon and applied toward the taxpayer's liability.

Example 3. C owns a house that is deteriorating and in unsalable condition. C is in the process of renovating the house for sale when the IRS levies upon C's bank account for the payment of a $20,000 outstanding Federal tax liability and receives funds in the amount of $3,000, which it applies toward C's liability. A notice of federal tax lien is the only lien encumbrancing the house. C requests that an amount of money equal to the amount seized from the bank account be returned so that C can complete the renovations on the house. Without the funds, C will be unable to complete the renovations and sell the house. Upon examination, the Commissioner determines that the IRS will be able to collect the entire tax liability if C's house is restored to salable condition. If the National Taxpayer Advocate, or the Commissioner in lieu of the National Taxpayer Advocate, determines that the return of the seized money is in the taxpayers best interest, the Commissioner may return an amount of money equal to the amount seized from the bank account in the best interest of the taxpayer and the United States.

(d) *Best Interests of the United States and the taxpayer to release levy and return of property where levy made in violation of law*—(1) *In General.* If the Internal Revenue Service (IRS) makes a levy in violation of the law, it is in the best interest of the United States and the taxpayer to release the levy and the IRS will return to the taxpayer any property obtained pursuant to the levy. For example, the IRS will release the levy and return the taxpayer's property if the levy was made—

(i) Without giving the requisite thirty-day notice of intent to levy under section 6330;

(ii) During the pendency of a proceeding for refund of divisible tax in violation of section 6331(i);

(iii) Before investigation of the status of levied upon property in violation of section 6331(j);

(iv) During the pendency of offers-in-compromise in violation of section 6331(k)(1); or

(v) During the period an offer to enter into an installment agreement is pending (or for 30 days following the rejection of an offer, or, if the rejection is timely appealed, during the period that the appeal is pending) or during the period an installment agreement is in effect (or during the 30 days following a termination or, if a timely appeal of termination is filed, during the period the appeal is pending) in violation of section 6331(k)(2).

(2) *Property may not be credited to outstanding liability without the taxpayer's permission.* When the release of a levy and the return of property are required under this paragraph (d), the property or the proceeds from the sale of the property received by the IRS pursuant to the levy must be returned to the taxpayer unless the taxpayer requests otherwise. The property or proceeds of sale may not be credited to any outstanding tax liability of the taxpayer, including the one with respect to which the IRS made the levy, without the written permission of the taxpayer.

(e) *Time of return.* Levied upon property in possession of the IRS (other than money) may be returned under paragraphs (c) and (d) of this section at any time. An amount of money equal to the amount of money levied upon or received from a sale of property may be returned at any time before the expiration of 9 months from the date of the levy. When a request for the return of money filed in accordance with paragraph (h) of this section is filed before the expiration of the 9-month period, or a determination to return an amount of money is made before the expiration of the 9-month period, the money may be returned within a reasonable period of time after the expiration of the 9-month period if additional time is necessary for investigation or processing.

(f) *Purchase by the United States.* For purposes of paragraph (a)(2) of this section, if property is declared purchased by the United States at a sale pursuant to section 6335(e)(1)(C), the United States will be treated as having received an amount of money equal to the minimum price determined by the Commissioner before the sale.

(g) *Determinations by the Commissioner.* The Commissioner must determine whether any of the conditions authorizing the return of property exists if a taxpayer submits a request for the return of property in accordance with paragraph (h) of this section. The Commissioner also may make this determination independently. If the Commissioner determines that conditions authorizing the return of property are not present, the Commissioner may not authorize the return of property. If the Commissioner determines that conditions authorizing the return of property are present, the Commissioner may (but is not required to, unless the reason for the return of property is that the levy was made in violation of law and is governed by paragraph (d) of this section) authorize the return of property. If the Commissioner decides independently to return property under paragraph (c)(4) of this section based on the best interests of the taxpayer and the United States, the taxpayer or the National Taxpayer Advocate (or his delegate) must consent to the return of property.

(h) *Procedures for request for the return of property*—(1) *Manner.* A request for the return of property must be made in writing to the address on the levy form.

(2) *Form.* The written request must include the following information—

(i) The name, current address, and taxpayer identification number of the person requesting the return of money (or property purchased by the United States);

(ii) A description of the property levied upon;

(iii) The date of the levy; and

(iv) A statement of the grounds upon which the return of money is being requested (or property purchased by the United States).

(i) *No interest.* No interest will be paid on any money returned under this section.

(j) *Administrative collection upon default.* If the Commissioner returns property under this section, and the taxpayer fails to pay the previously assessed liability for which the levy was made on the returned property, the Commissioner may administratively collect the liability. Collection may include levying again on the returned property as long as statutory and administrative requirements are followed.

(k) *Effective date.* This section is applicable on the date final regulations are published in the **Federal Register**.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 01–1562 Filed 2–13–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 420

[FRL 6897–8]

RIN 2040–AB79

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Iron and Steel Manufacturing Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period; correction.

SUMMARY: On December 27, 2000 (65 FR 81964), EPA published proposed effluent limitations guidelines, pretreatment standards, and new source performance standards under the Clean Water Act (CWA) for wastewater discharges from iron and steel manufacturing facilities. The proposed regulation would revise technology-based effluent limitations guidelines and standards for wastewater discharges associated with the operation of new and existing iron and steel facilities.

This action presents clarifying discussion on seven regulatory issues related to the proposed effluent limitations guidelines and standards for the iron and steel industry and solicits public comment. This action also contains corrections to certain portions of the proposed regulation and accompanying preamble to eliminate inconsistencies in the proposal, and to correct potentially confusing typographical errors.

This action also provides additional information on the pretreatment hearing and public meeting.

This action also announces that EPA is extending the comment period on the proposed rule until March 26, 2001. EPA is providing this extension in response to numerous requests for additional time to allow the public to consolidate their comments on the proposal.

DATES: EPA must receive comments on this action by midnight March 26, 2001. This is also the new deadline for submitting comments on the proposed rule, which was published on December 27, 2000 (65 FR 81964). On February 20, 2001, EPA will conduct a hearing on the pretreatment standards (9:00 AM–10:30 AM), followed by a public meeting on the entire proposed rule, including issues in today's action (10:30 AM–12:00 PM and 1:00 PM–2:30 PM).

ADDRESSES: The public meeting and hearing will be held at the EPA auditorium in Waterside Mall, 401 M Street SW., Washington, DC.

Submit written comments to Mr. George M. Jett at the following address: Office of Water, Engineering and Analysis Division (4303), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Comments submitted via hand-delivery or Federal Express may be sent to the following address: Room 607a West Tower, 401 M Street SW., Washington, DC 20460. For additional information on how to submit comments, see ''HOW TO SUBMIT COMMENTS'' in the **SUPPLEMENTARY INFORMATION** section of this action.

The public record for this action and the proposed rulemaking has been established under docket number W–00–25 and is located in the Water Docket East Tower Basement, Room EB57, 401 M Street SW., Washington, DC 20460. The record is available for inspection from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. For access to the docket materials, call (202) 260–3027 to schedule an appointment. You may have to pay a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this action and the proposed rule, contact Mr. George M. Jett at (202) 260–7151 or Mr. Kevin Tingley at (202) 260–9843. For economic information, contact Mr. William Anderson at (202) 260–5131.

SUPPLEMENTARY INFORMATION:

How to Submit Comments

EPA encourages comments on today's action to be combined with comments on the notice published on December 27, 2000. EPA requests an original and three copies of your comments and enclosures (including references). Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. Please submit any references cited in your comments.

Comments may also be sent via e-mail to jett.george@epa.gov. Electronic comments must specify docket number W–00–25 and must be submitted as an ASCII, Word, or WordPerfect file avoiding the use of special characters and any form of encryption. Electronic comments on this action may be filed online at many Federal Depository Libraries. No confidential business information (CBI) should be sent via e-mail.

Contents of This Document

I. Purpose of this Action
II. Solicitation of Public Comment on New Regulatory Issues
III. Corrections to Proposed Preamble and Regulation

I. Purpose of This Action

In this action, EPA presents seven regulatory issues related to the proposed effluent limitations guidelines and standards for the Iron and Steel Manufacturing Point Source Category. This action also contains corrections to certain portions of the proposed regulation and accompanying preamble. This action also announces March 26, 2001 as the new deadline for submitting comments on the proposed rule. EPA solicits public comment on all information presented in this action and in the administrative record supporting this action.

II. Solicitation of Public Comment on New Regulatory Issues

EPA has identified seven substantive issues related to the proposed rulemaking to bring to the public's attention. These issues are discussed below. EPA solicits comment on these issues and the various approaches the Agency is considering to resolve these issues.

A. BPT Revision for Semi-wet BOF Operations

In the effluent limitations guidelines and standards promulgated for the Iron and Steel Manufacturing Point Source Category in 1982, BPT and BAT for basic oxygen furnaces with semi-wet air pollution controls (semi-wet BOFs) were set at no discharge of process wastewater pollutants to waters of the United States. In the December 27, 2000 notice, we proposed to revise BAT for semi-wet BOFs in the steelmaking subcategory. We had intended to revise BPT at the same time so that BAT and BPT would be consistent. However, we failed to do that. Instead, we republished the 1982 BPT of no discharge of process wastewater pollutants for semi-wet BOFs, with the result that the BPT would be more stringent than the proposed BAT. EPA did not intend this anomalous result. Today's action advises the public that we intend to revise BPT to be consistent with BAT in the final action.

Conforming BPT to BAT, as EPA intended, would allow for the discharge

of process wastewater from semi-wet BOFs, which EPA considers desirable, because certain safety concerns preclude some sites currently from balancing the water applied for BOF gas conditioning with evaporative losses to achieve zero discharge. Specifically, some sites operate their semi-wet systems with excess water, which they use to flush the air pollution control ductwork in order to prevent the buildup of debris within the ductwork. If wet debris accumulates within the ductwork, it has the potential to fall back into the BOF, and may cause explosions and process upsets. The sites thus discharge the process wastewater used for flushing. EPA does not want to discourage this flushing practice because of its safety implications. Consequently, EPA intends to revise BPT for semi-wet BOF operations to conform to the proposed BAT so as to allow for the discharge of process wastewater under BPT for the reasons set forth above. The pollutants regulated under a revised BPT for semi-wet BOF operations would be TSS and pH. EPA is not proposing to regulate oil and grease in wastewater discharges from semi-wet BOF operations because there is virtually no oil and grease is in the wastestream. (EPA notes that oil and grease was not regulated in the 1982 regulation for this segment.)

If EPA were to revise BPT limitations for semi-wet BOF operations, EPA would base the new limitations for TSS on pollutant concentrations established in the 1982 rulemaking for both wet-open combustion and wet-suppressed combustion BOFs (150 mg/L maximum daily and 50 mg/L maximum monthly average concentrations for TSS) and the production-normalized flow (PNF) (10 gpt) developed in the proposed rule for semi-wet BOFs. It is reasonable to transfer limitations from these segments to the semi-wet BOF segment because of similarity in wastewater characteristics and in the proposed treatment technology. Using these data, EPA has calculated the BPT limitations shown in Table II.A.1 for semi-wet BOFs, which EPA would promulgate under this approach:

TABLE II.A.1.—EFFLUENT LIMITATIONS (BPT) FOR SEMI-WET BOFS

Process waste-water source	Maximum daily [1]	Maximum monthly average [1]
(a) Basic oxygen furnaces (1) semi-wet air pollution controls TSS	0.0125	0.00417

[1] Pounds per ton of product.

The pH level would be maintained between 6.0 and 9.0 su at all times.

EPA solicits comment on this issue, including the limitations specified above.

B. PSES Limits for Electroplaters

The proposed regulation at section 420.66(g) (65 FR 82076) would establish concentration-based PSES for electroplating operations in the Steel Finishing Subcategory. These concentration-based limits were carried forward from the current regulations for the Metal Finishing Category. See 40 CFR 433.15 (2000 ed.). All other limitations and standards set forth in the proposed iron and steel rule are mass-based. EPA is considering converting the proposed concentration-based limits for electroplating (see Table II.B.1) to mass-based limits using the PNFs proposed for electroplating operations (see Table II.B.2). Table II.B.3 then presents the mass-based PSES limits for electroplating operations, for which it solicits comments today.

TABLE II.B.1.—CONCENTRATION-BASED PRETREATMENT STANDARDS FOR ELECTROPLATING OPERATIONS SET FORTH IN PROPOSED RULE

Pollutant	Maximum daily [1]	Maximum monthly average [1]
Chromium	2.77	1.71
Lead	0.69	0.43
Nickel	3.98	2.38
Zinc	2.61	1.48

[1] Milligrams per liter.

TABLE II.B.2.—PRODUCTION-NORMALIZED FLOWS FOR ELECTROPLATING OPERATIONS

Electroplating operation type	PNF (gal/ton)
Strip, sheet: tin, chromium	1100
Strip, sheet: zinc, other metals	550
Plate	35

TABLE II.B.3.—MASS-BASED PRE-TREATMENT STANDARDS CONSIDERED FOR ELECTROPLATING OPERATIONS

Pollutant	Maximum daily [1]	Maximum monthly average [1]
(1) Strip, sheet: tin, chromium:		
Chromium	0.0254	0.0157
Lead	0.0063	0.0039
Nickel	0.0365	0.0218
Zinc	0.0240	0.0136
(2) Strip, sheet: zinc, other metals:		
Chromium	0.0127	0.0078

TABLE II.B.3.—MASS-BASED PRE-TREATMENT STANDARDS CONSIDERED FOR ELECTROPLATING OPERATIONS—Continued

Pollutant	Maximum daily [1]	Maximum monthly average [1]
Lead	0.0032	0.0020
Nickel	0.0183	0.0109
Zinc	0.0120	0.0068
(3) Plate:		
Chromium	0.00081	0.00050
Lead	0.00020	0.00013
Nickel	0.00116	0.00070
Zinc	0.00076	0.00043

[1] Pounds per ton of product.

EPA does not believe this action will result in increased costs to the industry. EPA solicits comment on whether to establish mass-based PSES limits for electroplating operations in the Steel Finishing Subcategory. EPA also solicits comment on the specific mass-based pretreatment standards set forth in Table II.B.3 and the approach employed to develop those pretreatment standards.

C. Limitations and Standards for Ammonia-N in Steel Finishing Subcategory

The proposed regulation would regulate ammonia (as N) at BAT (section 420.64(a)), NSPS (section 420.65(b)(3)), and PSNS (section 420.67(b)(1)) levels in the stainless steel segment of the Steel Finishing Subcategory. EPA intended for the limits to apply only to nitric acid picklers using urea to control NO_X emissions, because ammonia (as N) is present in wastewater from stainless steel finishing operations at significant levels only when nitric acid is used in pickling baths and urea is used to control NO_X emissions. However, EPA did not make this distinction in the proposal. EPA intends to correct this error with today's notice. Consistent with EPA's original intent, EPA would specify in the final action that the BAT, NSPS, and PSNS limits as presented would apply only to stainless steel finishing operations with nitric acid pickling baths in which urea is used to control NO_X emissions, and solicits comment.

The Agency also solicits comment on not establishing nationwide limits for ammonia (as N) for any operations in the stainless steel segment of the Steel Finishing subcategory. EPA notes that there are no limits for ammonia (as N) under the current Part 420 regulations for this segment. We would allow permit writers and pretreatment control authorities to use best professional judgment (BPJ) to make case-by-case determinations of the need to regulate ammonia (as N) in wastewater discharges from nitric acid pickling operations. EPA is also considering providing guidance for best management practices to reduce discharges of ammonia (as N).

D. Chromium (VI) Data

The proposed regulation would establish BAT (section 420.64(b)), NSPS (section 420.65(b)(4)), and PSNS (section 420.67(b)(2)) to regulate chromium (VI) in wastewaters from both segments of the Steel Finishing Subcategory. EPA proposed different limits for the carbon and alloy steel segment and the stainless steel segment of the subcategory. The following discussion pertains only to the stainless steel segment of the Steel Finishing Subcategory. Also, it does not apply to PSES standards, because EPA did not propose modification of the existing PSES standards for the Steel Finishing Subcategory.

The proposed limitations and standards for the stainless steel segment are based upon two sets of chromium (VI) data, which are described in Section 12.2.6.2 of the Technical Development Document (EPA–821-B–00–011). EPA acquired the two sets of data through self-monitoring performed by two different facilities. Prior to proposal, EPA lacked information from one facility regarding the chemical analytical method employed by that facility in analyzing the chromium (VI) data provided to EPA. Since proposal, EPA has received additional information about the chemical analytical methods for one set of these data and has verified that these data were determined by a method specified in or approved under 40 CFR Part 136, thus fulfilling one of EPA's criteria for data selection. Since proposal, EPA also has determined that the second set of data does not demonstrate effective performance of the model treatment technology. EPA believes that chromium (VI) reduction, if practiced properly, can consistently achieve effluent concentrations at or close to the minimum level of 0.01 mg/L. This is supported by sampling data from two Metal Products and Machinery (MP&M) facilities and three iron and steel finishing facilities operating chromium (VI) reduction pretreatment systems. Consequently, EPA has removed the second data set from analysis.

As a result of this change in the database, EPA recalculated the proposed limitations for BAT, NSPS, and PSNS for chromium (VI) in wastewater from the stainless steel segment of the Steel Finishing Subcategory. The limitations and standards that EPA is now considering are set forth in tables II.D.1, II.D.2 and II.D.3. The Agency believes that the data set used to establish theses limitations represents the best performing treatment system. We did not recalculate standards for PSES because EPA did not in the December, 2000 notice propose to revise the standards for existing indirect dischargers, but instead transferred them unchanged from the 1982 regulation, which did not set standards for chromium (VI). EPA is soliciting comment on this approach and on the recalculated limitations and standards.

For BAT, Table II.D.1 presents the effluent limitations that would apply to discharges in the stainless steel segment for the Steel Finishing Subcategory for each operation as applicable.

TABLE II.D.1.—EFFLUENT LIMITATIONS (BAT) FOR CHROMIUM (VI)

	Maximum daily [1]	Maximum monthly average [1]
(i) Acid pickling and other descaling:		
(A) bar, billet	0.0000922	0.0000680
(B) pipe, tube	0.000309	0.000228
(C) plate	0.0000140	0.0000103
(D) strip, sheet	0.000281	0.000207
(ii) Acid regeneration:		
(A) fume scrubbers	0.0577 [2]	0.0426
(iii) Alkaline cleaning:		
(A) pipe, tube	0.00000802	0.00000591
(B) strip, sheet	0.00100	0.000739
(iv) Cold forming:		
(A) direct application-single stand	0.0000140	0.0000103
(B) direct application-multiple stands	0.000110	0.0000813
(C) recirculation-single stand	0.00000120	0.000000887
(D) recirculation-multiple stands	0.00000641	0.00000473
(E) combination-multiple stand	0.0000573	0.0000423
(v) Continuous annealing	0.00000802	0.00000591
(vi) Wet air pollution control devices:		
(A) fume scrubbers	0.00866 [2]	0.006382

[1] Pounds per ton of product for all operations except fume scrubbers.
[2] The values are expressed in pounds per day for this operation.

For NSPS, Table II.D.2 presents the effluent limitations for chromium (VI) that would apply to discharges in the stainless steel segment for the Steel Finishing Subcategory for each operation as applicable.

TABLE II.D.2.—EFFLUENT LIMITATIONS (NSPS) FOR CHROMIUM (VI)

	Maximum daily [1]	Maximum monthly average [1]
(i) Acid pickling and other descaling:		
(A) bar, billet	0.0000922	0.0000680
(B) pipe, tube	0.000309	0.000228
(C) plate	0.0000140	0.0000103
(D) strip, sheet	0.000281	0.000207
(ii) Acid regeneration:		
(A) fume scrubbers	0.0577 [2]	0.0426
(iii) Alkaline cleaning:		
(A) pipe, tube	0.00000802	0.00000591
(B) strip, sheet	0.00100	0.000739
(iv) Cold forming:		
(A) direct application-single stand	0.0000140	0.0000103
(B) direct application-multiple stands	0.000110	0.0000813
(C) recirculation-single stand	0.00000120	0.000000887
(D) recirculation-multiple stands	0.00000641	0.00000473
(E) combination-multiple stand	0.0000573	0.0000423
(v) Continuous annealing	0.00000802	0.00000591
(vi) Wet air pollution control devices:		
(A) fume scrubbers	0.00866 [2]	0.00638 [2]

[1] Pounds per ton of product for all operations except fume scrubbers.
[2] The values are expressed in pounds per day for this operation.

For PSNS, Table II.D.3 presents the pretreatment standards for chromium (VI) that would apply to discharges in the stainless steel segment for the Steel Finishing Subcategory for each operation as applicable.

TABLE II.D.3.—PRETREATMENT STANDARDS (PSNS) FOR CHROMIUM (VI)

	Maximum daily [1]	Maximum monthly average [1]
(i) Acid pickling and other descaling:		
(A) bar, billet	0.0000922	0.0000680
(B) pipe, tube	0.000309	0.000228
(C) plate	0.0000140	0.0000103
(D) strip, sheet	0.000281	0.000207
(ii) Acid regeneration:		
(A) fume scrubbers	0.0577[2]	0.0426
(iii) Alkaline cleaning:		

TABLE II.D.3.—PRETREATMENT STANDARDS (PSNS) FOR CHROMIUM (VI)—Continued

	Maximum daily [1]	Maximum monthly average [1]
(A) pipe, tube	0.00000802	0.00000591
(B) strip, sheet	0.00100	0.000739
(iv) Cold forming:		
(A) direct application-single stand	0.0000140	0.0000103
(B) direct application-multiple stands	0.000110	0.0000813
(C) recirculation-single stand	0.00000120	0.000000887
(D) recirculation-multiple stands	0.00000641	0.00000473
(E) combination-multiple stand	0.0000573	0.0000423
(v) Continuous annealing	0.00000802	0.00000591
(vi)Wet air pollution control devices:		
(A) fume scrubbers	0.00866 [2]	0.00638 [2]

[1] Pounds per ton of product for all operations except fume scrubbers.
[2] The values are expressed in pounds per day for this operation.

E. Pretreatment Standards for Phenol for the Cokemaking Subcategory

Generally, EPA establishes pretreatment standards for BAT pollutants that pass through publicly owned treatment works (POTWs) to waters of the U.S. or interfere with POTW operations or sludge disposal practices. The proposed regulation would establish PSES and PSNS for phenol for the byproducts segment of the Cokemaking Subcategory, based on the Agency's POTW pass-through analysis. To determine whether a pollutant passes through POTWs, EPA generally compares the average percentage of a pollutant removed by well-operated POTWs performing secondary treatment to the percentage of a pollutant removed by BAT treatment. When the median percentage removed nationwide by well-operated POTWs is less than the median percentage removed by direct dischargers complying with the proposed BAT effluent limitations, EPA typically determines that the pollutant passes through.

For the proposal, EPA calculated a POTW percent removal of 95% for phenol using data from the *U.S. EPA Fate of Priority Pollutants in Publicly Owned Treatment Works* (EPA 440/1–82/303, September 1982). The Agency calculated a cokemaking BAT percent removal of 99.9% for phenol based on data from iron and steel manufacturing facilities demonstrating BAT technology. Because the BAT percent removal is higher than the POTW percent removal, EPA concluded at the time of proposal that phenol in cokemaking process wastewater would pass through POTWs. However, in today's action EPA is considering finding that phenol does not pass through for the Cokemaking Subcategory of the proposed regulation. Instead, EPA is considering the following approach employed by EPA in the Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) guideline.

As explained in the ''Supplement to the Development Document for Effluent Limitations and Guidelines and New Source Performance Standards for the Organic Chemicals, Plastics, and Synthetic Fibers Point Source Category'' (EPA 821–R–93–007), EPA determined that phenol is highly biodegradable and is treated by POTWs to the same non-detect levels (10 parts per billion (ppb) or 10 μg/L) that the OCPSF direct dischargers achieve. EPA also observed that the direct dischargers had significantly higher influent concentrations than the POTWs, with the result that the OCPSF direct dischargers showed higher removals than the performance at the POTWs. EPA determined in the OCPSF rule that phenol did not pass through. EPA reasoned that application of the traditional approach to these facts would reflect the significant differences in influent concentrations rather than a real difference in the POTWs' ability to treat phenols.

For the cokemaking subcategory in the Iron and Steel Point Source Category, EPA concluded at proposal that phenol passed through because the BAT percent removal was greater than 99.9 percent, while the POTW percent removal was 95 percent. Both the POTW and the cokemaking BAT facility were capable of treating phenol to a non-detectable level. However, as was the case for the OCPSF rulemaking, the influent concentrations of phenol at the BAT facility in the cokemaking subcategory are much higher than those at the POTWs. The average influent concentrations for phenol for the cokemaking BAT facility ranged from 48,000 μg/L to greater than 400,000 μg/L. On the other hand, the average influent phenol concentration for eight POTWs that passed the editing criteria was only 387 μg/L, and the average effluent concentrations were 10 to 27 μg/L corresponding to an average percent removal of 95.25 percent. Because the data for this subcategory resemble the data in OCPSF, EPA is considering employing the OCPSF approach here. Therefore, EPA is considering making a finding that phenol does not pass through because it is treated to essentially the same level by direct dischargers and POTWs.

In addition, EPA conducted an additional POTW pass-through analysis following proposal using 1997–1998 data from a well-operated POTW performing secondary treatment on cokemaking process wastewater. This data is in the iron and steel rulemaking record. Using these alternative data, the Agency found that the POTW percent removal for phenol is 99.9%—a value equivalent to the BAT percent removal. Based upon this analysis, phenol would not pass through POTWs. Consequently, EPA is considering finding that phenol does not pass through for the Cokemaking Subcategory of the proposed regulation.

EPA solicits comment on the results of the POTW pass-through analysis using the alternative data and whether the Agency should decide not to establish pretreatment standards for phenol for the Cokemaking Subcategory.

F. Alternate BAT, NSPS, PSES, and PSNS Limitations for the By-product Recovery Segment of the Cokemaking Subcategory

EPA is requesting comment on an alternative approach to regulating discharges from by-product coke plants. Under this alternative, water added to optimize biological treatment processes would be regulated in the same manner as other flows added to cokemaking wastewaters (e.g., flows from wet

desulfurization systems and coke plant NESHAP controls). In the proposed regulation published on December 27, 2000, EPA included 50 gallons per ton (gpt) of control water flow in the list of flow sources used to determine the baseline model production-normalized flow rate (PNF). EPA now recognizes that this control water is not used at all cokemaking biological treatment plants. Additionally, this flow is not necessary for the operation of physical/chemical treatment systems operated at a majority of indirect discharging facilities. Therefore, adding this flow to the baseline PNF would yield a higher PNF, and, consequently, less stringent limits than appear to be appropriate for many dischargers in the segment. For this reason, EPA is now considering not including this control water flow in the baseline cokemaking model PNFs. The result would be a decrease in the baseline cokemaking model PNF from 158 gpt to 108 gpt.

In order to accommodate the facilities that actually add water to optimize biological treatment, EPA would make available an incremental flow allowance (expressed as a footnote) for the facilities. Those facilities using control water in the operation of their biological treatment systems would be allowed an increase in limitations not to exceed 46.3 percent. Facilities not using biological treatment for cokemaking wastewaters would not be eligible for the additional allowance. (EPA would maintain the other allowances EPA proposed in December 2000, which are printed below for the sake of completeness.)

This alternative approach would not impact EPA's estimated cost of compliance. The Technical Development Document (EPA–821–B–00–011) presents the PNF development in section 7.3 and the methodology for costing in section 9.2.

For this revision, EPA would base the new limitations on the pollutant concentrations established for the proposed rulemaking and a PNF of 108 gpt. The following tables show the by-products cokemaking limitations which EPA would promulgate under this approach. Table II.F.1 presents the BAT limitations. Table II.F.2 presents the NSPS limitations. Table II.F.3 presents the Physical Chemical Treatment PSES limitations. Table II.F.4 presents the Physical Chemical plus Biological Treatment PSES limitations. Table II.F.5 presents the Physical Chemical plus Biological Treatment PSNS limitations.

TABLE II.F.1.—BAT EFFLUENT LIMITATIONS

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
Ammonia (as N)	0.000936	0.000422
Benzo(a)pyrene	0.0000621	0.0000208
Cyanide	0.00711	0.00269
Mercury	0.000000591	0.000000357
Naphthalene	0.0000704	0.0000236
Phenol	0.0000227	0.0000128
Selenium	0.000126	0.000109
Thiocyanate	0.00112	0.000786
TRC	0.000450	.....

[1] Pounds per ton of product.

The following paragraphs, (1) through (5), would appear in the regulation, following the table of effluent limitations.

(1) Increased loadings, not to exceed 9.5 percent of the above limitations, shall be provided for process wastewaters from wet desulfurization systems, but only to the extent such systems generate process wastewaters.

(2) Increased loadings, not to exceed 6.3 percent of the above limitations, shall be provided for process wastewaters generated as a result of control measures necessary for compliance with by-product coke plant NESHAPs, but only to the extent such systems generate process wastewaters.

(3) Increased loadings shall be provided for process wastewaters from other wet air pollution control systems (except those from coal charging and coke pushing emission controls), coal tar processing operations and coke plant groundwater remediation systems, but only to the extent such systems generate process wastewaters and those wastewaters are co-treated with process wastewaters from by-product cokemaking wastewaters.

(4) The effluent limitations for TRC shall be applicable only when chlorination of cokemaking wastewaters is practiced.

(5) Increased loadings, not to exceed 46.3 percent of the above limitations, shall be provided for water used for the optimization of coke plant biological treatment systems.

TABLE II.F.2.—NEW SOURCE PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
Ammonia (as N)	0.000936	0.000422
Benzo(a)pyrene	0.0000621	0.0000208
Cyanide	0.00711	0.00269
Mercury	0.000000591	0.000000357
Naphthalene	0.0000704	0.0000236
Oil & grease	0.0168	0.00902
Phenol	0.0000227	0.0000128
Selenium	0.000126	0.000109
Thiocyanate	0.00112	0.000786
TRC	0.000450	.....
TSS	0.0454	0.0230

[1] Pounds per ton of product.

The following paragraphs, (1) through (5), would appear in the regulation, following the table of effluent limitations.

(1) Increased loadings, not to exceed 9.5 percent of the above limitations, shall be provided for process wastewaters from wet desulfurization systems, but only to the extent such systems generate process wastewaters.

(2) Increased loadings, not to exceed 6.3 percent of the above limitations, shall be provided for process wastewaters generated as a result of control measures necessary for compliance with by-product coke plant NESHAPs, but only to the extent such systems generate process wastewaters.

(3) Increased loadings shall be provided for process wastewaters from other wet air pollution control systems (except those from coal charging and coke pushing emission controls), coal tar processing operations and coke plant groundwater remediation systems, but only to the extent such systems generate process wastewaters and those wastewaters are co-treated with process wastewaters from by-product cokemaking wastewaters.

(4) The effluent limitations for TRC shall be applicable only when chlorination of cokemaking wastewaters is practiced.

(5) Increased loadings, not to exceed 46.3 percent of the above limitations, shall be provided for water used for the optimization of coke plant biological treatment systems.

TABLE II.F.3.—PHYSICAL CHEMICAL TREATMENT PRETREATMENT STANDARDS (PSES)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0578	0.0382
Cyanide	0.0167	0.00875
Naphthalene	0.00183	0.000594
Phenol	1.46	0.492
Selenium	0.000854	0.000711
Thiocyanate	0.275	0.217

[1] Pounds per ton of product.

The following paragraphs, (1) through (3), would appear in the regulation, following the table of effluent limitations.

(1) Increased loadings, not to exceed 13.9 percent of the above limitations, shall be provided for process wastewaters from wet desulfurization systems, but only to the extent such systems generate process wastewaters.

(2) Increased loadings, not to exceed 9.3 percent of the above limitations, shall be provided for process wastewaters generated as a result of control measures necessary for compliance with by-product coke plant NESHAPs, but only to the extent such systems generate process wastewaters.

(3) Increased loadings shall be provided for process wastewaters from other wet air pollution control systems (except those from coal charging and coke pushing emission controls), coal tar processing operations and coke plant groundwater remediation systems, but only to the extent such systems generate process wastewaters and those wastewaters are co-treated with process wastewaters from by-product cokemaking wastewaters.

TABLE II.F.4.—PHYSICAL CHEMICAL PLUS BIOLOGICAL PRETREATMENT STANDARDS (PSES)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.00368	0.00244
Cyanide	0.00421	0.00288
Naphthalene	0.0000704	0.0000236
Phenol	0.0000227	0.0000128
Selenium	0.000126	0.000109
Thiocyanate	0.00112	0.000786

[1] Pounds per ton of product.

The following paragraphs, (1) through (4), would appear in the regulation, following the table of effluent limitations.

(1) Increased loadings, not to exceed 9.5 percent of the above limitations, shall be provided for process wastewaters from wet desulfurization systems, but only to the extent such systems generate process wastewaters.

(2) Increased loadings, not to exceed 6.3 percent of the above limitations, shall be provided for process wastewaters generated as a result of control measures necessary for compliance with by-product coke plant NESHAPs, but only to the extent such systems generate process wastewaters.

(3) Increased loadings shall be provided for process wastewaters from other wet air pollution control systems (except those from coal charging and coke pushing emission controls), coal tar processing operations and coke plant groundwater remediation systems, but only to the extent such systems generate process wastewaters and those wastewaters are co-treated with process wastewaters from by-product cokemaking wastewaters.

(4) Increased loadings, not to exceed 46.3 percent of the above limitations, shall be provided for water used for the optimization of coke plant biological treatment systems.

TABLE II.F.5.—PHYSICAL CHEMICAL PLUS BIOLOGICAL TREATMENT PRETREATMENT STANDARDS (PSNS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.00368	0.00244
Cyanide	0.00421	0.00288
Naphthalene	0.0000704	0.0000236
Phenol	0.0000227	0.0000128
Selenium	0.000126	0.000109
Thiocyanate	0.00112	0.000786

[1] Pounds per ton of product.

The following paragraphs, (1) through (4), would appear in the regulation, following the table of effluent limitations.

(1) Increased loadings, not to exceed 9.5 percent of the above limitations, shall be provided for process wastewaters from wet desulfurization systems, but only to the extent such systems generate process wastewaters.

(2) Increased loadings, not to exceed 6.3 percent of the above limitations, shall be provided for process wastewaters generated as a result of control measures necessary for compliance with by-product coke plant NESHAPs, but only to the extent such systems generate process wastewaters.

(3) Increased loadings shall be provided for process wastewaters from other wet air pollution control systems (except those from coal charging and coke pushing emission controls), coal tar processing operations and coke plant groundwater remediation systems, but only to the extent such systems generate process wastewaters and those wastewaters are co-treated with process wastewaters from by-product cokemaking wastewaters.

(4) Increased loadings, not to exceed 46.3 percent of the above limitations, shall be provided for water used for the optimization of coke plant biological treatment systems.

G. BPT Revision for By-Product Cokemaking Operations

In the December 2000 notice, EPA proposed to recodify the current BPT for two cokemaking segments, merchant coke manufacturing and iron and steel coke manufacturing. We are now considering combining these two historical segments into one, named by-product coke manufacturing, because we now believe there is no meaningful distinction between these two segments. As a result, the iron and steel coke manufacturing plants would be subject to the same BPT limits as the merchant coke plants. (The current BPT limitations for merchant by-product cokemaking manufacturing plants are within 7 percent of those for iron and steel by-product cokemaking manufacturing plants.) The current BPT limitations for merchant coke plants that would apply to iron and steel coke manufacturing plant under this approach are shown in Table II.G.1:

TABLE II.G.1.—EFFLUENT LIMITATIONS (BPT)

Process wastewater source	Maximum daily [2]	Maximum Monthly Avg.[2]
By-product cokemaking: [1]		
Oil & grease	0.0698	0.0232
TSS	0.540	0.280

[1] Increased loadings, not to exceed 11 percent of the above limitations, shall be provided for process wastewaters from wet desulfurization systems, but only to the extent such systems generate process wastewaters.
[2] Pounds per ton of product.

EPA believes there will be no significant adverse environmental impacts associated with this approach. Moreover, there would be no additional costs of compliance to achieve the resulting BPT. EPA solicits comments on this approach and solicits other options for consideration.

III. Corrections to Proposed Preamble and Regulation

A. General

EPA is making the following corrections to the proposed regulation and accompanying preamble for the iron and steel manufacturing point source category.

In reviewing the notice and proposed rulemaking (65 FR 81964), EPA discovered one error caused by a file conversion problem during **Federal Register** publication that occurred more than 100 times (starting on page 82000). In numerous instances on or after page 82000, words starting with the letters ''For'' (including the word ''For'' itself) were printed without the ''For.'' Therefore, ''Forming'' became ''ming,'' ''Foreign'' became ''eign,'' ''Forging'' became ''ging,'' and sentences that started with ''For'' appeared without their first word. Although this action does not explicitly correct each and every such omission, EPA intends for the proposal to read logically and encourages reviewers to use the context of the sentence, and replace the missing letters as necessary. If reviewers have any questions on how to interpret inaccurately spelled words, please contact any of the EPA staff listed under the ''For Further Information Contact'' heading at the beginning of today's action.

B. Corrections to Preamble

1. On page 81964, column 2, paragraph 2 under the heading ''How to Submit Comments,'' the second sentence should read ''Electronic comments must specify docket number W–00–25 and must be submitted as an ASCII, Word, or WordPerfect file avoiding the use of special characters and any form of encryption.''

2. On page 81968, in the summary table, the entries for Subpart A, Cokemaking, (By -Product Recovery) should be as follows:

Subpart A. Cokemaking (By-Product Recovery).	BAT/NSPS	BAT–3	tar removal, equalization, ammonia stripping, temperature control, equalization, single-stage biological treatment with nitrification, alkaline chlorination, and sludge dewatering.
	PSES/PSNS	PSES–3	tar removal, equalization, ammonia stripping, temperature control, equalization, single-stage biological treatment with nitrification.
	co-proposed PSES	PSES–1	tar removal, equalization, ammonia PSES stripping.

3. On page 81972, column 1, the sentence beginning in the last line should be ''See Appendix A of the *Development Document for the Proposed Effluent Limitations and Guidelines for the Iron and Steel Manufacturing Point Source Category.''*

4. On page 81974, column 3, at the end of line 40, the sentence should be ''The exception is Subpart D (the Integrated and Stand Alone Hot Forming subcategory) for which EPA is proposing alternative BAT approaches to account for possible economic issues.''

5. On page 81977, column 2, first paragraph under *Non-Integrated Steelmaking and Hot Forming Operations—Subpart E,* the second sentence should be ''The wastewater generated from this proposed subcategory originates from direct contact water with gases in the vacuum degassing process; direct contact water used for spray cooling and for flume flushing to transport scale in the casting process; and process water used for scale breaking, flume flushing, and direct contact cooling in the hot forming process.''

6. On page 81979, column 1, end of line 40, the second sentence should be ''From these data, EPA identified 71 POCs for the Cokemaking Subcategory: 4 conventionals, 1 non-conventional metal, 30 non-conventional organics, 10 other non-conventionals, 22 priority organics, 3 priority metals, and 1 other priority pollutant (total cyanide).''

7. On page 81979, column 1, at the end of line 53, add these three sentences: ''EPA could not evaluate total Kjeldahl nitrogen (TKN), weak acid dissociable (WAD) cyanide, and thiocyanate using the POC selection criteria because no method MLs were available at the time of the Agency's analysis. Nevertheless, EPA selected these pollutants as POCs because they are widely present in cokemaking wastewater (each was detected at significant concentrations in 16 out of 16 untreated cokemaking wastewater samples collected) and are important indicators of biological treatment effectiveness. In addition, EPA selected nitrate/nitrite as a POC even though it failed the screening criteria because of its importance as an indicator of biological treatment effectiveness.''

8. On page 81979, column 2, beginning on line 51, the next two paragraphs should be: ''EPA identified 27 POCs for the blast furnace segment of the Ironmaking Subcategory: 2 conventionals, 7 non-conventional metals, 1 non-conventional organic, 10 other non-conventionals, 6 priority metals, and 1 other priority pollutant (total cyanide). EPA could not evaluate TKN, WAD cyanide, and thiocyanate using the POC selection criteria because no method MLs were available at the time of the Agency's analysis. Nevertheless, EPA selected these pollutants as POCs because they are widely present in the blast furnace wastewater (each was detected in at least 60% of the untreated blast furnace wastewater samples collected).''

''EPA identified 65 POCs for the sintering segment of the Ironmaking Subcategory: 2 conventionals, 6 non-conventional metals, 24 non-conventional organics, 11 other non-conventionals, 11 priority organics, 10 priority metals, and 1 other priority pollutant (total cyanide). EPA could not evaluate TKN, WAD cyanide, and thiocyanate using the POC selection criteria because no method MLs were available at the time of the Agency's analysis. Nevertheless, EPA selected those pollutants as POCs because they are widely present in sintering wastewater (each was detected in 10 out of 10 untreated sintering wastewater samples collected).''

9. On page 81980, column 1, line 30, remove the sentence beginning on line 30 and ending on line 34 (i.e. the last sentence of that paragraph).

10. On page 81980, column 1, line 64, the next three sentences should be: ''Some operators report achieving zero discharge by balancing the applied water for gas conditioning with evaporative losses but not all sites are able to achieve this because of safety concerns. One of the eight BOFs operating wet-open combustion gas cleaning systems discharge less than 20 gpt, and two of the seven BOFs operating wet-suppressed combustion gas cleaning systems discharge less than 20 gpt. EPA is using a PNF for recycle system blowdown of 20 gpt at BOFs with wet-open combustion gas cleaning systems, and 20 gpt for BOFs equipped with wet-suppressed combustion gas cleaning systems.''

11. On page 81980, column 2, remove the sentence beginning on line 11 and ending on line 15.

12. On page 81980, column 2, line 50, the next two sentences should be ''EPA identified the following 11 POCs for the carbon and alloy segment of the Integrated and Stand-Alone Hot Forming Subcategory: 2 conventionals, 3 non-conventional metals, 4 other non-conventionals, and 2 priority metals. EPA identified the following 15 POCs for the stainless segment of the Integrated and Stand-Alone Hot Forming Subcategory: 2 conventionals, 4 non-conventional metals, 4 other non-conventionals, and 5 priority metals.''

13. On page 81980, column 3, line 60, the paragraph should be ''EPA identified the following 10 POCs for the carbon and alloy segment of the Non-Integrated Steelmaking and Hot Forming Subcategory: 2 conventionals, 2 non-conventional metals, 4 other non-conventionals, and 2 priority metals. EPA selected lead as a POC for the reasons set out above for integrated and stand-alone hot forming mills. EPA identified the following 22 POCs for the stainless segment of the Non-Integrated Steelmaking and Hot Forming Subcategory: 2 conventionals, 7 non-conventional metals, 6 other non-conventionals, 1 priority organic, and 6 priority metals. EPA selected lead and zinc as POCs for the reasons set out above for integrated and stand-alone hot forming mills.''

14. On page 81981, column 1, line 16, the sentence should be ''Two types of air pollution control systems (semi-wet and dry) are commonly used in the EAF steelmaking operations; neither type of system generates process wastewater.''

15. On page 81981, column 1, remove the sentences beginning on line 20 and ending on line 26.

16. On page 81981, column 3, line 15, the paragraph should be ''EPA identified a total of 37 POCs for the carbon and alloy segment of the Steel Finishing Subcategory: 2 conventionals, 8 non-conventional metals, 9 non-conventional organics, 8 other non-conventionals, 2 priority organics, and 8

priority metals. EPA identified a total of 49 POCs for the stainless segment of the Steel Finishing Subcategory: 2 conventionals, 12 non-conventional metals, 14 non-conventional organics, 7 other non-conventionals, 4 priority organics, 9 priority metals, and one other priority pollutant (total cyanide).''

17. On page 81982, column 1, line 12, the next two sentences should be ''For sulfuric acid pickling of carbon and alloy steel, EPA is using a PNF of 230 gpt for strip and sheet (achieved by four of nine lines), 280 gpt for bar, billet, rod, and coil, and 500 gpt for pipe and tube. For acid pickling of stainless steel, EPA is using a PNF of 230 gpt for bar and billet (representing the median flow rate), 700 gpt for sheet and strip (achieved by 19 of 50 lines), and 35 gpt for plate.''

18. On page 81982, column 1, the sentences from line 37 to line 53 should be ''EPA is using the following PNFs for cold rolling of carbon and alloy steel: single stand, direct application—3 gpt; single stand, recirculation—1 gpt; multi-stand, direct application—275 gpt; multi-stand, recirculation—25 gpt; multi-stand, combination—143 gpt. EPA is using the following PNFs for cold rolling of stainless steel: single stand, direct application—35 gpt; single stand, recirculation—3 gpt; multi-stand, direct application—275 gpt; multi-stand, recirculation—16 gpt; multi-stand, combination—143 gpt. EPA is using a PNF for stand-alone continuous annealing lines of 20 gpt (achieved by seven of 14 stand-alone continuous annealing lines). Wastewater discharge rates for alkaline cleaning vary by product and steel type. For carbon and alloy steel, EPA is using a PNF of 350 gpt for sheet and strip and 20 gpt for pipe and tube. EPA is using a PNF of 2,500 gpt for stainless sheet and strip. EPA is using a PNF of 550 gpt for hot dip coating operations.''

19. On page 81982, column 1, remove the sentence that begins on line 65 and ends on line 66.

20. On page 81982, column 2, line 31, the paragraph should be ''Using the POC selection criteria presented above, EPA identified 10 POCs for the Other Operations Subcategory: 2 conventionals, 4 non-conventional metals, and other non-conventionals.''

21. On page 81986, column 1, line 21, the sentence should be ''The third BAT option also results in no further reduction in flow beyond BAT–1 levels, but does result in the additional removal of 42% of the total cyanide (as well as additional removal of other pollutants) from direct discharging cokemaking wastestreams beyond BAT–1 levels through the use of alkaline chlorination.''

22. On page 81987, column 1, line 15, the paragraph should be ''Under PSES–1, the rate of removal of ammonia can increase by 69% over current levels. Under PSES–2, removal of cyanide can increase by 28% over that expected under PSES–1. Under PSES–3, the removal of ammonia can increase by 28% over that expected under PSES–2. Under PSES–4, there are no additional flow reductions and no significant additional pollutant removals.''

23. On page 81988, column 3, the second table should be numbered ''Table V.C.3–3.''

24. On page 81988, column 3, the name of the second table should be **''estimated pollutant loading reduction for integrated steelmaking.''**

25. On page 81988, column 3, in the second table, the number in the second column under the technical options ''(BAT–1 and PSES–1)'' for entry ''Incidental Removal of Conventional Pollutants (TSS and O&G)'' should be ''1.9.''

26. On page 81989, in Table V.C.4–2., under ''Carbon and Alloy Steels'', align the entry ''Annual O&M costs'' to the left margin in the first column.

27. On page 81989, in Table V.C.4–2., insert an extra line after ''Annual O&M costs'' under Carbon and Alloy Steels''. In this line, insert ''One-time costs'', ''1.0'', and ''0.1'' in the three columns.

28. On page 81990, in Table V.C.4–3., the entry in the second column under technology option ''BAT–1'' in the line labeled ''Removal of Priority and Non-conventional Pollutants'' should be ''02.''

29. On page 81990, column 2, line 11, the sentence should be ''Stainless steel integrated and stand-alone hot forming operations discharge indirectly approximately 1,400 pounds of total priority and non-conventional pollutants.''

30. On page 81990, column 2, line 37, the sentence should be ''As with the Carbon and Alloy segment, the technology basis of BAT–1 for the Stainless segment consists of a scale pit with oil skimming, a roughing clarifier, sludge dewatering, high rate recycle, with mixed-media filtration.''

31. On page 81992, column 1, line 1, the two sentences should be ''EPA estimated that carbon and alloy steel operations directly discharge approximately 2.8 million pounds of conventional pollutants (TSS and O&G). These operations also discharge approximately 47,000 pounds of total toxic and non-conventional pollutants directly and approximately 3,100 pounds indirectly.''

32. On page 81992, column 1, line 39, the sentence should be ''The technological basis for PSES–1 is solids removal, a cooling tower, sludge dewatering, high-rate recycle, and mixed-media filtration.''

33. On page 81993, in Table V.C.6–1, in the section titled ''Stainless Steels'', insert an ''X'' in the line for ''Countercurrent rinses'' in the third column under Technology option ''PSES–1.''

34. On page 82009, column 3, line 12, the sentence should be ''EPA estimates that approximately 6.2 million pounds (dry wt.) per year of additional biological treatment sludge will be generated by the cokemaking subcategory as a result of lower effluent ammonia limits.''

35. On page 82009, column 3, line 22, the paragraph should be ''Additional solids captured by roughing clarifiers and sand filters proposed for recycle water systems within the integrated and non-integrated steelmaking facilities (blast furnace, sinter plant, BOF, vacuum degasser, continuous caster, hot forming mill) will account for an additional 0.5 percent of the solids currently being collected in scale pits and classifiers. Data provided in the industry surveys indicates the total annual sludge and scale production from all of these facilities, including stand-alone hot formers, was approximately 3.8 million tons/year (dry weight). Solids removal equipment proposed for this rule is expected to remove an additional 27,500 tons per year of dry wastewater treatment sludge.''

36. On page 82010, column 1, line 13, these two sentences should be ''Data provided in the industry surveys indicates the total annual sludge production from all steel finishing operations throughout the industry was approximately 690,000 tons/year (dry weight). Additional sludge generation from finishing operations resulting from this proposed rule is approximately 2,200 tons/year (dry weight).''

37. On page 82010, column 2, line 40, the sentence should be ''The pH level in process wastewaters subject to a subpart within this part shall be monitored at the point of discharge to the receiving water or at the point at which the wastewater leaves the wastewater treatment facility operated to treat effluent subject to that subpart.''

38. On page 82010, column 3, line 15, the bullet should be ''chemical is not considered as a volatile compound, e.g., generally with Henry's Law Constant greater than or equal to $1x10^{-4}$ atm.m^3/mol.''

39. On page 82013, column 3, line 9, the sentence should be ''For a more detailed discussion of alternate approaches to the POTW pass-through analysis, see the Technical Development Document (EPA–821–B–00–011), Appendices B and C.''

40. On page 82016, column 3, line 38, these two sentences should be ''BAT–2 results in no further reduction in flow beyond that to be achieved by BAT–1, but does result in the additional removal of 24% of the total cyanide from direct discharging cokemaking wastestreams through the use of cyanide precipitation. BAT–3 also results in no further reduction in flow beyond that to be achieved by BAT–1, but does result in the additional removal of 42% of the total cyanide from direct discharging cokemaking wastestreams beyond BAT–1 levels through the use of alkaline chlorination.''

41. On page 82017, column 1, line 33, the sentence should be ''EPA is co-proposing two sets of technologies to serve as the bases for the development of the proposed PSES limits: 1) tar removal, equalization, and ammonia stripping.''

42. On page 82017, column 3, line 44, the sentence should be ''The treatment technologies that serve as the basis for the development of the proposed BAT limits for the ironmaking subcategory (Blast Furnace and Sintering Segments) are: solids removal with high-rate recycle and metals precipitation, alkaline chlorination, and mixed-media filtration for the blowdown wastewater.''

43. On page 82019, column 2, line 15, the sentence should be ''The treatment technologies that serve as the basis for the development of BAT Option A are: scale pit with oil skimming, roughing clarifier, cooling tower with high rate recycle and mixed-media filtration of recycled flow or of low volume blowdown flow.''

44. On page 82022, column 1, line 39, the section title should be ''PSES.''

45. On page 82022, column 2, line 49, the sentence should be ''The treatment technologies that serve as the basis for the development of the proposed BAT limits for the stainless segment of the integrated and stand alone hot forming subcategory are: Scale pit with oil skimming, roughing clarifier, with high rate recycle and mixed-media filtration of recycled flow or of low volume blowdown flow.''

46. On page 82024, column 1, line 40, the sentence should be ''EPA estimates that selection of the BAT–1 option as the technology basis would result in the reduction of flow by this segment of the steel finishing subcategory by 65%, and the reduction in the discharge of non-conventional pollutants by 25%.''

47. On page 82025, column 1, line 11, the section title should be ''NSPS.''

48. On page 82030, in the table near the bottom of the page, the following numbers should be underlined: ''1,850,000'', ''1,425,000'', and ''3,205,000.''

49. On page 82031, in the table near the top of the page, the following numbers should be underlined: ''3,280,000'', ''1,690,000'', and ''3,270,000.''

50. On page 82038, column 1,line 41, the definition for ''NSPS'' should appear on a new line.

51. On page 82038, column 1, line 76, the definition of ''PSES'' should be ''Pretreatment standards for existing sources of indirect discharges, under Section 307(b) of the CWA, applicable to indirect dischargers that commenced construction after December 27, 2000. See 40 CFR 403.3(k)(1).''

C. Corrections to Regulation

1. On page 82039, in column 2, correct § 420.1(b) as follows:

§ 420.1 General Applicability.

* * * * *

(b) This part does not apply to discharges and the introduction of pollutants to POTWs resulting from cold finished bar or cold finished pipe and tube operations, including any acid pickling and other related process operations; wire drawing or coating operations; or, stand-alone, hot-dipped coating operations for products other than flat-rolled products.

§ 420.4 [Corrected]

2. On page 82041, in column 1, correct § 420.4 by removing § 420.4 (h).

§ 420.11 [Corrected]

3. On page 82041, in column 2, correct paragraph (a) and on page 82041, in column 3, correct paragraph (h) as follows:

§ 420.11 Subcategory definitions.

* * * * *

(a) *Product* means the daily operating (production) rate of metallurgical coke plus coke breeze determined in accordance with § 420.3.

* * * * *

(h) *Wet desulfurization system* means one that involves scrubbing the sulfur-rich coke oven gas stream with an absorbent solution, with subsequent recovery of elemental sulfur from the solution and discharge of process wastewater.

§ 420.14 [Corrected]

4. On page 82042, in column 1, correct paragraph (a)(3) as follows:

§ 420.14 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available control technology economically achievable (BAT).

* * * * *

(a) * * *

(3) Increased loadings shall be provided for process wastewaters from other wet air pollution control systems (except those from coal charging and coke pushing emission controls), coal tar processing operations and coke plant groundwater remediation systems, but only to the extent such systems generate process wastewaters and those wastewaters are co-treated with process wastewaters from by-product cokemaking processes.

* * * * *

§ 420.15 [Amended]

5. On page 82042, correct the title of the table in § 420.15(b) to read as follows: ''PERFORMANCE STANDARDS (NSPS)''.

6. On page 82043, correct the title of the table in § 420.15(b) to read as follows: ''PERFORMANCE STANDARDS (NSPS)—Continued''.

§ 420.15 [Amended]

7. On page 82043, in column 1, correct § 420.15(b)(3) as follows:

§ 420.15 New source performance standards (NSPS).

* * * * *

(b) * * *

(3) Increased loadings shall be provided for process wastewaters from other wet air pollution control systems (except those from coal charging and coke pushing emission controls), coal tar processing operations and coke plant groundwater remediation systems, but only to the extent such systems generate process wastewaters and those wastewaters are co-treated with process wastewaters from by-product cokemaking processes.

* * * * *

§ 420.16 [Corrected]

8. On page 82043, in column 2, correct § 420.16(a)(3) Option 1; and on page 82044, in column 1, correct § 420.16(a)(3) Option 2 as follows:

§ 420.16 Pretreatment standards for existing sources (PSES).

* * * * *

(a) * * *

Option 1 for paragraph (a)(3): (3) Increased loadings shall be provided for process wastewaters from other wet air

pollution control systems (except those from coal charging and coke pushing emission controls), coal tar processing operations and coke plant groundwater remediation systems, but only to the extent such systems generate process wastewaters and those wastewaters are co-treated with process wastewaters from by-product cokemaking processes.

* * * * *

Option 2 for paragraph (a)(3): (3) Increased loadings shall be provided for process wastewaters from other wet air pollution control systems (except those from coal charging and coke pushing emission controls), coal tar processing operations and coke plant groundwater remediation systems, but only to the extent such systems generate process wastewaters and those wastewaters are co-treated with process wastewaters from by-product cokemaking processes.

* * * * *

§ 420.17 [Corrected]

9. On page 82044, in column 1, correct paragraph (b)(3) as follows:

§ 420.17 Pretreatment standards for new sources (PSNS).

* * * * *

(b) * * *

(3) Increased loadings shall be provided for process wastewaters from other wet air pollution control systems (except those from coal charging and coke pushing emission controls), coal tar processing operations and coke plant groundwater remediation systems, but only to the extent such systems generate process wastewaters and those wastewaters are co-treated with process wastewaters from by-product cokemaking processes.

* * * * *

§ 420.21 [Corrected]

10. On page 80244, column 2, correct the second sentence in paragraph (a)(2); on page 80244 in column 3 correct paragraph (d); and on page 80244, column 3, correct paragraph (f) as follows:

§ 420.21 Subcategory definitions.

* * * * *

(a) * * *

(2) * * * Molton iron produced in a blast furnace, and does not include slag skimmed remotely from the blast furnace. The daily operating (production) rate of sinter and molten iron must be determined in accordance with § 420.3. * * *

* * * * *

(d) *Pg/L* means picograms per liter (PPT = 1.0×10^{-12} g/L).

* * * * *

(f) *Wet-air pollution control system* is an emission control system that utilizes water to clean process or furnace off-gases.

§ 420.25 [Corrected]

11. On page 82046, correct footnote 3 of the PERFORMANCE STANDARDS (NSPS) table in § 420.25(b)(1) to read: ''[3] Ten parts per quadrillion (10×10^{-12} g/l).''

§ 420.26 [Corrected]

12. On page 82047, correct footnote 4 of the PRETREATMENT STANDARDS (PSES) table in § 420.26(c) to read: ''[4] Ten parts per quadrillion (10×10^{-12} g/l).''

§ 420.27 [Corrected]

13. On page 82047, correct footnote 3 of the PRETREATMENT STANDARDS (PSNS) table in § 420.27(b)(1) to read: ''[3] Ten parts per quadrillion (10×10^{-12} g/l).''

14. On page 82047, correct footnote 4 of the PRETREATMENT STANDARDS (PSNS) table in § 420.27(b)(3) to read: ''[4] Ten parts per quadrillion (10×10^{-12} g/l).''

§ 420.31 [Corrected]

15. On page 82048, in column 2, correct the second sentence in paragraph (a) as follows:

§ 420.31 Subcategory definitions.

* * * * *

(a) * * * The daily operating (production) rates shall be determined in accordance with § 420.3.

16. On page 82048, in column 2, correct § 420.31 by removing and reserving paragraph (b).

§ 420.32 [Corrected]

17. On page 82048, correct footnote 2 of the EFFLUENT LIMITATIONS (BPT) table in § 420.32 to read: ''[2] There shall be no discharge of process wastewater pollutants to waters of the U.S. for ladle metallurgy other than vacuum degassing.''

§ 420.34 [Corrected]

18. On page 82049, in column 1, correct § 420.34(c) as follows:

§ 420.34 Effluent limitations attainable by the application of the best available control technology economically achievable (BAT).

* * * * *

(c) *Ladle Metallurgy other than Vacuum Degassing.* There shall be no discharge of process wastewater pollutants to waters of the U.S.

§ 420.35 [Corrected]

19. On page 82050, in column 1, correct § 420.35(b)(3) as follows:

§ 420.35 New Source Performance Standards (NSPS).

* * * * *

(b) * * *

(3) *Ladle Metallurgy other than Vacuum Degassing.* There shall be no discharge of process wastewater pollutants to waters of the U.S.

§ 420.36 [Corrected]

20. On page 82051, in column 1, correct § 420.36(c) as follows:

§ 420.36 Pretreatment Standards for Existing Sources (PSES).

* * * * *

(c) *Ladle Metallurgy other than Vacuum Degassing.* There shall be no discharge of process wastewater pollutants to POTWs.

§ 420.37 [Corrected]

21. On page 82051, in column 1, correct § 420.37(b)(3) as follows:

§ 420.37 Pretreatment Standards for New Sources (PSNS).

* * * * *

(b) * * *

(3) *Ladle Metallurgy other than Vacuum Degassing.* There shall be no discharge of process wastewater pollutants to POTWs.

§ 420.41 [Corrected]

22. On page 82051, in column 2, correct second sentence in paragraph (a); and on page 82052, in column 2, correct paragraph (n) as follows:

§ 420.41 Subcategory definitions.

* * * * *

(a) *Product* * * * The daily operating (production) rate shall be determined in accordance with § 420.3.

* * * * *

(n) *Skelp* means flat, hot rolled steel.

§ 420.51 [Corrected]

23. On page 82054, correct § 420.51(c) as follows:

§ 420.51 Subcategory definitions.

* * * * *

(c) *Electric arc furnace* means one in which steel is produced by melting steel scrap by use of electric current passed through electrodes.

§ 420.52 [Corrected]

24. On page 82054, correct footnote 2 of the EFFLUENT LIMITATIONS (BPT) table in § 420.52 to read: ''[2] There shall be no discharge of process wastewater pollutants to waters of the U.S. for electric arc furnaces or ladle metallurgy other than vacuum degassing.''

§ 420.54 [Corrected]

25. On page 82055, in column 1, correct paragraph (a)(4); and on page

82055, in column 1, correct paragraph (b)(4) as follows:

§ 420.54 Effluent limitations attainable by the application of the best available control technology economically achievable (BAT).

* * * * *

(a) * * *

(4) *Ladle Metallurgy other than Vacuum Degassing.* There shall be no discharge of process wastewater pollutants to waters of the U.S.

* * * * *

(b) * * *

(4) *Ladle Metallurgy other than Vacuum Degassing.* There shall be no discharge of process wastewater pollutants to waters of the U.S.

§ 420.56 [Corrected]

26. On page 82055, in column 2, correct paragraph (a)(4); and on page 82056, in column 1, correct paragraph (b)(4) as follows:

§ 420.56 Pretreatment Standards for Existing Sources (PSES).

* * * * *

(a) * * *

(4) *Ladle Metallurgy other than Vacuum Degassing.* There shall be no discharge of process wastewater pollutants to POTWs.

* * * * *

(b) * * *

(4) *Ladle Metallurgy other than Vacuum Degassing.* There shall be no discharge of process wastewater pollutants to POTWs.

§ 420.61 [Amended]

27. On page 82057, in column 2, correct § 420.61 by removing and reserving paragraph (z).

§ 420.64 [Amended]

28. On page 82059, in the EFFLUENT LIMITATIONS (BAT) table of § 420.64 (b)(1), correct the entry in the second column for paragraph (b)(1)(i)(C) to read ''0.00000363''.

29. On page 82059, in the EFFLUENT LIMITATIONS (BAT) table of § 420.64 (b)(1), correct the entry in the second column for paragraph (b)(1)(i)(D) to read ''0.00000518''.

30. On page 82059, in the EFFLUENT LIMITATIONS (BAT) table of § 420.64 (b)(1), correct the entry in the third column for paragraph (b)(1)(v)(C) to read ''0.0000000944''.

31. On page 82062, in the EFFLUENT LIMITATIONS (BAT) table of § 420.64(e)(1), correct the entry in the second column for paragrpah (d)(1)(i)(D) to read ''0.0000609''.

32. On page 82062, in the EFFLUENT LIMITATIONS (BAT) table of § 420.64(e)(1), correct the entry in the second column for paragraph (e)(1)(vii)(B) to read ''0.00134''.

33. On page 82062, in the EFFLUENT LIMITATIONS (BAT) table of § 420.64(e)(1), correct the entry in the second column for paragraph (e)(1)(ix)(A) to read ''0.0263''.

34. On page 82062, in the EFFLUENT LIMITATIONS (BAT) table of § 420.64(e)(1), correct the entry in the third column for paragraph (e)(1)(iii)(A) to read ''0.0913''.

35. On page 82062, in the EFFLUENT LIMITATIONS (BAT) table of § 420.64(e)(1), correct the entry in the third column for paragraph (e)(1)(v)(C) to read ''0.000000634''.

36. On page 82063, in the EFFLUENT LIMITATIONS (BAT) table of § 420.64(f)(1), correct the entry paragraph (f)(1)(iii)(B) by removing the superscripts in the second and third columns.

37. On page 82063, in the EFFLUENT LIMITATIONS (BAT) table of § 420.64(g)(1), correct the entry in the third column for paragraph (g)(1)(i)(B) to read ''0.000546''.

38. On page 82063, in the EFFLUENT LIMITATIONS (BAT) table of § 420.64(g)(1), correct the entry in the third column for paragraph (g)(1)(iv)(C) to read ''0.000000535''.

§ 420.65 [Amended]

39. On page 82065, in the PERFORMANCE STANDARDS (NSPS) table of § 420.65(b)(2), correct the entry in the second column for paragraph (b)(2)(i)(A)(2) to read ''0.0638''.

40. On page 82065, in the PERFORMANCE STANDARDS (NSPS) table of § 420.65(b)(2), correct the entry in the second column for paragraph (b)(2)(i)(E)(5) to read ''0.00895''.

41. On page 82066, in the PERFORMANCE STANDARDS (NSPS) table of § 420.65(b)(2), correct the entry in the third column for paragraph (b)(2)(i)(G)(1) to read ''0.00196''.

42. On page 82067, in the PERFORMANCE STANDARDS (NSPS) table of § 420.65(b)(4), correct the entry in the third column for paragraph (b)(4)(i)(E)(3) to read ''0.0000000944''.

43. On page 82068, in the PERFORMANCE STANDARDS (NSPS) table of § 420.65(b)(5), correct the entry in the second column for paragraph (B)(5)(i)(I)(1) to read ''0.00999''.

44. On page 82071, in the PERFORMANCE STANDARDS (NSPS) table of § 420.65(b)(8), correct the entry in the third column for paragraph (b)(8)(i)(F)(1) to read ''0.00973''.

45. On page 82071, in the PERFORMANCE STANDARDS (NSPS) table of § 420.65(b)(8), correct paragraph (b)(8)(i)(F)(1) by adding a ''2'' superscript in the second and third columns.

46. On page 82071, in the PERFORMANCE STANDARDS (NSPS) table of § 420.65(b)(9), correct the entry in the second column for paragraph (b)(9)(ix)(A) to read ''0.0281''.

47. On page 82071, in the PERFORMANCE STANDARDS (NSPS) table of § 420.65(b)(9), correct the entry in the third column for paragraph (b)(9)(A) to read ''0.0116''.

48. On page 82071, in the PERFORMANCE STANDARDS (NSPS) table of § 420.65(b)(9), correct paragraph (b)(9)(ix)(A) by adding a ''2'' superscript in the second and third columns.

§ 420.66 [Amended]

49. On page 82075, correct the PERFORMANCE STANDARDS (PSES) table of § 420.66 (e)(6) by adding a ''2'' superscript to the title.

§ 420.67 [Amended]

50. On page 82078, in the PRETREATMENT STANDARDS (PSNS) table of § 420.67(b)(2), correct the entry in the third column for entry in the third column for paragraph (B)(2)(i)(E)(*3*) to read ''0.0000000944''.

51. Revise § 420.70 as follows.

§ 420.70 Applicability.

The provisions of this subpart are applicable to discharges and the introduction of pollutants into publicly owned treatment works resulting from production of direct-reduced iron, forging and briquetting operations.

§ 420.71 [Amended]

52. On page 82082, in column 1 correct paragraph (a)(2) as follows:

§ 420.71 Subcategory definitions.

* * * * *

(a) * * *

(2) The daily operating (production) rate must be determined as specified in § 420.3.

* * * * *

53. On page 82082, in column 2, correct § 420.71 by removing paragraph (a)(3).

§ 420.75 [Amended]

54. On page 82083, correct the table title in § 420.75(a) to read: ''PERFORMANCE STANDARDS (NSPS)''.

55. On page 82083, correct the table title in § 420.75(b) to read: ''PERFORMANCE STANDARDS (NSPS)''.

Dated: January 19, 2001.

J. Charles Fox,

Assistant Administrator for Water.

[FR Doc. 01–3730 Filed 2–13–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–253, MM Docket No.01–25, RM–10055]

Radio Broadcasting Services; Northome, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by PharrNorth Radio seeking the allotment of Channel 291A to Northome, MN, as the community's first local aural service. Channel 291A can be allotted to Northome in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 47–52–24 NL; 94–16–54 WL. Canadian concurrence in the allotment has been requested since Northome is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 26, 2001, and reply comments on or before April 10, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lee J. Peltzman, Shainis & Peltzman, Chartered, 1850 M Street, NW., Suite 240, Washington, DC 20036 (Counsel to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–25, adopted January 24, 2001, and released February 2, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by adding Northome, Channel 291A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–3715 Filed 2–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–252, MM Docket No. 01–24, RM–10052]

Radio Broadcasting Services; Hewitt, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Bordeaux Radio Broadcasting proposing the allotment of Channel 294A at Hewitt, Texas, as that community's first local FM service. The coordinates for Channel 294A at Hewitt are 31–24–52 and 97–11–23. There is a site restriction 5.3 kilometers (3.3 miles) south of the community.

DATES: Comments must be filed on or before March 26, 2001, and reply comments on or before April 10, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert Lewis Thompson, Thiemann Aitken & Vohra, LLC, 908 King Street, Suite 300, Alexandria, VA 22314.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–24, adopted January 24, 2001, and released February 2, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CRF part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Hewitt, Channel 294A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–3714 Filed 2–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–251, MM Docket No. 01–27, RM–10056]

Radio Broadcasting Services; Wisner, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Wisner Broadcasting Company proposing the allotment of Channel 300C3 at Wisner, Louisiana, as that community's first local service. The coordinates for Channel 300C3 at Wisner are 32–05–28 and 91–28–57. There is a site restriction 20.4 kilometers (12.7 miles) northeast of the community.

DATES: Comments must be filed on or before March 26, 2001, and reply comments on or before April 10, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Ann Bavender, Fletcher, Heald & Hildreth, P.L.C., 1300 N. 17th Street, 11th Floor, Arlington, Virginia 22209.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–27, adopted January 24, 2001, and released February 2, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by adding Wisner, Channel 300C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–3713 Filed 2–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–254; MM Docket No. 01–26; RM–10045]

Radio Broadcasting Services; Patterson, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition for rule making filed by Bernice P. Hedrick seeking the allotment of Channel 296A to Patterson, GA, as the community's first local aural service. Channel 296A can be allotted to Patterson in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.9 kilometers (1.8 miles) east, at coordinates 31–23–12 NL; 82–06–18 WL, to avoid a short-spacing to both the licensed site and pending construction permit site of Station WOKA–FM, Channel 294C1, Douglas, GA.

DATES: Comments must be filed on or before March 26, 2001, and reply comments on or before April 10, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Bernice P. Hedrick, P.O. Box 27, 317 Stonegables Ct., Gray, GA 31032 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–26; adopted January 24, 2001 and released February 2, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Patterson, Channel 296A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–3712 Filed 2–13–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 020501C]

Caribbean Fishery Management Council; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearing; request for comments.

SUMMARY: The Caribbean Fishery Management Council (Council) will hold a public hearing to obtain input from fishers and the general public on its proposed language for the definition of essential fish habitat (EFH) for the dolphin/wahoo fishery of the U.S. Caribbean. This definition will be part of the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic, Caribbean, and Gulf of Mexico (FMP) that is currently under development.

DATES: The public hearing will be held on Tuesday, February 20, 2001, at 7 p.m.. Written comments from the public will be accepted through until February 20, 2001. See also **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The public hearing will be held in St. Thomas, U.S.V.I., at the conference room of the Windward Passage Holiday Inn Hotel, located at Veterans Drive, Charlotte Amalie, St. Thomas, U.S.V.I. Written comments on the proposed EFH language should be submitted to the Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918-2577; telephone (787) 766-5926. Written copies of the proposed EFH definition language are available from the Council at the above address.

FOR FURTHER INFORMATION CONTACT: Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918-2577; telephone (787) 766-5926.

SUPPLEMENTARY INFORMATION: The Council will hold a public hearing to obtain input from fishers and the general public on its proposed language for the definition of EFH for the dolphin/wahoo fishery of the U.S. Caribbean. The currently proposed language for EFH is the following: ''Identify Essential Fish Habitat (EFH) for dolphin and wahoo in the U.S. Caribbean as any floating natural object in the water column, such as *Sargassum* or other floating algae or any other plant, plus ocean fronts where these objects accumulate. Included as EFH are those associated species that serve as prey or food for dolphin or wahoo. Man-made objects, such as fish attracting devices (FADs), refuse and lost nets, are excluded from this definition.'' The Council has prepared a written statement of its proposed defintion of EFH for the dolphin/wahoo fishery of the U.S. Caribbean, which is available from the Council (see **ADDRESSES**) and will be available at the hearing.

The Council's intention is to consider the public comment on this issue before adopting its final proposed definition of dolphin/wahoo EFH for inclusion in the proposed FMP. The FMP is under preparation jointly with the South Atlantic and Gulf of Mexico Fishery Management Councils. These three fishery management councils intend to hold a joint meeting on February 22, 2001, to discuss and adopt final measures for the final FMP prior to submitting it to NMFS for review, approval, and implementation under procedures of the Magnuson-Stevens Fishery Conservation and Management Act. The notice of this meeting was published at 50 66 FR 7628 on January 24, 2001.

Special Accommodations

This hearing is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico, 00918-2577, telephone (787) 766-5926, at least 5 days prior to the meeting date.

Dated: February 8, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–3769 Filed 2–13–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 66, No. 31

Wednesday, February 14, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collection to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for USAID, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503. Copies of the information collection and supporting documents may be obtained by calling (202) 712–1365.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0550.

Form Number: AID 1570–13 and 1570–14.

Title: Narrative/Time-Line and Report on Commodities (Quarterly Reports).

Type of Submission: Renewal.

Purpose

The purpose of this information collection is to properly respond to the annual competition among applicants who apply on behalf of their sponsored overseas institutions and independent reviewers. ASHA needs to assess the strength and capability of the U.S. organizations, the overseas institutions and the merits of their proposed projects. Easily accessible historical records on past accomplishments and performance by repeat USOs, would speed the grant making process and provide documented reasons for both successful and unsuccessful applications.

Annual Reporting Burden

Respondents: 70.

Total Annual Responses: 656.

Total Annual Hours Requested: 1,824 hours.

Dated: February 1, 2001.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 01–3720 Filed 2–13–01; 8:45 am]

BILLING CODE 6116–01–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Renewal of the Advisory Committee on Voluntary Foreign Aid

AGENCY: United States Agency for International Development.

ACTION: Notice of renewal of advisory committee.

SUMMARY: Pursuant to the Federal Advisory Committee Act, the Administrator has determined that renewal of the Advisory Committee on Voluntary Foreign Aid for a two-year period, beginning January 21, 2001, is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Noreen O'Meara, (202) 712–5979.

Dated: January 2, 2001.

Noreen O'Meara,

Director, Advisory Committee on Voluntary Foreign Aid (ACVFA).

[FR Doc. 01–3721 Filed 2–13–01; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with section 351.213(2000) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review:

Not later than the last day of February 2001, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in February for the following periods:

	Period
Antidumping Duty Proceedings:	
A–351–825—Brazil: Stainless Steel Bar	2/1/00–1/31/01
A–427–816—France: Certain Cut-to-Length Carbon-Quality Steel Plate	7/29/99–1/31/01
A–428–807—Germany: Sodium Thiosulfate	2/1/00–1/31/01
A–533–817—India: Certain Cut-to-Length Carbon-Quality Steel Plate	7/29/99–1/31/01
A–533–809—India: Forged Stainless Steel Flanges	2/1/00–1/31/01
A–533–810—India: Stainless Steel Bar	2/1/00–1/31/01
A–533–813—India: Certain Preserved Mushrooms	2/1/00–1/31/01
A–560–805—Indonesia: Certain Cut-to-Length Carbon-Quality Steel Plate	7/29/99–1/31/01
A–560–802—Indonesia: Certain Preserved Mushrooms	2/1/00–1/31/01
A–560–801—Indonesia: Melamine Institutional Dinnerware	2/1/00–1/31/01

	Period
A–475–826—Italy: Certain Cut-to-Length Carbon-Quality Steel Plate	7/29/99–1/31/01
A–588–602—Japan: Carbon Steel Butt-Weld Pipe Fittings	2/1/00–1/31/01
A–588–847—Japan: Certain Cut-to-Length Carbon-Quality Steel Plate	7/29/99–1/31/01
A–588–810—Japan: Mechanical Transfer Presses	2/1/00–1/31/01
A–588–056—Japan: Melamine	2/1/99–1/31/01
A–588–833—Japan: Stainless Steel Bar	2/1/00–1/31/01
A–580–836—Republic of Korea: Certain Cut-to-Length Carbon-Quality Steel Plate	7/29/99–1/31/01
A–580–813—Republic of Korea: Stainless Steel Butt-Weld Pipe Fittings	2/1/00–1/31/01
A–583–821—Taiwan: Forged Stainless Steel Flanges	2/1/00–1/31/01
A–583–825—Taiwan: Melamine Institutional Dinnerware	2/1/00–1/31/01
A–570–803—The People's Republic of China: Axes/adzes	2/1/00–1/31/01
A–570–803—The People's Republic of China: Bars/wedges	2/1/00–1/31/01
A–570–851—The People's Republic of China: Certain Preserved Mushrooms	2/1/00–1/31/01
A–570–830—The People's Republic of China: Coumarin	2/1/00–1/31/01
A–570–852—The People's Republic of China: Creatine Monohydrate	7/30/99–1/31/01
A–570–803—The People's Republic of China: Hammers/sledges	2/1/00–1/31/01
A–570–840—The People's Republic of China: Manganese Metal	2/1/00–1/31/01
A–570–844—The People's Republic of China: Melamine Instituional Dinnerware	2/1/00–1/31/01
A–570–501—The People's Republic of China: Paint Brushes	2/1/00–1/31/01
A–570–803—The People's Republic of China: Picks/mattocks	2/1/00–1/31/01
A–570–805—The People's Republic of China: Sodium Thiosulfate	2/1/00–1/31/01
A–412–805—The United Kingdom: Sodium Thiosulfate	2/1/00–1/31/01
Countervailing Duty Proceedings:	
C–427–817—France: Certain Cut-to Length Carbon Quality Steel Plate	7/26/99–12/31/00
A–533–818—India: Certain Cut-to-Length Carbon-Quality Steel Plate	7/26/99–12/31/00
A–560–806—Indonesia: Certain Cut-to-Length Carbon-Quality Steel Plate	7/26/99–12/31/00
A–475–827—Italy: Certain Cut-to-Length Carbon-Quality Steel Plate	7/26/99–12/31/00
C–580–837—Republic of Korea: Certain Cut-to-Length Carbon-Quality Steel Plate	7/26/99–12/31/00
Suspension Agreements: None.	

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act, may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/ Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of February 2001. If the Department does not receive, by the last day of February 2001, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: February 8, 2001.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 01–3764 Filed 2–13–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–805]

Notice of Extension of Time Limits for the Final Results of Administrative Review of the Suspension Agreement on Silicomanganese From Ukraine

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits for the final results of administrative review of the suspension agreement on silicomanganese from Ukraine.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limits for the final results of the administrative review on the suspension agreement on silicomanganese from Ukraine.

EFFECTIVE DATE: February 14, 2001.

FOR FURTHER INFORMATION CONTACT: Jean Kemp or Carrie Blozy; Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–4037 or (202) 482–0165, respectively.

Extension of Final Results

The Department published its notice of initiation of this review in the **Federal Register** on December 21, 1999 (64 FR 72644). On December 5, 2000, the Department published the notice of preliminary results of administrative review of the suspension agreement on silicomanganese from Ukraine (65 FR 75921). The final results are currently due no later than April 4, 2001. Because it is not practicable to issue the final results of review by the current deadline, the Department is extending the time limits for the final results of the aforementioned review 60 days, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930 (''the Act''), as amended by the Uruguay Round Agreements Act of 1994 (for a further discussion, *see* the February 2, 2001 *Decision Memorandum from Edward C. Yang to Joseph A. Spetrini: Request to Extend Final Results in the Review of the Antidumping Duty Suspension Agreement on Silicomanganese from Ukraine).*

This extension of time limits is in accordance with section 751(a)(3)(A) of the Act.

Dated: February 2, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–3763 Filed 2–13–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

AGENCY: International Trade Administration, Department of Commerce

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the below listed overseas trade missions. For a more complete description of each trade mission, obtain a copy of the mission statement from the Project Officer indicated for each mission below. Recruitment and selection of private sector participants for these missions will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997.

High Technology Solutions Trade Mission.

Paris, France; Florence, Italy; and (optional) Warsaw, Poland.

May 12–22, 2001.

Recruitment closes on April 1, 2001.

For further information contact: Mr. Michael Manning, U.S. Department of Commerce.

Telephone 609–989–2100, ext 12; or e-Mail: Michael.Manning@mail.doc.gov.

Women in Trade Business Development Mission.

Milan, Italy and Athens, Greece.

May 20–24, 2001.

Recruitment closes on March 20, 2001.

For further information contact: Ms. Loretta Allison, U.S. Department of Commerce.

Telephone 202–482–5479; or e-Mail: Loretta__Allison@ita.doc.gov.

Used Equipment Trade Mission.

Guatemala City, Guatemala; Tegucigalpa and San Pedro Sula, Honduras.

June 3–8, 2001.

Recruitment closes on May 10, 2001.

For further information contact: Mr. John Bodson, U.S. Department of Commerce.

Telephone 202–482–0681; or e-Mail: John__Bodson@ita.doc.gov.

Aerospace Executive Service at the Paris Air Show.

Paris, France.

June 17–24, 2001.

Recruitment closes on March 23, 2001.

For further information contact: Ms. Kelly Bergren, U.S. Department of Commerce.

Telephone 860–638–6950; or e-Mail: Kelly.Bergren@mail.doc.gov. Or, Ms. Cara Boulesteix, American Embassy, 2 avenue Gabriel, 75008 Paris, France.

Telephone 011–33–1–42–12–22–79; or fax to 011–33–1–42–12–21–72.

For further information contact Mr. Reginald Beckham, U.S. Department of Commerce.

Telephone 202–482–5478, or e-Mail Reginald__Beckham@ita.doc.gov.

Dated: February 8, 2001.

Thomas H. Nisbet,

Director, Promotion Planning and Support Division, Office of Export Promotion Coordination.

[FR Doc. 01–3687 Filed 2–13–01; 8:45 am]

BILLING CODE 3510–DR–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020801C]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings of the Ad Hoc Charter Vessel/Headboat Advisory Panel (AP) on March 1, 2001, the Socioeconomic Panel (SEP) on March 2, 2001, and the Standing Scientific and Statistical Committee (SSC) on March 7, 2001.

DATES: The Ad Hoc Charter Vessel/Headboat AP will meet beginning at 8 a.m. on March 1, 2001. The SEP will meet beginning at 8:30 a.m. on March 2, 2001. The Standing SSC will meet beginning at 8 a.m. on March 7, 2001.

ADDRESSES: The meetings will be held at the Hilton Tampa Airport Hotel, 2225 Lois Avenue, Tampa, FL 33607; telephone: 813-877-6688.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: 813-228-2815.

SUPPLEMENTARY INFORMATION: The Ad Hoc Charter Vessel/Headboat AP, SEP, and Standing SSC will meet to review the provisions of the Draft Amendment for a Charter Vessel/Headboat Permit Moratorium (Amendment) and provide recommendations to the Gulf of Mexico Fishery Management Council. The SSC will also review the recommendations of the SEP on the amendment provisions.

The amendment includes a large number of alternatives that address the following issues:

A. Duration of Moratorium and Alternatives Instead of a Moratorium

B. A New Gulf Permit for the Reef Fish and Coastal Migratory Pelagics Fisheries

C. Initial Eligibility Requirements for Permits and/or Endorsements

D. Annual Permit and Endorsement Transfers During the Moratorium

E. Vessel Passenger Restriction on Permit Transfers

F. Annual Reissuance of Permits Not Renewed (or Permanently Revoked)

G. Appeals Process under the Moratorium

H. Reporting Requirements to Maintain the New Gulf Permit/Endorsement

The Alternatives included in the amendment were developed by the AP and the Council.

Copies of the agenda can be obtained by calling 813-228-2815.

Although other non-emergency issues not on the agenda may come before the panels for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the panels will be restricted to those issues specifically identified in the agendas 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 action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by February 22, 2001.

Dated: February 9, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–3772 Filed 2–13–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020801B]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (CPSMT) and Coastal Pelagic Species Advisory Subpanel (CPSAS) will hold a joint work session, which is open to the public.

DATES: The CPSMT and CPSAS will meet on Friday, March 9, 2001, from 8 a.m. until business for the day is completed.

ADDRESSES: The work session will be held in the Deschutes Room at the DoubleTree Hotel - Columbia River, 1401 N. Hayden Island Drive, Portland, OR 97217; (503) 283-2111.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Dan Waldeck, Pacific Fishery Management Council; (503) 326-6352.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is to continue work on several issues relative to capacity in the finfish limited entry fishery. This work is in response to a Council request for the CPSMT and CPSAS to develop recommendations for a capacity goal for the limited entry fishery and several other capacity-related issues, including transferability of limited entry permits. The CPSMT and CPSAS are scheduled to provide their recommendations to the Council at the April 2001 Council meeting.

Although non-emergency issues not contained in the CPSMT/CPSAS meeting agenda may come before the CPSMT and/or CPSAS for discussion, those issues may not be the subject of formal CPSMT nor CPSAS action during these meetings. CPSMT and/or CPSAS action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the CPSMT's and/or CPSAS's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326-6352 at least 5 days prior to the meeting date.

Dated: February 9, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–3773 Filed 2–13–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.020101A]

Marine Mammals; File No. 782-1613

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that the National Marine Mammal Laboratory, National Marine Fisheries Service, has applied in due form for a permit to take California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina*), and northern elephant seals (*Mirounga angustirostris*) and incidentally take northern fur seals (*Callorhinus ursinus*) for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before March 16, 2001.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289);

Southwest Region, NMFS, 501 West Ocean Blvd., Long Beach, CA 90802-4213 (562/980-4001); and

Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115 (201/526-6150).

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Ruth Johnson, 301/713-2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicant is requesting permission to conduct three research projects on three species of pinnipeds breeding in San Miguel Island, California: (1) population assessment of California sea lions (CSL); (2) ecology of infectious diseases and cancers in CSL; and (3) foraging ecology of harbor seals and northern elephants. The objectives are to: (1) monitor trends in population parameters and health of CSL; (2) identify the intrinsic and extrinsic factors that affect the susceptibility to infectious diseases and the development

of cancer in CSL; and (3) describe the environmental factors that influence the foraging ecology of harbor seals and northern elephant seals. Population assessment of CSL is a continuation of a long-term program designed to meet the needs of the NMFS mandate to monitor population health of pinnipeds. Northern fur seals may be incidentally harassed during the conduct of these activities.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 8, 2001.

Trevor R. Spradlin,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–3770 Filed 2–13–01; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Request of the Cantor Exchange (CX) for Approval of its US Treasury Ten-Year Note Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of terms and conditions of a commodity futures contract.

SUMMARY: The Cantor Exchange (CX or Exchange) has requested that the Commission approve its US Treasury Ten-Year Note futures contract, pursuant to the provisions of Section 5c(c)(2)(A) of the Commodity Exchange Act as amended. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by the Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interest persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before March 16, 2001.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 481–5521 or by electronic mail to secretary(@)cftc.gov. Reference should be made to the CX US Treasury Ten-Year Note futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact Thomas Leahy of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC (202) 418–5278. Facsimile number: (202) 418–5527. Electronic mail: tleahy@cftc.gov

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the CX in support of the request for approval may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CX should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC on February 8, 2001.

Richard A. Shilts,

Acting Director.

[FR Doc. 01–3762 Filed 2–13–01; 8:45 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Petition Requesting Performance Standard for Bicycle Handlebars

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Commission has received a petition (HP 01–1) requesting that the Commission issue a performance standard for bicycle handlebars regarding energy dissipation and distribution during impact. The Commission solicits written comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by April 16, 2001.

ADDRESSES: Comments on the petition, preferably in five copies, should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0800, or delivered to the Office of the Secretary, Room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''Petition HP 01–1, Petition for Bicycle Handlebar Performance Standard.'' A copy of the petition is available for inspection at the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0800, ext. 1232.

SUPPLEMENTARY INFORMATION: The Commission has received correspondence from Flaura Koplin Winston, MD. Ph.D., Director, The Interdisciplinary Pediatric Injury Control Research Center, Children's Hospital of Philadelphia, requesting that the Commission issue a rule prescribing performance standards for bicycle

handlebars regarding energy dissipation and distribution during impact. The petitioner asserts that bicycle handlebars that cannot satisfy such criteria pose a serious risk of pancreatic, intestinal, renal, liver, and splenic injuries, particularly to young children. She argues that such serious injuries occur in the setting of minor incidents—falls from bicycles not involving motor vehicle crashes—and that the serious nature of the injuries suggests that the cause of the injury is the bicycle itself. She further asserts that the bicycle handlebars act as blunt spears and cause the injuries on impact.

The petitioner maintains that handlebars can be designed that will dissipate the impact energy and spread the forces over a larger surface area so that forces transmitted by the end of the handlebar to the abdominal organs during impact are reduced to below known injury tolerance levels. The petitioner bases her conclusions on several studies of serious injury incidents to child bicyclists spanning 30+ years.

The Commission is docketing the correspondence as a petition under provisions of the Federal Hazardous Substances Act (''FHSA''), 15 U.S.C. 1261–1278. Handlebars are addressed in § 1512.6 of the existing Commission standard for bicycles at 16 CFR Part 1512, that was promulgated under authority of the FHSA. The current version of § 1512.6 does not specifically address the risk of injury noted in the petition.

Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800. A copy of the petition is also available for inspection from 8:30 a.m. to 5 p.m., Monday through Friday, in the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland.

Dated: February 8, 2001.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 01–3666 Filed 2–13–01; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0225]

Information Collection Requirements; Defense Federal Acquisition Regulation Supplement; Administrative Matters

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the 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 the use of automated collection techniques or other forms of information technology. The office of Management and Budget (OMB) has approved this information collection requirement for use through August 31, 2001. DoD proposes that OMB extend its approval for use through August 31, 2004.

DATES: DoD will consider all comments received by April 16, 2001.

ADDRESSES: E-mailed comments are preferred. Submit comments to: dfars@acq.osd.mil. Please cite OMB Control Number 0704–0225 in the subject line.

Respondents that cannot submit comments by e-mail may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Melissa Rider, OUSD (AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite OMB Control Number 0704–0225.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, (703) 602–4245. The information collection requirements addressed in this notice are available electronically via the Internet at: http://www.acq.osd.mil/dp/dars/dfars.html. Paper copies are available from Ms. Melissa Rider, OUSD(AT&L)DP(DAR), IMD 3C132, 2/3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title, associated Forms, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 204, Administrative Matters, and Related Clauses at DFARS 252.204; DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code, and DD Form 2051–1, Request for Information/Verification of Commercial and Government Entity (CAGE) Code; OMB Control Number 0704–0225.

Needs and Uses: DoD uses this information to control unclassified contract data that is sensitive and inappropriate for release to the public; and to facilitate data exchange among automated systems for contract award, contract administration, and contract payment by assigning a unique code to each DoD contractor.

Affected Public: Businesses or other for-profit and not-for-profit institutions:

Annual Burden Hours: 13,758.

Number of Respondents: 22,602.

Responses Per Respondent: 1.

Annual Responses: 22,602.

Average Burden Per Response: .61 hours.

Frequency: On occasion.

Summary of Information Collection

DFARS 204.404–70(a) prescribes use of the clause at DFARS 252.204–7000, Disclosure of Information, in contracts that require the contractor to access or generate unclassified information that may be sensitive and inappropriate for release to the public. The clause requires the contractor to obtain approval of the contracting officer before release of any unclassified contract-related information outside the contractor's organization, unless the information is already in the public domain. In requesting this approval, the contractor must identify the specific information to be released, the medium to be used, and the purpose for the release.

DFARS 204.603(1) prescribes use of the provision at DFARS 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting, in solicitations when CAGE codes for potential offerors are not available to the contracting officer. The provision requires an offeror to enter its CAGE code on its offer. If an offeror does not have a CAGE code, the offeror may request one from the contracting officer, who will ask the offeror to complete Section B of DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 01–3743 Filed 2–13–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0286]

Information Collection Requirements; Defense Federal Acquisition Regulation Supplement; Publicizing Contract Actions

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the 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 the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through August 31, 2001. DoD proposes that OMB extend its approval for use through August 31, 2004.

DATES: DoD will consider all comments received by April 16, 2001.

ADDRESSES: E-mailed comments are preferred. Submit comments to: dfars@acq.osd.mil. Please cite OMB Control Number 0704–0286 in the subject line.

Respondents that cannot submit comments by e-mail may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Melissa Rider, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite OMB Control Number 0704–0286.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, (703) 602–4245. The information collection requirements addressed in this notice are available electronically via the Internet at: http://www.acq.osd.mil/dp/dars/dfars.html. Paper copies are available from Ms. Melissa Rider, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 205, Publicizing Contract Actions, and DFARS 252.205–7000, Provision of Information to Cooperative Agreement Holders; OMB Control Number 0704–0286.

Needs and Uses: This information collection requires DoD contractors to provide information to cooperative agreement holders regarding employees or offices that are responsible for entering into subcontracts under DoD contracts. Cooperative agreement holders furnish procurement technical assistance to business entities within specified geographic areas. This policy implements 10 U.S.C. 2416.

Affected Public: Businesses of other for-profit and not-for-profit institutions.

Annual Burden Hours: 6,153.

Number of Respondents: 5,594.

Responses Per Respondents: 1.

Annual Responses: 5,594.

Average Burden Per Response: 1.1 hours.

Frequency: On occasion.

Summary of Information Collection

DFARS Subpart 205.4 and the clause at DFARS 252.205–7000 require that DoD contractors awarded contracts exceeding $500,000 provide to cooperative agreement holders, upon their request, a list of those appropriate employees or offices responsible for entering into subcontracts under DoD contracts. The list must include the business address, telephone number, and area of responsibility of each employee or office. The contractor need not provide the list to a particular cooperative agreement holder more frequently than once a year.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 01–3744 Filed 2–13–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

[OMB Control No. 0704–0255]

Information Collection Requirements; Defense Federal Acquisition Regulation Supplement; Construction and Architect-Engineer Contracts

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the 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 the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through August 31, 2001. DoD proposes that OMB extend its approval for use through August 31, 2004.

DATES: DoD will consider all comments received by April 16, 2001.

ADDRESSES: E-mailed comments are preferred. Submit comments to: dfars@acq.osd.mil. Please cite OMB Control Number 0704–0255 in the subject line.

Respondents that cannot submit comments by e-mail may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please city OMB Control Number 0704–0255.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0288. The information collection requirements addressed in this notice are available electronically via the Internet at: http://www.acq.osd.mil/dp/dars/dfars.html. Paper copies are available from Ms. Amy Williams, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 236, Construction and Architect-Engineer Contracts, and Related Clauses at DFARS 252.236; OMB Control Number 0704–0255.

Needs and Uses: DoD contracting officers need this information to evaluate contractor proposals for contract modifications; to determine that a contractor has removed obstructions to navigation; to review contractor requests for payment for mobilization and preparatory work; to

determine reasonableness of costs allocated to mobilization and demobilization; and to determine eligibility for the 20 percent evaluation preference for United States firms in the award of some overseas construction contracts.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 276,625.

Number of Respondents: 2,710.

Responses Per Respondent: Approximately 1.

Annual Responses: 2,740.

Average Burden Per Response: 100.96 hours.

Frequency: On occasion.

Summary of Information Collection

DFARS 236.570(a) prescribes use of the clause at DFARS 252.236–7000, Modification Proposals-Price Breakdown, in all fixed-price construction contracts. The clause requires the contractor to submit a price breakdown with any proposal for a contract modification.

DFARS 236.570(b) prescribes use of the following clauses in fixed-price construction contracts as applicable:

(1) The clause at DFARS 252.236–7002, Obstruction of Navigable Waterways, requires the contractor to notify the contracting officer of obstructions in navigable waterways.

(2) The clause at DFARS 252.236–7003, Payment for Mobilization and Preparatory Work, requires the contractor to provide supporting documentation when submitting requests for payment for mobilization and preparatory work.

(3) The clause at DFARS 252.236–7004, Payment for Mobilization and Demobilization, permits the contracting officer to require the contractor to furnish cost data justifying the percentage of the cost split between mobilization and demobilization, if the contracting officer believes that the proposed percentages do not bear a reasonable relation to the cost of the work.

DFARS 236.570(c) prescribes use of the following provisions in solicitations for military construction contracts that are funded with military construction appropriation and are estimated to exceed $1,000,000:

(1) The provision at DFARS 252.236–7010, Overseas Military Construction-Preference for United States Firms, requires an offeror to specify whether or not it is a United States firm.

(2) The provision at DFARS 252.236–7012, Military Construction on Kwajalein Atoll-Evaluation Preference, requires an offeror to specify whether it is a United States firm, a Marshallese firms, or other firm.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 01–3745 Filed 2–13–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Department of Defense Acquisition University, DoD.

ACTION: Board of Visitors Meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at the Packard Conference Center, Building 184, Ft. Belvoir, Virginia on Wednesday March 7, 2001 from 0900 until 1500. The purpose of this meeting is to report back to the BoV on continuing items of interest.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Mr. John Michel at 703.805.4575.

Dated: February 7, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–3726 Filed 2–13–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Cancellation of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Options for Acquisition of the Advanced Targeting Pod and Advanced Technology FLIR Pod (ATP/ATFLIR) meeting scheduled for January 26, 2001, was not held.

Dated: February 2, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–3727 Filed 2–13–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Meeting Date Change of Advisory Committee Meetings.

SUMMARY: The Defense Science Board (DSB) Task Force on Systems Technology for the Future U.S. Strategic Posture closed meeting scheduled for February 13–14, 2001, has been changed to February 7–8, 2001. The meeting will be held at Strategic Analysis Inc., 3601 Wilson Boulevard, Suite 600, Arlington, VA.

Dated: February 7, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–3728 Filed 2–13–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

ACTION: None.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee meeting:

DATES: March 27, 2001 from 8:30 am to 4:05 pm and March 28, 2001 from 8:30 am to 4:25pm.

ADDRESSES: National Rural Electric Cooperative Association (NRECA), 4301 Wilson Boulevard, Conference Center Room 1, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Veronica Rice, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2119.

SUPPLEMENTARY INFORMATION: Matters to be Considered: Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

Dated: February 7, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–3725 Filed 2–13–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Inventions

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and is made available for licensing by the Department of the Navy.

The following patent and patent applications are available for licensing:

U.S. Patent Number 6,165,295: Gas-Generating Liquid Compositions (PERSOL 1).

U.S. Patent Application Serial Number 09/437,727: Automated Contact Gage System Using Three-Axis Contact Contour Comparator.

U.S. Patent Application Serial Number 09/391,605: Differential Pressure Flow Sensor.

U.S. Patent Application Serial Number 09/649,607: Automated Bola Launcher.

U.S. Patent Application Serial Number 09/678,302: Ignitor Apparatus.

ADDRESSES: Requests for copies of the inventions cited should be directed to: Dr. J. Scott Deiter, Head, Technology Transfer Office, Naval Surface Warfare Center Indian Head Division, Code 05T, 101 Strauss Avenue, Indian Head, MD 20640–5035.

FOR FURTHER INFORMATION CONTACT: Dr. J. Scott Deiter, Head, Technology Transfer Office, Naval Surface Warfare Center Indian Head Division, Code 05T, 101 Strauss Avenue, Indian Head, MD 20640–5035, telephone (301) 744–6111.

Authority: 35 U.S.C. 2076; 37 CFR Part 404.

Dated: February 5, 2001.

J. L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 01–3717 Filed 2–13–01; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent to Grant Exclusive Patent License; CG Industries, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy gives notice of its intent to grant to CG Industries, Inc., a revocable, nonassignable nonexclusive license in the United States to practice the Government-owned invention, U.S. Patent Application Serial Number 09/437,727 entitled ''Automated Contact Gage System Using Three-Axis Contact Contour Comparator.''

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than April 16, 2001.

ADDRESSES: Written objections are to be filed with Indian Head Division, Naval Surface Warfare Center, Code OC4, 101 Strauss Avenue, Indian Head, MD 20640–5035.

FOR FURTHER INFORMATION CONTACT: Dr. J. Scott Deiter, Head, Technology Transfer Office, Naval Surface Warfare Center Indian Head Division, Code 05T, 101 Strauss Avenue, Indian Head, MD 20640–5035, telephone (301) 744–6111.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: February 5, 2001.

J. L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 01–3716 Filed 2–13–01; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent Licenses; Cummins Industries, Inc

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of prospective licenses to Cummins Industries, Inc. to the Government-owned inventions described in U.S. Patent Serial No. 09/533,954 entitled, ''Chemical Warfare Agent Decontamination Foaming Composition and Method,'' filed March 22, 2000, Navy Case No. 82169, U.S. Patent Serial No. 09/606,113 entitled, ''Method of Neutralizing Organophosphorous Agricultural Chemicals,'' filed June 8, 2000, Navy Case No. 82170, and U.S. Patent Serial No. 09/573,152 entitled, ''Decontamination Solution and Method,'' filed May 19, 2000, Navy Case No. 82505.

DATES: Anyone wishing to object to the granting of these licenses must file written objections along with supporting documents, if any, not later than April 16, 2001.

ADDRESSES: Written objections are to be filed with the Office of Patent Counsel, Naval Surface Warfare Center, Dahlgren Laboratory, CD222, 17320 Dahlgren Road, Dahlgren, VA 22448–5100.

FOR FURTHER INFORMATION CONTACT: James B. Bechtel, Esq., Patent Counsel, Naval Surface, Warfare Center, Dahlgren Laboratory, Code CD222, telephone: (540) 653–8061, fax: (540) 653–7816, or email: BechtelJB@nswc.navy.mil.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: February 2, 2001.

J. L. ROTH,

Lieutenant Commander, Judge Advocate General's Corps,, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 01–3680 Filed 2–13–01; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Nonexclusive Patent License; Ocean Test Equipment, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy gives notice of its intent to grant to Ocean Test Equipment, Inc., a revocable, nonassignable nonexclusive license in the United States to practice the Government-owned invention, U.S. Patent Application Serial Number 09/391,605 entitled ''Differential Pressure Flow Sensor.''

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than April 16, 2001.

ADDRESSES: Written objections are to be filed with Indian Head Division, Naval Surface Warfare Center, Code OC4, 101 Strauss Avenue, Indian Head, MD 20640–5035.

FOR FURTHER INFORMATION CONTACT: Dr. J. Scott Deiter, Head, Technology Transfer Office, Naval Surface Warfare Center, Indian Head Division, Code 05T, 101 Strauss Avenue, Indian Head, MD 20640–5035, telephone (301) 744–6111.

Dated: February 5, 2001.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liason Officer.

[FR Doc. 01–3718 Filed 2–13–01; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Nonexclusive Patent License; Wickford Technologies, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy gives notice of its intent to grant to Wickford Technologies, Inc., a revocable, nonassignable nonexclusive license in the United States to practice the Government-owned invention described in U.S. Patent Application Serial Number 09/391,605 entitled ''Differential Pressure Flow Sensor.''

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than April 16, 2001.

ADDRESSES: Written objections are to be filed with Indian Head Division, Naval Surface Warfare Center, Code OC4, 101 Strauss Avenue, Indian Head, MD 20640–5035.

FOR FURTHER INFORMATION CONTACT: Dr. J. Scott Deiter, Head, Technology Transfer Office, Naval Surface Warfare Center Indian Head Division, Code 05T, 101 Strauss Avenue, Indian Head, MD 20640–5035, telephone (301) 744–6111.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: February 5, 2001.

J. L. Roth,

Lieutenant Commander, Judge Advocate General's Corps,, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 01–3719 Filed 2–13–01; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF ENERGY

Hydrogen Technical Advisory Panel; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Hydrogen Technical Advisory Panel (HTAP). Federal Advisory Committee Act (Public Law No. 92–463, 86 Stat. 770, as amended), requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, March 5, 2001, 8:30 a.m.–6:00 p.m. Tuesday, March 6, 2001, 8:30 a.m.–12:30 p.m.

ADDRESSES: Wardman Park Hotel Marriott Hotel, 2660 Woodley Road, Washington, DC 20007, Telephone: 202–328–2000.

FOR FURTHER INFORMATION CONTACT: Neil Rossmeissl, Designated Federal Officer, Hydrogen Program Manager, EE–15, Office of Power Technologies, Department of Energy, Washington, D.C. 20585; Telephone: 202–586–8668.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The major purpose of this meeting will be to hold a discussion on Hydrogen and the National Energy Agenda:

Tentative Agenda

Monday, March 5, 2001

8:30 Welcome, Introduction of New Members; D. Nahmias
8:45 The National Energy Agenda (Session 1); D. Nahmias
9:15 The Role of Technical Advisory Panels; J. Tester
9:45 A Global Business Perspective; J. Rinker
10:15 Break
10:45 The National Energy Agenda (Session 2); D. Nahmias
The Role of Industry Associations; B. Mauro
11:00 The Role of Education and Public Outreach; G. Salinger
11:20 The DOE Perspective; J. Daley
11:40 The Congressional Perspective; Sen. Akaka's office
12:00 Discussion and Deliberation;
The National Energy Agenda: HTAP's Role; Panel
12:30 Lunch
1:30 Federal Agency Coordination; N. Rossmeissl
DOE/Office of Transportation Technologies; S. Chalk
DOE Distributed Energy Resources; P. Hoffman
DOE Office of Fossil Energy; F. Brown
DOT/FTA; S. Hsiung
3:00 Break
3:30 Hydrogen Safety: A Key Issue; G. Schmauch, A. Vasys
4:15 Education and Outreach Activities; M. Valladares
4:45 Adjourn
6:00 Reception (Open to the Public)

Tuesday, March 6, 2001

8:30 Welcome; D. Nahmias
8:40 HTAP R&D Success Story; TBD
9:10 DOE Program Issues; S. Gronich
Validation Projects; C. Bordeaux
Systems Analysis; M. Mann
10:15 Break
10:45 HTAP Committee Reports;
Coordination Committee; H. Chum
Fuel Choice; R. Nichols
Scenario Planning; H. Wedaa
11:15 Election of New Chair; D. Nahmias
11:25 Outgoing Chairman's Remarks; D. Nahmias
11:45 HTAP Deliberations; Panel
12:30 Public Comments (5 minutes maximum per speaker); Audience
1:00 PM Adjourn

Public Participation: This meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mr. Neil Rossmeissl's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentations in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW. Washington, DC 20585 between 9:00 A.M. and 4:00 P.M., Monday through Friday, except Federal Holidays. Minutes will also be available by writing to Neil Rossmeissl, Department of Energy, 1000 Independence Avenue, SW. Washington, DC 20585, or by calling (202) 586–8668.

Issued at Washington, DC on February 9, 2001.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–3724 Filed 2–13–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–37–000, *et al.*]

Duke Energy Lee, LLC, *et al.*; Electric Rate and Corporate Regulation Filings

February 7, 2001.

Take notice that the following filings have been made with the Commission:

1. Duke Energy Lee, LLC.

[Docket No. EG01–37–000]

Take notice that on January 18, 2001, Duke Energy Lee, LLC (Duke Lee) filed a response to the Federal Energy Regulatory Commission's (Commission) request for additional information regarding the reference to engaging in gas storage activities contained in Duke Lee's Application for Determination of Exempt Wholesale Generator Status which was filed with the Commission on November 30, 2000. Duke Lee hereby requests that the reference to ''gas storage'' be stricken from the Application.

Comment date: February 21, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. PPL Brunner Island, LLC

[Docket No. EG01–39–000]

Take notice that on February 2, 2001, PPL Brunner Island, LLC tendered for filing a Request for Redetermination of Exempt Wholesale Generator Status.

Comment date: February 28, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. PPL Holtwood, LLC

[Docket No. EG01–40–000]

Take notice that on February 2, 2001, PPL Holtwood, LLC tendered for filing a Request for Redetermination of Exempt Wholesale Generator Status.

Comment date: February 28, 2001, in accordance with Standard Paragraph E at the end of this notice. The commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. PPL Martins Creek, LLC

[Docket No. EG01–41–000]

Take notice that on February 2, 2001, PPL Martins Creek, LLC tendered for filing a Request for Redetermination of Exempt Wholesale Generator Status.

Comment date: February 28, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. PPL Susquehanna, LLC

[Docket No. EG01–43–000]

Take notice that on February 2, 2001, PPL Susquehanna, LLC tendered for filing a Request for Redetermination of Exempt Wholesale Generator Status.

Comment date: February 28, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Duke Energy Hinds, LLC

[Docket No. EG01–65–000]

Take notice that on January 18, 2001, Duke Energy Hinds, LLC (Duke Hinds) filed an amendment with the Federal Energy Regulatory Commission (the Commission) to its Application for Commission Determination of Exempt Wholesale Generator Status which was filed in the above-referenced docket on December 15, 2000.

Duke Hinds requests that the reference to ''gas storage'' activities be stricken from its Application. Duke Hinds has also requested expedited consideration of its Application as modified.

Comment date: February 21, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

7. Duke Energy Audrain, LLC

[Docket No. EG01–97–000]

Take notice that on February 5, 2001, Duke Energy Audrain, LLC (Duke Audrain) tendered a withdrawal of its January 3, 2001 application for determination of exempt wholesale generator status and its January 18, 2001 amendment of such application.

Comment date: February 28, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

8. Copper Valley Electric Association, Inc., the City of Petersburg Alaska, and the City of Wrangell, Alaska

[Docket No. EL01–32–000]

Take notice that on February 1, 2001, Copper Valley Electric Association, Inc., the City of Petersburg, Alaska, d/b/a Petersburg Municipal Power and Light, and the City of Wrangell, Alaska, d/b/a Wrangell Municipal Light and Power (collectively, Petitioners) submitted an Application for Limited Waiver of Regulations Implementing PURPA § 210, or in the Alternative, Request for Confirmation of Treatment of Avoided Cost. Petitioners are seeking a limited waiver of any obligation that they may have under PURPA to displace purchases from the Four Dam Pool Initial Project, with purchases from a project certified under PURPA as a qualifying facility. Alternatively, Petitioners request that the Commission confirm that a proper calculation of ''avoided costs'' under PURPA should reflect the avoided costs of the Four Dam Pool Initial Project, and grant any waivers necessary to permit the requested confirmation of the avoided cost calculation.

Comment date: February 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. North Central Missouri Electric Cooperative, Inc.

[Docket No. ES01–18–000]

Take notice that on February 2, 2001, North Central Missouri Electric Cooperative, Inc. (North Central) filed an application pursuant to section 204 of the Federal Power Act seeking authorization to make borrowings under a long-term loan agreement with the National Rural Utilities Cooperative Finance Corporation in the form of two promissory notes in the amounts of $5,138,617.81 and $861,382.10.

North Central also requests a waiver of the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment date: February 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–3722 Filed 2–13–01; 8:45 am]

BILLING CODE 6717–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–63–000, et al.]

Niagara Mohawk Holdings, Inc., *et al.;* Electric Rate and Corporate Regulation Filings

February 6, 2001.

Take notice that the following filings have been made with the Commission:

1. Niagara Mohawk Holdings, Inc. and National Grid USA

[Docket No. EC01–63–000]

Take notice that on February 1, 2001, Niagara Mohawk Holdings, Inc. (Niagara Mohawk Holdings) and National Grid USA filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for authorization of the indirect change in control over the jurisdictional assets of Niagara Mohawk Power Corporation, Niagara Mohawk Energy Marketing, Inc., Canadian Niagara Power Company, Limited, New England Power Company, Massachusetts Electric Company, The Narragansett Electric Company, New England Electric Transmission Corporation, New England Hydro-Transmission Corporation, and New England Hydro-Transmission Electric Company, Inc. that will occur as a result of the acquisition of Niagara Mohawk Holdings by New National Grid Limited (Newco) (the Merger). Just prior to the Merger, The National Grid Group plc (National Grid) will undergo a corporate reorganization whereby Newco will be the new holding company over the National Grid system, and Newco's new name will be ''National Grid Group plc.'' As a result, National Grid USA and its jurisdictional subsidiaries will be wholly-owned subsidiaries of National Grid Group plc.

Upon consummation of the Merger, Niagara Mohawk Holdings, Niagara Mohawk Power Corporation, and Niagara Mohawk Energy Marketing, Inc. will become indirect, wholly-owned subsidiaries of National Grid Group plc. Niagara Mohawk Holdings' shares will be canceled and its shareholders will receive approximately $19.00 per Niagara Mohawk Holdings share in cash or American Depositary Shares, or a combination of both.

Comment date: April 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Reliant Energy Mid-Atlantic Power Holdings, L.L.C.

[Docket No. EG01–44–000]

Take notice that on January 22, 2001, Reliant Energy Mid-Atlantic Power Holdings, L.L.C. (Applicant), having its principal place of business at Johnstown, Pennsylvania, filed with the Federal Energy Regulatory Commission (FERC or the Commission) an amended and restated application for a determination of exempt wholesale generator (EWG) status pursuant to Part 365 of the Commission's regulations.

The Applicant is a limited liability company formed under the laws of the State of Delaware. Applicant is engaged, directly or indirectly through an affiliate as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (PUHCA), exclusively in owning or both owning and operating eligible electric facilities activities incidental to such eligible electric facilities as authorized under PUHCA. Applicant will enter into a lease agreement incidental to its ownership interest in the Keystone Electric Steam Station.

Comment date: February 27, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Larry Wood

[Docket No. ID–3598–000]

Take notice that on January 31, 2001, the above-named individual filed with the Federal Energy Regulatory Commission an application for authority to hold an interlocking position in Community Bank (Cabot, Arkansas) and First Electric Cooperative Corporation.

Comment date: March 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Robert M. Hill

[Docket No. ID–3599–000]

Take notice that on January 31, 2001, the above-named individual filed with the Federal Energy Regulatory Commission an application for authority to hold an interlocking position in Perry County Bank and First Electric Cooperative Corporation.

Comment date: March 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. James Alton Higginbotham

[Docket No. ID–3600–000]

Take notice that on January 31, 2001, the above-named individual filed with the Federal Energy Regulatory Commission an application for authority to hold an interlocking position in First Arkansas Bank and Trust and First Electric Cooperative Corporation.

Comment date: March 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Alliant Energy Corporate Services, Inc. (on behalf of IES Utilities, Inc. and Interstate Power Company), American Transmission Company LLC, Central Illinois Light Company, Cinergy Corp. (on behalf of Cincinnati Gas & Electric Company, PSI Energy, Inc., and Union Light, Heat & Power), Hoosier Energy Rural Electric Coop., Inc., Kentucky Utilities Company, Louisville Gas & Electric Company, Northern States Power Company (Minnesota) Northern States Power Company (Wisconsin), Southern Indiana Gas & Electric Company, and Upper Peninsula Power Company

[Docket No. RT01–96–000]

Take notice that on January 31, 2001, the Specified Transmission Owners listed above submitted an errata to their January 16, 2001 filing in Docket No. RT01–96–000 intended to add the Upper Peninsula Power Company as one of the Specified Transmission Owners participating in that filing.

Copies of this filing have been served on all parties who were served copies of the January 16th Filing.

Comment date: March 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/ online/rims.htm* (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–3684 Filed 2–13–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1397–009, *et al.*]

South Jersey Energy Company, *et al.*; Electric Rate and Corporate Regulation Filings

February 7, 2001.

Take notice that the following filings have been made with the Commission:

1. South Jersey Energy Company

[Docket No. ER97–1397–009]

Take notice that on January 31, 2001, South Jersey Energy Company (SJEC), tendered for filing an updated market analysis in compliance with the Commission's February 28, 1997, Order. This filing is an update of the 1997 analysis submitted to the Commission in connection with the initial request for market-based rates by SJEC.

Comment date: February 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Allegheny Energy Service Corporation on behalf of Monongahela Power Company; The Potomac Edison Company andWest Penn Power Company; (Allegheny Power)

[Docket No. ER98–1466–001 and ER96–2673–011]

Take notice that on February 2, 2001, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) and AYP Energy, Inc. made a filing to comply with the updated market power analysis requirements for Allegheny Power and AYP Energy, Inc. contained in Orders entered in Docket Nos. ER98–1466–000 and ER96–2673–000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties detailed within the official service lists for Docket Nos. ER98–1466–000 and ER96–2673–000.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Southern Company Services, Inc.

[Docket No. ER00–325–001]

Take notice that on February 1, 2001, Southern Company Services, Inc. (SCS), by and on behalf of Alabama Power Company, Georgia Power Company, Mississippi Power Company, Gulf Power Company and Savannah Electric and Power Company, tendered for filing amendments to unit power sales agreements with Florida Power and Light Company, Florida Power Corporation and Jacksonville Electric Authority, respectfully. The purpose of the amendments is to include the cost of sulfur dioxide emission allowances in the rates for Base and Normalized Energy under the unit sales agreements between SCS and each of the identified customers.

Comment date: February 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Exelon Generation Company, LLC

[Docket No. ER01–936–001]

Take notice that on February 1, 2001, Exelon Generation Company, LLC (Exelon Generation), amended its filing in the captioned docket of a Call Contract between Exelon Generation and PECO Energy Company (PECO Energy). The amendment redesignated the Call Contract as Exelon Generation's Rate Schedule FERC No. 18, and changed the requested effective date to January 12, 2001.

Copies of this filing were served on Exelon Generation, PJM, and the Pennsylvania Public Utility Commission.

Comment date: February 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Exelon Generation Company, LLC; PECO Energy Company; Commonwealth Edison Company

[Docket No. ER01–1147–000]

Take notice that on January 31, 2001, Exelon Generation Company, PECO Energy Company and Commonwealth Edison Company tendered for filing tariffs, rate schedules, and service agreements among themselves in compliance with FERC order accepting forms of such tariffs and rate schedules and in furtherance or their corporate restructurings.

Comment date: February 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Tenaska Power Services Company

[Docket No. ER01–1148–000]

Take notice that on January 31, 2001, Tenaska Power Services Company (Tenaska), tendered for filing a notice of withdrawal from the Northwest Regional Transmission Association.

Tenaska requests that such withdrawal become effective immediately.

Comment date: February 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Ameren Services Company

[Docket No. ER01–1149–000]

Take notice that on February 1, 2001, Ameren Services Company (ASC), tendered for filing an unexecuted Service Agreement for Network Integration Transmission Service between ASC and Rolla Municipal Utilities (Rolla) (the Agreement). ASC stated that the Agreement contains certain attachments that were inadvertently omitted from an unexecuted Service Agreement for Network Integration Transmission Service previously submitted on January 31, 2001, and asked that the Agreement be substituted for the previously-submitted Network Integration Transmission Service Agreement.

Comment date: February 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. PacifiCorp Power Marketing, Inc.

[Docket No. ER01–1151–000]

Take notice that on February 1, 2001 PacifiCorp Power Marketing, Inc. (PPM), tendered for filing a Notice of Termination and Emergency Request for Waiver of the 60-day Notice Requirement with the Federal Energy Regulatory Commission with respect to a January 15, 1999 PX Participation Agreement and January 15, 1999 Meter Service Agreement with the California Power Exchange.

PPM requests waiver of the 60-day notice requirement to permit an effective date of January 31, 2001 or such other date as the Commission permits this termination to become effective.

PPM states that copies of this filing were served upon the California Power Exchange.

Comment date: February 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. PacifiCorp.

[Docket No. ER01–1152–000]

Take notice that on February 1, 2001, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a revised Exhibit C to the contract for Interconnections and Transmission Service between PacifiCorp and Western Area Power Administration (Western), Contract No. 14–06–400–2436, Supplement No. 2 (PacifiCorp's Rate Schedule FERC No. 262). The revisions modify the rates charged to Western for Block 2 transmission service.

PacifiCorp has requested an effective date of April 1, 2001.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: February 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. PacifiCorp.

[Docket No. ER01–1153–000]

Take notice that on February 1, 2001, PacifiCorp tendered for filing a Notice of Termination and Emergency Request for Waiver of the 60-day Notice Requirement with the Federal Energy Regulatory Commission with respect to a January 12, 1998 PX Participation Agreement and April 29, 1998 Meter Service Agreement with the California Power Exchange.

PacifiCorp requests waiver of the 60-day notice requirement to permit an effective date of January 31, 2001 or such other date as the Commission permits this termination to become effective.

PacifiCorp states that copies of this filing were served upon the California Power Exchange.

Comment date: February 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. American Transmission Systems, Inc.

[Docket No. ER01–1154–000]

Take notice that on February 1, 2001, American Transmission Systems, Incorporated tendered for filing an Agreement for Construction, Operation, and Compensation of Delivery Points with The Village of Genoa. The Agreement provides for the replacement of Genoa's existing 12.47 kV distribution delivery point with two 69 kV transmission delivery points. This filing is made pursuant to Section 205 of the Federal Power Act.

Copies of this filing have been served on Genoa, American Municipal Power-Ohio, Inc., and the public utilities commissions of Ohio and Pennsylvania.

Comment date: February 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. New England Power Pool

[Docket No. ER01–1155–000]

Take notice that on February 1, 2001, the New England Power Pool (NEPOOL), Participants Committee filed the Sixty-Ninth Agreement Amending the Restated NEPOOL Agreement (the Sixty-Ninth Agreement). The Sixty-Ninth Agreement proposes a new Section 2.4 to the New England Power Pool Billing Policy, which is contained in Attachment N to the NEPOOL Tariff, that facilitates the completion by ISO New England Inc. of adjustments to previously issued billing statements.

The NEPOOL Participants Committee states that copies of this filing were sent to the NEPOOL Participants, non-Participant Transmission Customers, and the New England state governors and regulatory commissions.

Comment date: February 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Enron Power Marketing, Inc., Enron Energy Services, Inc., Enron Energy Marketing Corp.

[Docket No. ER01–1156–000]

Take notice that on February 1, 2001, Enron Power Marketing, Inc. (EPMI), Enron Energy Services, Inc. (EES), and Enron Energy Marketing Corp. (EEMC), tendered for filing Notices of Termination and Request for Waiver of the 60-day Notice Requirement with the Federal Energy Regulatory Commission with respect to their respective agreements with the California Power Exchange Corporation (PX). EPMI, EES and EEMC request waiver of the 60-day notice requirement to permit an effective date of February 1, 2001, consistent with the PX's FERC Electric Tariff. EPMI also tendered for filing on February 2, 2001 revisions to the Notices of Termination.

The parties state that copies of this filing were served upon the PX.

Comment date: February 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Graham County Electric Cooperative, Inc.

[Docket No. ER01–1157–000]

Take notice that on February 2, 2001, Graham Electric Cooperative, Inc. (GCEC), Drawer B, Pima, Arizona 85543 tendered for filing as GCEC Rate Schedule FERC No. 4, Firm Power Wheeling Agreement Between Graham County Electric Cooperative, Inc. and the Town of Thatcher. GCEC has also provided a Notice of Cancellation to the Commission of GCEC Rate Schedules FERC Nos. 2 and 3. GCEC requests waiver of the Commission's 60-day notice requirement and requests an effective date of December 31, 2000.

GCEC requests waiver of the Commission's 60-day notice requirement and requests an effective date of January 1, 2001.

Copies of this filing were served upon the Town of Thatcher, Arizona Electric Power Cooperative, Inc., and the Arizona Corporation Commission.

Comment date: February 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Atlantic City Electric Company and Delmarva Power & Light Company

[Docket No. ER01–1158–000]

Take notice that on February 1, 2001, Conectiv, on behalf of its subsidiaries Atlantic City Electric Company (Atlantic) and Delmarva Power & Light Company (Delmarva), requested waiver of the fuel reporting requirements for Atlantic and Delmarva under FERC Form No. 423, 18 CFR 141.61.

Conectiv requests that waiver of the Atlantic and Delmarva fuel reporting requirements become effective March 15, 2001.

Conectiv served this filing on the state commissions that regulate Atlantic and Delmarva and Delmarva's wholesale requirements customers.

Comment date: February 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. MidAmerican Energy Company

[Docket No. ER01–1159–000]

Take notice that on February 2, 2001, MidAmerican Energy Company (MidAmerican), tendered for filing Purchases of Electricity from Non-QF Small Independent Power Producers, MidAmerican Rate Schedule FERC No. 10, under which MidAmerican may purchase energy or capacity and energy from small independent power producers meeting certain defined requirements.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Public Service Company of New Mexico

[Docket No. ER01–1160–000]

Take notice that on February 2, 2001, Public Service Company of New Mexico (PNM), tendered for filing an executed service agreement, for electric power and energy sales at negotiated rates under the terms of PNM's Power and Energy Sales Tariff, with the Colorado River Commission (dated January 30, 2001). PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to the Colorado River Commission and to the New Mexico Public Regulation Commission.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Sonoma County, California

[Docket No. ER01–1161–000]

Take notice that on February 2, 2001, Sonoma County, California (County) petitioned the Commission for acceptance of County Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates and the waiver of certain Commission Regulations.

The County intends to engage in wholesale electric power and energy purchases and sales as a marketer. County is not in the business of generating or transmitting electric power. The County is a political subdivision of the State of California and owns and operates a small amount of generation that it intends to use in the most cost-effective manner to benefit the citizens of the County.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Duke Power a division of Duke Energy Corporation

[Docket No. ER01–1162–000]

Take notice that on February 2, 2001, Duke Power (Duke), a division of Duke Energy Corporation, tendered for filing a Service Agreement with Merrill Lynch Capital Services, Inc., for power sales at market-based rates.

Duke requests that the proposed Service Agreement be permitted to become effective on October 30, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Automated Power Exchange, Inc.

[Docket No. ER01–1163–000]

Take notice that on February 2, 2001, Automated Power Exchange, Inc., tendered for filing a revision to the rate schedule under which APX will offer power exchange services in the APX PJM Market.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Southern Company Services, Inc.

[Docket No. ER01–1164–000]

Take notice that on February 2, 2001, Southern Company Services, Inc., (SCS), by and on behalf of Alabama Power Company, Georgia Power Company, Mississippi Power Company, Gulf Power Company and Savannah Electric and Power Company, tendered for filing letter of amendments to unit power sales agreements with Florida Power and Light Company, Florida Power Corporation and Jacksonville Electric Authority, respectfully. The purpose of the letter amendments are to recognize certain accounting adjustments involving FERC Account 154, as it relates to charges under the referenced unit power sales agreements.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Boston Edison Company

[Docket No. ER01–1165–000]

Take notice that on February 2, 2001, Boston Edison Company (Boston Edison), tendered for filing a non-firm point-to-point transmission service agreement between Boston Edison and NRG Power Marketing, Inc., (NRG). Boston Edison states that the service agreement sets out the transmission arrangements under which Boston Edison will provide local non-firm point-to-point transmission service to NRG under Boston Edison's open access transmission tariff accepted for filing in Docket No. ER00–2065–000.

Boston Edison requests waiver of the Commission's thirty (30) day notice requirement in order to allow the service agreement to become effective on January 1, 2001.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Enron Sandhill Limited Partnership

[Docket No. ER01–1166–000]

Take notice that on February 2, 2001, Enron Sandhill Limited Partnership (ESLP), tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting ESLP's Electric Rate Schedule FERC No. 1 and Code of Conduct to become effective on April 3, 2001.

ESLP submits its Rate Schedule FERC No. 1 (Rate Schedule), under which ESLP may make sales of electrical capacity and energy to wholesale customers at market-based rates. The proposed Rate Schedule provides the terms and conditions pursuant to which ESLP will sell electric energy at market-based rates to be mutually agreed to with the purchasing party. ESLP's proposed Rate Schedule also permits it to reassign transmission capacity.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Portland General Electric Company

[Docket No. ER01–1167–000]

Take notice that on February 2, 2001, Portland General Electric Company (PGEC), tendered for filing Notice of Termination and Request for Waiver of the 60-day Notice Requirement with the Federal Energy Regulatory Commission with respect to its Participation Agreement and Meter Services Agreement with the California Power Exchange Corporation (CalPX).

PGEC requests waiver of the 60-day notice requirement to permit an effective date of February 1, 2001 or such other date as the Commission permits this termination to become effective, consistent with Section 18.3 of the CalPX's FERC Electric Tariff.

PGEC states that copies of this filing were served upon the CalPX.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. Niagara Mohawk Power Corporation

[Docket No. ER01–1168–000]

Take notice that on February 2, 2001, Niagara Mohawk Power Corporation tendered for filing an Interconnection Agreement between Niagara Mohawk Power Corporation and United States Gypsum Company, dated as of January 24, 2001.

Niagara Mohawk Power Corporation requests an Interconnection Agreement effective date of January 24, 2001. To the extent necessary, Niagara Mohawk requests waiver of the Commission requirement that a rate schedule be filed not less than 60 days or more than 120 days from its effective date.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. Nicor Energy, L.L.C.

[Docket No. ER01–1169–000]

Take notice that on February 2, 2001, Nicor Energy, L.L.C. (Nicor LLC), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its Rate Schedule FERC No. 1.

Nicor LLC intends to sell electric power at wholesale at rates, terms, and conditions to be mutually agreed to with the purchasing party. Nicor LLC's tariff provides for the sale of electric energy and capacity at agreed prices.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. American Electric Power Service Corporation

[Docket No. ER01–1172–000]

Take notice that on February 1, 2001, American Electric Power Service Corporation (AEP), tendered for filing, on behalf of Kentucky Power Company, a letter agreement with EnviroPower, Inc.

AEP requests an effective date of April 1, 2001.

Copies of AEP's filing has been served upon the Kentucky Public Service Commission.

Comment date: February 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. Automated Power Exchange, Inc.

[Docket No. ER01–1176–000]

Take notice that on February 2, 2001, Automated Power Exchange, Inc., tendered for filing a revision to the rate schedule under which APX will offer power exchange services in the APX New England Market.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

29. Automated Power Exchange, Inc.

[Docket No. ER01–1177–000]

Take notice that on February 2, 2001, Automated Power Exchange, Inc., tendered for filing a revision to the rate schedule under which APX will offer power exchange services in the APX New York Market.

Comment date: February 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–3685 Filed 2–13–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–45–000]

Colorado Interstate Gas Company; Supplement to Notice of Intent to Prepare an Environmental Assessment for the Proposed Valley Line Expansion Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings and Route Inspection

February 8, 2001.

On February 6, 2001, the Federal Energy Regulatory Commission issued the subject Notice announcing the intent of its staff to prepare an environmental assessment for the Valley Line Expansion Project and a schedule for local public scoping meetings to receive environmental comments, among other things. That Notice inadvertently omitted that the environmental scoping meetings will begin each evening at 7 p.m.

Page 6 of the Notice also contained an incomplete sentence related to how individuals may participate in the route inspection activities planned for February 27 through March 2, 2001. In order to avoid further confusion, page 6, in its entirety, is attached to this supplement.

Linwood A. Watson, Jr.,

Acting Secretary.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request (appendix 3), your name will be taken off the mailing list.

In addition to asking for written comments, we invite you to attend any of the public scoping meetings that we will conduct in the project area. The purpose of the scoping meetings is to provide state and local agencies, interested groups, landowners, and the general public with an opportunity to learn more about the project and another chance to present us with environmental issues or concerns they believe should be addressed in the EA. CIG representatives will be present at the meetings to describe the proposed project, both in general and for the specific area where each meeting is held, and to answer project-related questions.

The locations and times for these meetings are listed below. Priority will be given to commenters who represent groups, and a transcript of each meeting will be made so that your comments will be accurately recorded.

SCHEDULE FOR PUBLIC SCOPING MEETINGS

Date and Time	Location
Tuesday, February 27, 2001 at 7 p.m.	Pikes Peak Community College, Rampart Campus—Room W101, 11195 Highway 83, Colorado Springs, Colorado.
Wednesday, February 28, 2001 at 7 p.m.	Pioneer Elemetnary School Cafeteria, 10881 Riva Ridge Drive, Parker, Colorado.
Thursday, March 1, 2001 at 7 p.m.	Aims Community College, Corporate Education Center—Room 129A, Greeley, Colorado.

Route Inspection

On February 27–March 2, 2001, we will also be conducting an inspection of the proposed routes and locations of facilities associated with CIG's proposal. This inspection may include both aerial and ground components. Anyone interested in participating in the inspection activities may contact the FERC's Office of External Affairs (identified at the end of this notice) for more details and must provide their own transportation.

[FR Doc. 01–3723 Filed 2–13–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–600–000]

National Fuel Gas Distribution Corporation; Notice of Pre-Filing Conference

February 8, 2001.

Take notice that a pre-filing conference will be held on Thursday, February 15, 2001, at 2:00 p.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The purpose of the pre-filing conference is to discuss Norse Pipeline, L.L.C.'s and Nornew Energy, Inc.'s compliance with the Commission's December 14, 2000, Order Addressing Petition for Declaratory Order and Directing Compliance Filing (93 FERC ¶ 61,276 (2000)).

All interested parties and Staff are permitted to attend. For additional information, please contact Robert Christin (202) 208–1022.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–3686 Filed 2–13–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6943–8]

Transfer of Confidential Business Information to EPA Contractors

AGENCY: Environmental Protection Agency.

ACTION: Notice of transfer of confidential business information to agency contractors and request for comments.

SUMMARY: EPA will transfer to its contractors: Booz-Allen and Hamilton, Inc., TechLaw, Inc., and Tetra Tech EM Inc. Confidential Business Information (CBI) that has been or will be submitted to EPA under Section 3007 of the Resource Conservation and Recovery Act (RCRA). The Agency will transfer CBI to the following subcontractors of these firms: AGEISS, Home Engineering Services, Inc., Trinity Consultants, ICF, Inc., TRC, Inc., Metcalf and Eddy, ERG, MNG, Inc., EnRisk, Inc., TN Associates, CDM Federal Programs Corp., Parallax, Inc., Wendy Lopez & Associates, Inc., REDHORSE, Charles Consulting, ISSI, Tetra Tech NUS, DPRA, Inc., Morson Environmental Consulting, Inc., Ross & Associates Environmental Consulting, Ltd., Quanterra Incorporated. Under RCRA, EPA is involved in activities to support, expand and implement solid and hazardous waste regulations.

DATES: Transfer of confidential business data will occur no sooner than February 26, 2001.

FOR FURTHER INFORMATION CONTACT: Regina Magbie, Office of Solid Waste (5305W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, 703–308–7909.

SUPPLEMENTARY INFORMATION:

1. Transfer of Confidential Business Information

Under EPA Contract numbers 68–W–99–020, 68–W–99–021, 68–W–99–017, 68–W–99–018, 68–W–99–008, and 68–W–99–009. Booz-Allen and Hamilton, TechLaw and Tetra Tech, and their subcontractors, will assist the EPA Regional Offices (I–X) by providing technical assistance and services which support EPA's RCRA enforcement and permitting activities, such as sampling, corrective action oversight, technical review of documents, and special studies.

In accordance with 40 CFR 2.305(h) (see 42 U.S.C. 6927(b)), EPA has determined that Booz-Allen and Hamilton, TechLaw and Tetra Tech, and their subcontractors require access to CBI submitted to EPA under the authority of RCRA to perform work satisfactorily under the above-noted contract. EPA is submitting this notice to inform all submitters of CBI of EPA's intent to transfer CBI to these firms on a need-to-know basis. Upon completing its review of materials submitted, Booz-Allen and Hamilton, TechLaw and Tetra Tech, and their subcontractors will return all CBI to EPA.

Prior to the transfer of any RCRA CBI, Booz-Allen and Hamilton, TechLaw and Tetra Tech, and their subcontractors will receive authorization for access to RCRA CBI under the EPA "Contractor Requirements for the Control and Security of RCRA Confidential Business Information Security Manual. "EPA will review and approve the security plans of Booz-Allen and Hamilton, TechLaw and Tetra Tech, and their subcontractors. Contractor and subcontractor personnel will sign non-disclosure agreements and be briefed on appropriate security procedures before they are permitted access to CBI.

Dated: February 1, 2001.

Elizabeth A. Cotsworth,

Director, Office of Solid Waste.

[FR Doc. 01–3732 Filed 2–13–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6944–3]

Notification of Application Acceptance Period for the National Environmental Achievement Track

AGENCY: Environmental Protection Agency (EPA).

ACTION: Acceptance of National Environmental Achievement Track Applications.

SUMMARY: The Office of Policy, Economics, and Innovations announces that applications for the National Environmental Achievement Track (Achievement Track) will be accepted February 1, 2001 through April 30, 2001. Achievement Track, the first level of the National Environmental Performance Track, recognizes top public and private facilities that go beyond compliance with regulatory requirements and encourages high levels of environmental performance and management that benefit people, communities, and the environment.

The application form and instructions for completing an application for the Achievement Track can be found on the web at *http://www.epa.gov/performancetrack/apps/app.htm* or hard copies can be requested by calling the Performance Track Information Center at 1–888–339–7875. Applications are used to establish that the facility meets the four requirements necessary to be named as a participant in the Achievement Track. The entry criteria require that the applying facility:

- Has adopted and implemented an environmental management system (EMS) that includes policy, planning, implementation and operation, checking and corrective action, and management review;
- Is able to demonstrate specific environmental achievements and commit to continued improvement;

- Commits to public outreach and performance reporting; and
- Has a record of sustained compliance with environmental requirements.

EPA uses the information in the application, the results of a compliance screen, and information from consultations with EPA regional offices, State agencies, and community references in evaluating a facility's qualifications.

FOR FURTHER INFORMATION CONTACT: The Performance Track Information Center at 1–888–339–7875 or e-mail *ptrack@indecon.com*. You may also contact Julie Spyres at 202–260–6787 or e-mail her at *spyres.julie@epa.gov.* Detailed information is available in the **Federal Register** Notice posted July 6, 2000, FRL–6730–5, Program Description of the National Environmental Achievement Track or visit the web site at *www.epa.gov/performancetrack*.

SUPPLEMENTARY INFORMATION: The National Environmental Achievement Track was launched in June 26, 2000. Applications were first accepted from July 5, 2000 through September 30, 2000. More than 250 facilities applied, and 228 were approved as Charter Members of the National Environmental Achievement Track. Current members are listed at www.epa.gov/performancetrack/particip/particip.htm. Benefits for participation in the Achievement Track include:

- National Recognition
- Administrative Streamlining
- Information Exchange
- Reduced Reporting and Monitoring

E-mailed complete the application package (an application and environmental checklist) to ptrack@indecon.com no later than April 30, 2001. When the application package is submitted by e-mail, the Self-Certification page with an authorizing signature must be faxed (1–617–354–0463) or mailed to: Performance Track Information Center c/o Industrial Economics Incorporated 4th Floor, 2067 Massachusetts Avenue, Cambridge, MA 02140.

Mail application packages completed in hard copy to the Performance Track Information Center address above, postmarked no later than April 30, 2001.

Dated: February 5, 2001.

Alex Cristofaro,

Office Director, Office of Business and Community Innovation.

[FR Doc. 01–3731 Filed 2–13–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00702; FRL–6768–9]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: There will be a 4–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Food Quality Protection Act (FQPA) Scientific Advisory Panel (SAP) to review a set of issues being considered by the Agency pertaining to advancing ecological risk assessment methods in the EPA, Office of Pesticide Programs. The meeting is open to the public. Seating at the meeting will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access, should contact Paul Lewis at the address listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the meeting so that appropriate arrangements can be made.

DATES: The meeting will be held from March 13 to March 16, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Hilton Hotel Crystal City at National Airport, 2399 Jefferson Davis Highway, Arlington, VA 22202. The telephone number for the Hilton Hotel Crystal City at National Airport is (703) 418–6800.

Requests to participate may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your request must identify docket control number OPP–00702 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Paul Lewis, Designated Federal Official, 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 persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and 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*. A meeting agenda is now available; EPA's primary background documents should be available by mid February. In addition, the Agency may provide additional background documents as the material becomes available. 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. To access this document on the Home Page select **Federal Register** notice announcing this meeting. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an administrative record for this meeting under docket control number OPP–00702. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other material information, including any information claimed as Confidential Business Information (CBI). This administrative record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. In addition, the Agency may provide additional background documents as the material becomes available. 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.

C. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting through the mail, in person, or electronically. Do not submit any information in your request

that is considered CBI. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00702 in the subject line on the first page of your request. Interested persons are permitted to file written statements before the meeting. To the extent that time permits, and upon advance written request to the person listed under **FOR FURTHER INFORMATION CONTACT**, interested persons may be permitted by the Chair of the FIFRA SAP to present oral statements at the meeting. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). There is no limit on the extent of written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. The Agency also urges the public to submit written comments in lieu of oral presentations. Persons wishing to make oral and/or written statements at the meeting should contact the person listed under **FOR FURTHER INFORMATION CONTACT** and submit 30 copies of their presentation and/or remarks to the Panel. The Agency encourages that written statements be submitted before the meeting to provide Panel Members the time necessary to consider and review the comments.

1. *By mail*. You may submit a request 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*. 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 Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your request electronically by e-mail to: ''opp-docket@epa.gov.'' Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket control number OPP–00702. You may also file a request online at many Federal Depository Libraries.

II. Background

A. Purpose of the Meeting

In April 2000, the EPA, Office of Pesticide Programs (OPP), met with the SAP to present a progress report on its initiative to revise the ecological assessment process for pesticides. This included an update regarding the progress of the initiative and corresponding Panel recommendations on the approach. A key component of the April 2000 meeting was an overview of the conceptual risk assessment model proposed by OPP. Since the meeting, OPP has conducted a generic case study, which incorporated many of the comments and recommendations by the SAP. OPP is meeting with the SAP again to review this generic case study and is seeking their suggestions for improvement.

B. Panel Report

The Agency anticipates that the Panel's report of their recommendations will be available approximately 60 days after the meeting. The Panel's report will be posted on the FIFRA SAP web site or may be obtained by contacting the Public Information and Records Integrity Branch at the address or telephone number listed in Unit I. of this document.

List of Subjects

Environmental protection.

Dated: February 5, 2001.

Steven Galson,

Director, Office of Science Coordination and Policy.

[FR Doc. 01–3509 Filed 2–13–01 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34237; FRL–6765–3]

Atrazine; Availability of Preliminary Risk Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of documents that were developed as part of EPA's pilot public participation process for making reregistration eligibility decisions for the organophosphate and certain other, non-organophosphate pesticides and for tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These documents are the preliminary human health risk assessment and related documents for atrazine. This notice also starts a 60-day public comment period for the preliminary risk assessment. Comments are to be limited to issues directly associated with the one pesticide that has risk assessment documents placed in the docket and should be limited to issues raised in those documents. By allowing access and opportunity for comment on the preliminary risk assessment, EPA is seeking to strengthen stakeholder involvement and help ensure our decisions under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply. The Agency cautions that risk assessments at this stage are preliminary assessments only and that further refinements of the risk assessments may be appropriate for this pesticide. These documents reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

DATES: Comments, identified by docket control number OPP–34237 for Atrazine must be received on or before April 16, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify the docket control number for atrazine, OPP–34237, in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Kimberly Lowe, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8059; e-mail address: lowe.kimberly@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), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). 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/. 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/. In addition, copies of the preliminary risk assessments for atrazine may also be accessed at http: www.epa.gov/pesticides.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34237. 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.

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 the docket control number for atrazine, OPP–34237, 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 Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34237. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

EPA is making available preliminary risk assessments that have been developed as part of EPA's pilot process for making reregistration eligibility decisions for the organophosphate and other pesticides and for tolerance reassessments consistent with the FFDCA, as amended by the FQPA. The Agency's preliminary human health risk assessment and other related documents for atrazine are available in the individual pesticide docket. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed for atrazine.

The Agency cautions that these risk assessments are preliminary assessments only and that further refinements of the risk assessment may be appropriate for atrazine. These documents reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

As the preliminary ecological risk assessment for atrazine is completed and registrants complete a 30-day review period to identify possible computational or other clear errors in the risk assessment, this risk assessment and registrant responses will be placed in the individual pesticide docket. A notice of availability for subsequent assessments will appear in the **Federal Register**.

The Agency is providing an opportunity, through this notice, for interested parties to provide written comments and input to the Agency on the preliminary risk assessment for the chemical specified in this notice. Such comments and input could address, for example, the availability of additional

data to further refine the risk assessment, such as percent crop treated information or submission of residue data from food processing studies, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific chemical. Comments should be limited to issues raised within the preliminary risk assessment and associated documents. EPA will provide other opportunities for public comment on other science issues associated with the pesticide tolerance reassessment program. Failure to comment on any such issues as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments should be submitted by April 16, 2001 using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION.** Comments will become part of the Agency record for atrazine.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: February 8, 2001.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–3844 Filed 2–12–01; 2:53 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–998; FRL–6768–7]

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–998, must be received on or before March 16, 2001.

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–998 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: George T. LaRocca, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6100; e-mail address: larocca.george@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	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

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

2. *In person*. The Agency has established an official record for this action under docket control number PF–998. 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–998 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–998. 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 Cosmetic 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: January 31, 2001.

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 represents 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.

FMC Corporation

0E6216

EPA has received a pesticide petition (0E6216) from FMC Corporation, 1735 Market Street, Philadelphia, PA 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 bifenthrin ((2-methyl [1,1'-biphenyl]-3-yl) methyl-3-(2-chloro-3,3,3,-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate) in or on the raw agricultural commodity (RAC) bananas at 0.1 parts per million (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 metabolism of bifenthrin in plants is adequately understood. Studies have been conducted to delineate the metabolism of radiolabelled bifenthrin in various crops all showing similar results. The residue of concern is the parent compound only.

2. *Analytical method*. There is a practical analytical method for detecting and measuring levels of bifenthrin in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances gas chromatography with electron capture detection (GC/ECD) analytical method P–2132M, (PP) 0E3921, MRID 41658601.

3. *Magnitude of residues*. Field residue trials meeting EPA study requirements have been conducted at the maximum label rate for the crop bananas. Results from these trials demonstrate that the highest bifenthrin residues found will not exceed 0.1 (ppm) when the product is applied following the proposed use directions.

B. Toxicological Profile

1. *Acute toxicity*. For the purposes of assessing acute dietary risk, FMC Corporation has used the maternal no observed adverse effect level (NOAEL) of 1.0 milligram/kilogram (mg/kg)/day from the oral developmental toxicity study in rats. The maternal lowest effect level (LEL) of this study of 2.0 mg/kg/day was based on tremors from day 7–17 of dosing. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups.

2. *Genotoxicity*. The following genotoxicity tests were all negative. Gene mutation in *Salmonella* (Ames); chromosomal aberrations in Chinese hamster ovary and rat bone marrow cells; hypoxanthine guanine phophoribosyl transferase (HGPRT) locus mutation in mouse lymphoma cells; and unscheduled DNA synthesis in rat hepatocytes.

3. *Reproductive and developmental toxicity*. i. In the rat reproduction study, parental toxicity occurred as decreased body weight (bwt) at 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)).

ii. 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.

4. *Subchronic toxicity—Short- and intermediate-term toxicity*. The maternal NOAEL of 1.0 mg/kg/day from the oral developmental toxicity study in rats is also used for short- and intermediate-term margin of exposure (MOE) calculations (as well as acute, discussed in (1) above). The maternal LEL of this

study of 2.0 mg/kg/day was based on tremors from day 7–17 of dosing.

5. *Chronic toxicity*. i. The reference dose (RfD) has been established at 0.015 mg/kg/day. This RfD is based on a 1–year oral feeding study in dogs with a NOAEL of 1.5 mg/kg/day, based on intermittent tremors observed at the LOAEL of 3.0 mg/kg/day; an uncertainty factor (UF) of 100 is used.

ii. Bifenthrin is classified as a Group C chemical (possible human carcinogen) based upon urinary bladder tumors in mice; assignment of a Q* has not been recommended.

6. *Animal metabolism*. The metabolism of bifenthrin in animals is adequately understood. Metabolism studies in rats with single doses demonstrated that about 90% of the parent compound and its hydroxylated metabolites are excreted.

7. *Metabolite toxicology*. The Agency has previously determined that the metabolites of bifenthrin are not of toxicological concern and need not be included in the tolerance expression.

8. *Endocrine disruption*. No special studies investigating potential estrogenic or other endocrine effects of bifenthrin have been conducted. However, no evidence of such effects was reported in the standard battery of required toxicology studies, which have been completed and found acceptable. Based on these studies, there is no evidence to suggest that bifenthrin has an adverse effect on the endocrine system.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Tolerances have been established for the residues of bifenthrin, in or on a variety of RACs. Tolerances, in support of registrations, currently exist for residues of bifenthrin on hops, strawberries, corn grain, forage, and fodder, sweet corn, cottonseed, artichokes, the crop group cucurbit vegetables, the crop group legume vegetables - subgroup edible-podded legume vegetables, and subgroup succulent shelled pea, eggplant, the subgroup head and stem brassica, and livestock commodities of cattle, goats, hogs, horses, sheep, poultry, eggs, and milk. Pending tolerances for citrus, bananas, grapes, peanuts, pears, potatoes, caneberries, peppers (bell and non-bell), lettuce (head), and herbs also exist. For the purposes of assessing the potential dietary exposure for these existing and pending tolerances FMC Corporation has utilized available information on anticipated residues, monitoring data and percent crop treated as follows:

ii. *Acute exposure and risk*. Acute dietary exposure 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 the purposes of assessing acute dietary risk for bifenthrin, the maternal NOAEL of 1.0 mg/kg/day from the oral developmental toxicity study in rats was used. The maternal LEL of this study of 2.0 mg/kg/day was based on tremors from day 7–17 of dosing. This acute dietary endpoint was used to determine acute dietary risks to all population subgroups. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into a Tier 3 analysis; using Monte Carlo modeling for commodities that may be consumed in a single serving. These assessments show that the MOEs are greater than the EPA standard of 100 for all subpopulations. The 99.9th percentile of exposure for the overall U. S. population was estimated to be 0.005506 mg/kg/day (MOE of 181). The 99.9th percentile of exposure for all infants <1–year old was estimated to be 0.005825 mg/kg/day (MOE of 171). The 99.9th percentile of exposure for nursing infants <1–year old was estimated to be 0.004056 mg/kg/day (MOE of 246). The 99.9th percentile of exposure for non-nursing infants <1–year old was estimated to be 0.005910 mg/kg/day (MOE of 169). The 99.9th percentile of exposure for children 1 to 6 years old (the most highly exposed population subgroup) was estimated to be 0.009741 mg/kg/day (MOE of 102). Therefore, FMC Corporation concludes that the acute dietary risk of bifenthrin, as estimated by the dietary risk assessment, does not appear to be of concern.

iii. *Chronic exposure and risk*. The acceptable reference dose (RfD) is based on a NOAEL of 1.5 mg/kg/day from the chronic dog study and an UF of 100 is 0.015 mg/kg/day. The endpoint effect of concern was tremors in both sexes of dogs at the LEL of 3.0 mg/kg/day. A chronic dietary exposure/risk assessment has been performed for bifenthrin using the above RfD. The chronic exposures are estimated to be 0.000186 mg/kg bwt/day and utilize 1.2% of the RfD for the overall U. S. population; children 7-12 years old and children 1-6 years old (subgroups most highly exposed) are estimated to be 0.000229 mg/kg bwt/day and 0.000371 mg/kg bwt/day and utilizes 1.5% and 2.5% of the RfD, respectively. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100% of the RfD. Therefore, FMC Corporation concludes that the chronic dietary risk of bifenthrin, as estimated by the dietary risk assessment, does not appear to be of concern.

iv. *Drinking water*. Laboratory and field data have demonstrated that bifenthrin is immobile in soil and will not leach into groundwater. Other data show that bifenthrin is virtually insoluble in water and extremely lipophilic. As a result, FMC Corporation concludes that residues reaching surface waters from field runoff will quickly adsorb to sediment particles and be partitioned from the water column. Further, a screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's pesticide root zone model (PRZM^3). Based on this screening assessment, the potential concentrations of a pyrethroid in groundwater at depths of 1 and 2 meters are essentially zero (<<0.001 parts per billion (ppb)). Surface water concentrations for pyrethroids were estimated using PRZM^3 and exposure analysis modeling system (EXAMS) using standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 0.052 ppb. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical, small, stagnant farm pond model since drinking water derived from surface water would normally be treated before consumption. Based on these analysis, the contribution of water to the dietary risk estimate is negligible. Therefore, FMC Corporation concludes that together these data indicate that residues are not expected to occur in drinking water.

2. *Non-dietary exposure*. Analysis were conducted which included an evaluation of potential non-dietary (residential) applicator, post-application and chronic dietary aggregate exposures associated with bifenthrin products used for residential flea infestation control and agricultural/commercial applications. The aggregate analysis conservatively assumes that a person is concurrently exposed to the same active ingredient via the use of consumer or professional flea infestation control products and to chronic level residues in the diet.

In the case of potential non-dietary health risks, conservative point estimates of non-dietary exposures, expressed as total systemic absorbed dose (summed across inhalation and incidental ingestion routes) for each relevant product use category (i.e., lawn

care) and receptor subpopulation (i.e., adults, children 1-6 years and infants <1–year) are compared to the systemic absorbed dose NOAEL for bifenthrin to provide estimates of the MOEs. Based on the toxicity endpoints selected by EPA for bifenthrin, inhalation and incidental oral ingestion absorbed doses were combined and compared to the relevant systemic NOAEL for estimating MOEs.

In the case of potential aggregate health risks, the above mentioned conservative point estimates of inhalation and incidental ingestion non-dietary exposure (expressed as systemic absorbed dose) are combined with estimates (arithmetic mean values) of chronic average dietary (oral) absorbed doses. These aggregate absorbed dose estimates are also provided for adults, children 1-6 years and infants <1–year. The combined or aggregated absorbed dose estimates (summed across non-dietary and chronic dietary) are then compared with the systemic absorbed dose NOAEL to provide estimates of aggregate MOEs.

The non-dietary and aggregate (non-dietary + chronic dietary) MOEs for bifenthrin indicate a substantial degree of safety. The total non-dietary (inhalation + incidental ingestion) MOEs for post-application exposure for the lawn care product evaluated was estimated to be 194,000 for adults, 52,400 for children 1-6 years old and 56,700 for infants <1–year. The aggregate MOE (inhalation + incidental oral + chronic dietary, summed across all product use categories) was estimated to be 4,878 for adults, 1,117 for children 1-6 years old and 1,361 for infants (<1–year). It can be concluded that the potential non-dietary and aggregate (non-dietary + chronic dietary) exposures for bifenthrin are associated with substantial margins of safety.

D. Cumulative Effects

In consideration of potential cumulative effects of bifenthrin and other substances that may have a common mechanism of toxicity, to our knowledge there are currently no available data or other reliable information indicating that any toxic effects produced by bifenthrin would be cumulative with those of other chemical compounds; thus only the potential risks of bifenthrin have been considered in this assessment of its aggregate exposure. FMC Corporation intends to submit information for the EPA to consider concerning potential cumulative effects of bifenthrin consistent with the schedule established by EPA in the Federal Register at 62 FR 42020 (August 4, 1997), FRL–5734–6 and other EPA publications pursuant to the Food Quality Protection Act.

E. Safety Determination

1. *U.S. population*. For the overall U.S. population, the calculated MOE at the 95th percentile was estimated to be 650, 359 at the 99th percentile; and 181 at the 99.9th percentile. For all infants <1–year old, the calculated MOE at the 95th percentile was estimated to be 540; 241 at the 99th percentile; and 171 at the 99.9th percentile. For nursing infants <1–year old, the calculated MOE at the 95th percentile was estimated to be 1,311; 451 at the 99th percentile; and 246 at the 99.9th percentile. For non-nursing infants <1–year old, the calculated margins of exposure MOE at the 95th percentile was estimated to be 476, 197 at the 99th percentile; and 169 at the 99.9th percentile. For the most highly exposed population subgroup, children 1-6 years old, the calculated MOE at the 95th percentile was estimated to be 330, 214 at the 99th percentile; and 102 at the 99.9th percentile. Therefore, FMC Corporation concludes that there is reasonable certainty that no harm will result from acute exposure to bifenthrin.

2. *Infants and children*—a. *General*. In assessing the potential for additional sensitivity of infants and children to residues of bifenthrin, FMC Corporation considered data from developmental toxicity studies in the rat and rabbit, and a 2–generation reproductive study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. FFDCA section 408 provides that EPA may apply an additional 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.

b. *Developmental toxicity studies*. In the rabbit developmental study, there were no developmental effects observed in the fetuses exposed to bifenthrin. The maternal NOAEL was 2.67 mg/kg/day based on head and forelimb twitching at the LOAEL of 4 mg/kg/day. In the rat developmental study, the maternal NOAEL was 1 mg/kg/day, based on tremors at the LOAEL of 2 mg/kg/day. The developmental (pup) NOAEL was also 1 mg/kg/day, based upon increased incidence of hydroureter at the LOAEL 2 mg/kg/day. There was 5/23 (22%) litters affected (5/141 fetuses since each litter only had one affected fetus) in the 2 mg/kg/day group, compared with zero in the control, 1, and 0.5 mg/kg/day groups. According to recent historical data (1992–1994) for this strain of rat, incidence of distended ureter averaged 11% with a maximum incidence of 90%.

c. *Reproductive toxicity study*. In the rat reproduction study, parental toxicity occurred as decreased bwt at 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 HDT.

d. *Prenatal and postnatal sensitivity*—i. *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. 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.

e. *Conclusion*. Based on the above, FMC Corporation 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. As stated above, aggregate exposure assessments utilized less than 10% of the RfD for either the entire U. S. population or any of the 26 population subgroups including infants and children. Therefore, it may be concluded that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to bifenthrin residues.

F. International Tolerances

There are no Codex, Canadian, or Mexican residue limits for residues of bifenthrin in or on bananas.

[FR Doc. 01–3621 Filed 2–13–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–996; FRL–6765–8]

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–996, must be received on or before March 16, 2001.

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–996 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6224; e-mail address: miller.joanne@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	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

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

2. *In person.* The Agency has established an official record for this action under docket control number PF–996. 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–996 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–996. 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 Cosmetic 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: February 1, 2001.

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 represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing them in any way. The petitioner 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.

Valent U.S.A. Corporation

7F4841 and 0F6171

EPA has received pesticide petitions (7F4841 and 0F6171) from Valent U.S.A. Corporation, 1333 North California Boulevard, Suite 600, Walnut Creek, CA 94596–8025, proposing, 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 flumioxazin, 2-[7-fluoro-3,4-dihydro-3-oxo-4-(2-propynyl)-2H-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1H-isoindole-1,3(2H)-dione, in or on the raw agricultural commodities (RACs) soybean seed and peanut nutmeat at 0.01 parts per million (ppm), and on sugar cane at 0.2 ppm. EPA has determined that the petitions 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 petitions. Additional data may be needed before EPA rules on the petitions.

A. Residue Chemistry

Summary. Radiocarbon plant and animal metabolism studies have demonstrated that the residue of concern is adequately understood for the purposes of these tolerances and is best defined as parent, flumioxazin. Practical, validated residue methodology is available to analyze all appropriate matrices for flumioxazin residue with a limit of quantification (LOQ) of 0.01 ppm, adequate to enforce all proposed tolerances. The potential magnitude of residues of flumioxazin has been evaluated in peanuts, soybeans, and sugarcane and in appropriate processed products and animals. These studies are adequate to support appropriate tolerances and dietary risk analyses.

1. *Plant metabolism*. Metabolism of ^{14}C-flumioxazin labelled in the phenyl- or tetrahydrophthalimido-rings has been studied in soybeans and peanuts. Flumioxazin was rapidly and extensively metabolized to many metabolites in both plants. Even with exaggerated treatment, individual metabolites and parent were only found at very low concentrations. Comparisons of metabolites detected and quantified from plants and animals show that there are no significant aglycones in plants which are not also present in the excreta or tissues of animals. The residue of concern is best defined as the parent.

2. *Analytical method*. Practical analytical methods for detecting and measuring levels of flumioxazin have been developed and validated in/on all appropriate agricultural commodities and respective processing fractions. The extraction methodology has been validated using aged radiochemical residue samples from ^{14}C-metabolism studies. The enforcement method has been validated in soybean at an independent laboratory and by EPA. The LOQ of flumioxazin in the methods is 0.01 ppm which will allow monitoring of food with residues at the levels proposed for the tolerances.

3. *Magnitude of residues*—i. *Soybean*. Forty-two (42) field trials in soybeans were conducted in 1989 through 1993 in EPA regions II (2 trials), IV (9 trials, and V (31 trials), representing approximately 99% of the U.S. soybean growing region. Treatments ranged from 0.09 to 0.47 pounds active per acre, 1–to 5–times the proposed application rate. No residues of flumioxazin were detected in soybean seed from any of the trials, even when application rates were 5 times the proposed label rate. Analysis for the major plant metabolite, 1–OH-HPA, was conducted on seed samples from 13 residue trials. In all cases no residues of the degradate were found, including 2 trials which at a 5X treatment rate.

No residues of flumioxazin were found in any of the processed commodities in 2 processing studies of soybeans treated at 5 times the proposed label rate. In 1 of the processing studies, no residue of 1–OH-HPA was found in any processed fraction. All the data support a proposed tolerance for flumioxazin in/on soybean seed at 0.01 ppm, the LOQ of the enforcement method. No separate tolerances are needed for soybean processed commodities.

ii. *Peanut*. Sixteen (16) field trials in peanuts were conducted in 1992, 1993, and 1996 in EPA regions II (8 trials), III (3 trials), IV (3 trials), and VIII (2 trials), representing virtually all of the U.S. peanut growing regions. Treatments ranged from 0.09 to 0.47 pounds active per acre, 1–to 5–times the proposed application rate. No residues of flumioxazin were detected in any peanut seed sample from any of the trials, even when application rates were 5 times the proposed label rate. Analysis for the major plant metabolite, 1–OH-HPA, was conducted on seed samples from 1 5X processing trial. No residues of the degradate were found.

No residues of flumioxazin were found in any of the processed commodities in 2 processing studies of peanuts treated at 5 times the proposed label rate. One of the processing studies was analyzed for degradate, no residue of 1–OH-HPA was found in any processed fraction.

All the data support a proposed tolerance for flumioxazin in/on peanut seed at 0.01 ppm, the LOQ of the enforcement method. No separate tolerances are needed for peanut processed commodities.

iii. *Sugarcane*. Nine (9) field trials in sugarcane were conducted in 1998 in EPA regions III (4 trials), IV (3 trials), VI (1 trial), and XIII (1 trial), representative of all of the U.S. sugarcane growing

regions. Treatments ranged from 0.37 to 1.12 pounds active per acre, 1–to 3–times the proposed application rate for high organic soils. Finite residues of flumioxazin were detected in fourteen (14) of eighteen (18) duplicate samples. Residues of flumioxazin averaged 0.039 ppm (standard deviation = 0.033 ppm) from the trials conducted at the proposed maximum application rate. Analysis for the major plant metabolite, 1–OH-HPA, was conducted on all cane samples including those from the 2 3X processing trials. No residues of the degradate were found in any cane sample.

No residues of flumioxazin or its degradate were found in the processed commodity refined sugar. In molasses, produced from cane treated at 3 times the proposed label rate, flumioxazin was detected (0.055 ppm) at approximately half of the concentration in the starting sugarcane. The degradate, 1–OH-HPA, was also detected in molasses (0.036 ppm). Because these detections were in a processed sample from cane treated at 3X, and are still less than the proposed RAC tolerance, no separate processed product tolerances are necessary.

All the data support a proposed tolerance for flumioxazin in/on sugarcane at 0.2 ppm. No separate tolerances for parent or degradate are needed for processed commodities.

iv. *Secondary residues*. Using proposed tolerances to calculate the maximum feed exposure to fed animals, and using the very low potential for residue transfer demonstrated in the goat and hen metabolism studies, detectable secondary residues in animal tissues, milk, and eggs are not expected. Therefore, no cow or hen residue feeding studies were performed,and tolerances are not proposed for these commodities.

v. *Rotational crops*. The results of a confined rotational crop accumulation study indicate that no rotational crop planting restrictions or rotational crop tolerances are required.

B. Toxicological Profile

Summary. A full battery of toxicology testing has been performed on flumioxazin including acute, chronic, oncogenicity, developmental, mutagenicity, and reproductive effects. Flumioxazin has low toxicity via oral and dermal routes and is not carcinogenic. Overall, it does not present a genetic hazard. Although developmental and reproductive effects were observed in rats, acute and chronic dietary assessments and worker exposure assessments demonstrate large margins of safety when worst case exposures are compared to the proposed toxic endpoints, along with appropriate uncertainty factors (UF). Valent proposes a chronic population adjusted dose (c-PAD) of 0.018 milligram/kilogram (mg/kg)/day for adults and 0.0018 mg/kg/day for women of child bearing age and infants and children based on the no observed adverse effect level (NOAEL) of 1.8 mg/kg/day for males in the rat 2 year chronic toxicity oncogenicity study. Valent also proposes 3.0 mg/kg/day as the acute oral endpoint based on the developmental toxicity NOAEL from the rat oral developmental toxicity study.

1. *Acute toxicity*. The acute toxicity of technical grade flumioxazin is low by all routes. The battery of acute toxicity studies place flumioxazin in toxicity category III.

i. No abnormal clinical signs, body weight (bwt) changes, or gross pathological findings were observed and no rats died following administration of an oral dose of 5 gram/kilogram (g/kg) of flumioxazin technical. The LD_{50} was greater than 5 g/kg.

ii. No deaths, abnormal clinical signs, bwt changes, or gross pathological findings were observed in rats exposed to a 2.0 g/kg dermal dose of flumioxazin technical. The LD_{50} was greater than 2.0 g/kg.

iii. Rats were exposed to a dust aerosol of flumioxazin technical for 4 hours at measured concentrations of 1.55 or 3.93 milligrams/Liter (mg/L), the maximum attainable concentration. Irregular respiration, bradypnea and a decrease in spontaneous activity were observed in many of the rats, but these effects disappeared within 2 hours after termination of the exposure. No deaths, bwt changes, gross pathological findings or histopathological changes in the respiratory organs were observed. The LC_{50} for flumioxazin technical was determined to be greater than 3.93 mg/L.

iv. Flumioxazin technical produced minimal eye irritation in rabbits which cleared within 48 hours.

v. Flumioxazin technical did not produce any signs of skin irritation in abraded or intact skin of rabbits.

vi. Flumioxazin technical was not a skin sensitizer when tested in guinea pigs using the Magnussen and Kligman maximization test methodology.

2. *Genotoxicity*. Flumioxazin does not present a genetic hazard. Flumioxazin was evaluated in the following tests for mutagenicity:

i. A reverse gene mutation assay in *Salmonella typhimurium* and *Escherichia coli* was negative with or without metabolic activation.

ii. An *in vitro* chromosome aberration assay using chinese hamster ovary (CHO) cells was negative in the absence of metabolic activation. However, an increase in cells with aberrations was observed at doses of $1X10^{-4}$ M and higher in the presence of S9.

iii. An *in vivo* chromosomal aberration study in the rat was negative. No significant increase in the incidence of chromosomal aberrations in bone marrow cells was observed following treatments as high as 5,000 mg/kg.

iv. An *in vitro* unscheduled DNA synthesis (UDS) assay with rat hepatocytes was negative.

v. A mouse micronucleus assay was negative following intraperitoneal injection of 5,000 mg/kg.

3. *Reproductive and developmental toxicity*. Flumioxazin shows developmental toxicity in the absence of maternal toxicity in rats. Mechanistic studies demonstrate that the effect is specifically related to the inhibition of heme synthesis, that the effect shows considerable species specificity, and that the rat is a conservative surrogate species for the potential for developmental toxicity in man. No developmental toxicity was observed in rabbits. Developmental toxicity to the pups was seen in the rat reproduction study at doses that were not toxic to the parental animals.

i. *Rat—Developmental toxicity*. A pilot dose range-finding study was conducted to determine appropriate doses for the definitive oral developmental toxicity study. Flumioxazin technical was administered by oral gavage at dosages of 0, 30, 100, 200, and 500 mg/kg/day to pregnant rats on days 6 through 15 of gestation. No animals died during the course of this study and maternal toxicity was limited to decreased weight gain associated with high embryolethality observed in all dose groups. Fetuses obtained from the 30 mg/kg/day dams had significantly reduced bwts and were found to have both skeletal and visceral abnormalities primarily wavy ribs and ventricular septal defects (VSD). Because of the high degree of embryolethality at doses of 100 mg/kg/day and greater, the highest dose selected for the definitive study was 30 mg/kg/day.

In the definitive study, pregnant rats were administered oral doses of 0, 1, 3, 10, or 30 mg/kg/day of flumioxazin technical on days 6 through 15 of gestation. No maternal deaths were observed at any dosage and no treatment-related effects on clinical signs or food consumption were noted. A decrease in maternal bwt gain was found at 30 mg/kg/day. The number of live fetuses and fetal bwts were decreased in the 30 mg/kg/day group

and the incidence of embryo mortality tended to be higher but was not statistically significant. No effects on the number of implantations, sex ratios, or external abnormalities were found. The incidence of fetuses with cardiovascular abnormalities, primarily VSD, was increased in the 30 mg/kg/day group. Other developmental effects observed at 30 mg/kg/day included an increase in the incidence of wavy ribs and curvature of the scapula, and a decrease in the number of ossified sacrococcygeal vertebral bodies. Based on these findings, a maternal NOAEL of 30 mg/kg/day and a developmental NOAEL of 3 mg/kg/day are proposed.

In a range-finding dermal developmental toxicity study flumioxazin technical was administered dermally at levels of 100, 200, 400, and 800 mg/kg/day in corn oil. No adverse effects on the dams were observed at doses up to 800 mg/kg/day. Because of the high degree of embryolethality at doses of 400 mg/kg/day and greater, the highest dose selected for the definitive study was 300 mg/kg/day.

On days 6–15 of gestation, pregnant rats were exposed dermally to dose levels of 30, 100, or 300 mg/kg/day of flumioxazin technical in corn oil. No adverse effects were observed in the dams throughout the study. Increased fetal mortality was accompanied by decreases in the number of live fetuses and fetal bwts at doses of 300 mg/kg/day. No external abnormalities were observed at any dose level. An increase in cardiovascular abnormalities, primarily VSD, an increase in wavy ribs and a decrease in the number of ossified sacrococcygeal vertebral bodies was observed at 300 mg/kg/day. Based on these results, a maternal NOAEL of 300 mg/kg/day and a developmental NOAEL of 30 mg/kg/day are proposed.

To measure the dermal penetration of flumioxazin under the conditions of the dermal teratology study, 13–day pregnant rats were dermally exposed to (phenyl-^{14}C) flumioxazin. The systemic absorption ranged from 3.8% at 2 hours to 6.9% of the recovered ^{14}C at 48 hours.

ii. *Mechanistic studies*. A series of scientific studies were conducted to examine the mechanism and species differences in the production of developmental toxicity by flumioxazin. This research demonstrates clear species differences between rats, rabbits, mice, and (*in vitro*) humans and indicates a high degree of correlation between the interruption of heme synthesis and the production of developmental toxicity in rats. The data support that the rat is a conservative model for use in the risk assessment for humans. Specifically the studies demonstrate that:

• Flumioxazin interferes with normal heme biosynthesis resulting in sidroblastic anemia and porphyria in adult rats.

• ^{14}C-Flumioxazin administered to pregnant rats on day 12 of gestation crosses the placenta and reaches the rat fetus at maximum levels of radiocarbon (and flumioxazin), 4 hours later.

• No clear pattern of adsorption, distribution, metabolism, or excretion was evident which could account for the species-specific development toxicity in rats.

• The critical period of sensitivity to the developmental effects of flumioxazin in rats is day 12 of gestation. This correlates with the peak period of protoporphyrin IX (PPIX) accumulation in maternal rat liver and the rat fetus.

• A histological examination of rat fetus indicated signs of fetal anemia within 6 hours after dosing, but no histological changes in the fetal rat heart were observed until 36 or 48 hour after treatment. No effects were observed in rabbit fetus treated in the same manner as the rats.

• Other observations in the pathogenesis of the developmental effects of flumioxazin in rat fetuses included; enlarged heart, edema, anemia, (decreased red blood cell count, and hemoglobin), delayed closure of the interventricular foramen, reduced serum protein, and incomplete/delayed ossification of the ribs.

• The observation of enlarged heart, edema, and anemia preceding the occurrence of fetal mortality suggest these effects may be instrumental in the cause of fetal deaths.

• The occurrence of an enlarged heart preceding the failure of interventricular foramen closure could be related to the pathogenesis rather than a direct toxic effect of flumioxazin on cardiac tissue.

• A strong correlation exists between PPIX accumulation, an indicator of disrupted heme synthesis, and developmental toxicity. Evidence of this correlation exists on the basis of species differences between rats and rabbits; the critical period of sensitivity in the rat; and compound-specific differences with two chemicals structurally related to flumioxazin, one which produces developmental effects in rats and one which does not.

iii. *Rabbits*. In a pilot dose range-finding study in rabbits, flumioxazin technical was administered to rabbits on days 7 through 19 of gestation via oral intubation at dosages of 0, 300, 500, 1,000, and 1,500 mg/kg/day. Clinical observations were recorded and on day 29 of gestation, all does were sacrificed, caesarean sectioned, and examined for gross lesions, number of corpora lutea, and number and placement of implantation sites, early and late resorptions and live and dead fetuses. No deaths, abortions, or premature deliveries occurred during this study. Dosages of flumioxazin technical as high as 1,500 mg/kg/day did not result in significant clinical or necropsy observations nor affect maternal bwt gains or feed consumption values. Similarly, there were no adverse effects of dosages of flumioxazin technical up to 1,500 mg/kg/day on embryo-fetal viability, sex ratios, body weights or external morphology.

Based on these results, pregnant rabbits were administered 0, 300, 1,000, or 3,000 mg/kg/day of flumioxazin technical on days 7–19 of gestation by oral gavage. The highest dose was well in excess of the 1,000 mg/kg/day limit dose for developmental toxicity studies. The 3,000 mg/kg/day dosage tended to reduce maternal bwt gains and relative and absolute feed consumption values. No gross lesions were produced at any dose level. The 3,000 mg/kg/day dosage group litters tended to have reduced fetal bwts but these differences were not statistically different. No fetal external, soft tissue, or skeletal malformations or variants were attributable to the test substance. Based on the data, the maternal NOAEL was 1,000 mg/kg/day and the developmental NOAEL was 3,000 mg/kg/day.

iv. *Reproduction*. Two pilot range-finding rat reproduction studies were conducted with flumioxazin technical at dosages from 100 to 5,000 ppm in the diet. In the definitive 2–generation reproduction study in the rat dietary levels of 0, 50, 100, 200, and 300 ppm established a systemic NOAEL of 200 ppm based on increased clinical signs (both sexes and generations); mortality, gross, and histopathology findings in the liver (F_1 females); decreased body weight/weight w/w gain (F_0 and F_1 females during gestation, F_1 males during premating) and decreased food consumption (F_0 and F_1 females during lactation). The reproductive NOAEL of 100 ppm was mainly based on developmental toxicity at 200 ppm. Observed at 200 ppm were a decreased number of liveborn pups and reduced pup bwts. At 300 ppm the following effects were observed: decreased pup bwt (both generations); decreased number of live pups/litter and viability index (both generations); increased incidence of abnormalities of the reproductive organs (predominately atrophied or hypoplastic testes and/or epididymides in F_1 males); decreased gestation index (F_0 females); decreased

mating and fertility indices (F_1 males) and increased clinical signs (F_1 pups).

4. *Subchronic toxicity*. Subchronic toxicity studies conducted with flumioxazin technical in the rat (oral and dermal), mouse and dog indicate a low level of toxicity. Effects observed at high dose levels consisted primarily of anemia and histological changes in the spleen, liver and bone marrow related to the anemia.

i. *Rats*. A 90–day subchronic toxicity study was conducted in rats, with dietary intake levels of 0, 30, 300, 1,000 and 3,000 ppm flumioxazin technical (98.4% purity). The NOAEL of 300 ppm was based on decreased bwts; anemia; increases in absolute and/or relative liver, kidney, brain, heart, and thyroid weights, and histological changes in the spleen, liver, and bone marrow related to the anemia.

A second 90–day subchronic toxicity study was conducted with a sample of flumioxazin technical of typical purity (94.8%) at dietary concentrations of 0, 30, 300, 1,000, and 3,000 ppm. The NOAEL was 30 ppm based on anemia and related hematological changes; increases in liver, heart, kidney, and thyroid weights; and histological changes in the spleen, liver, and bone marrow related to the anemia.

ii. *Mice*. Dose levels for the mouse oncogenicity study were selected on the basis of results from a 4–week study of flumioxazin in the diets of mice at levels of 0, 1,000, 3,000, and 10,000 ppm. In this range-finding study, increases in absolute and/or relative liver weights were noted for males at 10,000 ppm, and at 3,000, and 10,000 ppm for females.

iii. *Dogs*. A 90–day study was conducted in dogs given gelatin capsules containing 0, 10, 100, or 1,000 mg/kg/day. The NOAEL of 10 mg/kg/day for this study was based on a slight prolongation of activated partial thromboplastin time; increased total cholesterol and phospholipid and elevated alkaline phosphatase activity; increased absolute and relative liver weights; and histological changes in the liver.

iv. A 21–day dermal toxicity study was conducted in rats at dose levels of 0, 100, 200, or 1,000 mg/kg/day. The NOAEL was determined to be 300 mg/kg/day based on significantly decreased hemoglobin and hematocrit values for females.

5. *Chronic toxicity*. Flumioxazin technical has been tested in chronic studies with dogs, rats and mice. Valent proposes a chronic oral endpoint of 1.8 mg/kg bw/day, based on the NOAEL for male rats in the 2–year chronic toxicity oncogenicity feeding study.

i. *Rats*. In a 2–year study in rats, flumioxazin technical administered in the diet at levels of 0, 50, 500, and 1,000 ppm produced anemia and chronic nephropathy in rats of the 500 and 1,000 ppm groups. The anemia lasted throughout the treatment period, however, it was not progressive nor aplastic in nature. No evidence of an oncogenic effect was observed in rats and the NOAEL for this study was 50 ppm (1.8 mg/kg/day for males and 2.2 mg/kg/day for females).

ii. *Mice*. Flumioxazin technical was administered to mice at doses of 0, 300, 3,000, and 7,000 ppm in diet for 78 weeks. An increased incidence of hypertrophy of centrilobular hepatocytes was observed in males of the 3,000 and 7,000 ppm groups. Increases in the incidence of diffuse hypertrophy and single cell necrosis of hepatocytes were observed in females of the 3,000 and 7,000 ppm groups. There was no evidence of any treatment-related effect on the incidence of tumors. Flumioxazin technical was not carcinogenic to mice, and the NOAEL for this study was 300 ppm (31.1 mg/kg/day for males and 36.6 mg/kg/day for females).

iii. *Dogs*. Flumioxazin technical was administered to dogs in capsules at daily doses of 0, 10, 100, and 1,000 mg/kg bwt/day for one year. Treatment-related changes in blood biochemistry included increased total cholesterol and phospholipid values, elevated *alpha*-2-globulin ratio at 1,000 mg/kg/day and increased alkaline phosphatase activity in the 100 and 1,000 mg/kg/day groups. The absolute and/or relative liver weights were elevated in one animal in the 100 mg/kg/day group and four animals of the 1,000 mg/kg/day group. Minimal treatment-related histological changes were noted in the livers of animals at the 1,000 mg/kg/day group. Based on these data the NOAEL was determined to be 10 mg/kg/day.

iv. *Carcinogenicity*. Flumioxazin is not a carcinogen. Adequately designed studies with both rats and mice have shown that repeated high dose exposures produced anemia, liver effects, and nephropathy, but did not produce cancer in test animals. No oncogenic response was observed in a rat 2–year chronic feeding/oncogenicity study or in a 78 week study on mice. Valent anticipates that the oncogenicity classification of flumioxazin will be ''E'' (no evidence of carcinogenicity for humans).

6. *Animal metabolism*. The absorption, tissue distribution, metabolism and excretion of phenyl–^{14}C-labeled flumioxazin were studied in rats after single oral doses of 1 or 100 mg/kg, and after a single oral dose of 1 mg/kg following 14 daily oral doses at 1 mg/kg of unlabelled material. For all dose groups, most (97.9–102.3%) of the administered radiolabel was excreted in the urine and feces within seven days after radiolabeled test material dosing. Radiocarbon tissue residue levels were generally low on the seventh day post-dosing. Radiocarbon residues were higher in blood cells than tissues. Tissue ^{14}C-residue levels, including those for fat, were lower than blood levels which suggests little potential for bioaccumulation. Urinary radiocarbon excretion was greater in females than males in all dose groups.

Flumioxazin was extensively metabolized by rats and 35 metabolites were detected and quantitated. The main metabolic reactions in rats were:

- Hydroxylation of the tetrahydrophthalimide moiety.
- Incorporation of the sulfonic acid group into the tetrahydrophthalimide moiety.
- Cleavage of the imide linkage.
- Cleavage of the benzoxazinoneamide.
- Acetylation of the aniline nitrogen group.

7. *Metabolite toxicology*. Metabolism studies of flumioxazin in rats, goats, hens, soybeans, and peanuts, as well as the fish bioaccumulation study demonstrate that the parent is very rapidly metabolized and, in animals, eliminated. The metabolites detected and quantified from plants and animals show that there are no significant aglycones in plants which are not also present in the excreta or tissues of animals. Because parent and metabolites are not retained in the body, the potential for acute toxicity from *in situ* formed metabolites is low. The potential for chronic toxicity is adequately tested by chronic exposure to the parent at the MTD and consequent chronic exposure to the internally formed metabolites.

8. *Endocrine disruption*. No special studies to investigate the potential for estrogenic or other endocrine effects of flumioxazin have been performed. However, as summarized above, a large and detailed toxicology data base exists for the compound including studies in all required categories. These studies include acute, sub-chronic, chronic, developmental, and reproductive toxicology studies including detailed histology and histopathology of numerous tissues, including endocrine organs, following repeated or long term exposures. These studies are considered capable of revealing endocrine effects. The results of all of these studies show no evidence of any endocrine-mediated effects and no pathology of the

endocrine organs. Consequently, it is concluded that flumioxazin does not possess estrogenic or endocrine disrupting properties.

C. Aggregate Exposure

1. *Dietary exposure*. A full battery of toxicology testing including studies of acute, chronic, oncogenicity, developmental, mutagenicity, and reproductive effects is available for flumioxazin. EPA has not had the opportunity to review all of the toxicity studies on flumioxazin and has not established toxic endpoints. Thus, in these risk assessments Valent proposes as chronic oral toxic endpoint the NOAEL for males from the rat chronic/oncogenicity feeding study, 1.8 mg/kg/day; and as the acute oral toxic endpoint the NOAEL (proposed by EPA) from the rat oral developmental toxicity study of 3.0 mg/kg/day. Because the acute oral endpoint is for fetal toxicity to rats, Valent has chosen to use the full, extra 10X uncertainty factor for appropriate sub-groups of the population as mandated by FQPA.

i. *Food*. a. Acute dietary exposure to flumioxazin residues was calculated for the U.S. population, women 13 years and older, and 5 children subgroups. The calculated exposure values are very conservative because tolerance-level residues and 100% of the crop treated are assumed. The calculated exposures and margins of exposure (MOE) for the higher exposed proportions of the subgroups are listed below. In all cases, margins of exposure relative to the acute endpoint from the rat oral developmental toxicity study exceed 1–thousand.

Tier I Calculated Acute Dietary Exposures to the Total U.S. Population and Selected Sub-Populations to Flumioxazin Residues in Food.

		Population subgroup	95th Percentile	99.9th Percentile
	Exposure (mg/kg/day)	MOE	Exposure (mg/kg/day)	MOE
Total U.S. population	0.000226	13,260	0.000791	3,791
Women 13 years and older	0.000146	20,592	0.000379	7,916
Children 7 to 12 years	0.000295	10,165	0.000758	3,956
Children 1 to 6 years	0.000397	7,559	0.000937	3,202
All infants	0.000801	3,744	0.001414	2,121
Non-nursing infants (<1–year old)	0.000861	3,483	0.001417	2,117
Nursing infants (<1–year old)	0.000338	8,877	0.001244	2,411

b. Chronic dietary exposures to flumioxazin residues was calculated for the U.S. population and 25 population subgroups. This Tier I analysis assumes tolerance-level residues and 100% of the crops treated. The results from several representative subgroups are listed below. All calculated chronic dietary exposures were below 13% of the c-PAD. The c-PAD was defined as the NOAEL from the rat oral 2–year combined chronic toxicity oncogenicity study (1.8 mg/kg/day for males) divided by the 100X UF for the adult exposures (0.018 mg/kg/day), or divided by 1,000 to include the extra 10X uncertainty factor for adult females of child-bearing age and infant and children population subgroups (0.0018 mg/kg/day). Generally speaking, the Agency has no cause for concern if total residue contribution for published and proposed tolerances is less than 100% of the c-PAD.

Tier I Calculated Chronic Dietary Exposures to the Total U.S. Population and Selected Sub-Populations to Flumioxazin Residues in Food.

RESULTS OF CHRONIC DIETARY EXPOSURE ESTIMATE

Population Subgroup	Exposure (mg/kg/day)	Percent of c-PAD
Total U.S. population (total) (0.018)*	0.000075	0.42
Females 13 + (nursing) (0.0018)*	0.000053	2.94
Females 13 + (preg/not nursing) (0.0018)*	0.000070	3.89
Children 7–12 yrs (0.018)*	0.000132	0.73
Children 1–6 yrs (0.0018)*	0.000163	9.06
All infants (<1 year) (0.0018)*	0.000190	10.56
Non-nursing infants (0.0018)*	0.000229	12.72
Nursing infants (0.0018)*	0.000058	3.22

* C-PAD value used to calculate percent of occupancy.

ii. *Drinking water*. Since flumioxazin is applied outdoors to growing agricultural crops, the potential exists for the parent or its metabolites to reach ground or surface water that may be used for drinking water. Because of the physical properties of flumioxazin, it is unlikely that flumioxazin or its metabolites can leach to potable groundwater. To quantify potential exposure from drinking water, surface water concentrations for flumioxazin were estimated using generic expected environmental concentration (GENEEC) 1.2. Because K_{OC} could not be measured directly in adsorption-desorption studies because of chemical stability, GENEEC values representative of a range of K_{OC} values were modeled. The simulation that was selected for these exposure estimates used a K_{OC} of 150, indicating high mobility. The peak GENEEC concentration predicted in the simulated pond water was 12.59 parts per billion (ppb). Using standard assumptions about body weight and water consumption, the acute exposure from this drinking water would be 0.00036 and 0.0013 mg/kg/day for adults and children, respectively. The 56–day GENEEC concentration predicted in the simulated pond water was 0.45 ppb. Chronic exposure from this drinking water would be 0.0000129 and 0.000045 mg/kg/day for adults and children, respectively; 2.5% of the c-PAD of 0.0018 mg/kg/day for children.

Based on this worse case analysis, the contribution of drinking water to the dietary exposure is comparable to that from food, but the risk is still negligible.

2. *Non-dietary exposure*. Flumioxazin is proposed only for agricultural uses and no homeowner, turf, or industrial uses. Thus, no non-dietary risk assessment is needed.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that the Agency must consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Available information in this context include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way.

There are other pesticidal compounds that are structurally related to flumioxazin and have similar effects on animals. In consideration of potential cumulative effects of flumioxazin and other substances that may have a common mechanism of toxicity, there are currently no available data or other reliable information indicating that any toxic effects produced by flumioxazin would be cumulative with those of other chemical compounds. Thus, only the potential risks of flumioxazin have been considered in this assessment of aggregate exposure and effects.

Valent will submit information for EPA to consider concerning potential cumulative effects of flumioxazin consistent with the schedule established by EPA in the **Federal Register** at 62 FR 42020 (August 4, 1997), FRL–5734–6 and other subsequent EPA publications pursuant to the Food Quality Protection Act (FQPA).

E. Safety Determination

The FQPA of 1996 introduced a new standard of safety, a reasonable certainty of no harm. To make this determination, at this time the Agency should consider only the incremental risk of flumioxazin in its exposure assessment. Since the potential chronic and acute exposures to flumioxazin are small (<<100% of c-PAD, MOE >>1,000) the provisions of the FQPA of 1996 will not be violated.

1. *U.S. population*—i. *Acute risk*: The potential acute exposure from food to the U.S. population and various non-child/infant population subgroups (shown above) provide MOE values exceeding 1,000. Addition of the worse case, but small ''background'' dietary exposure from water reduces the MOE value at the 99.9th percentile from 3,791 to 2,606. In a conservative policy, the Agency has no cause for concern if total acute exposure to adults calculated for the 99.9th percentile yields a MOE of 100 or larger. For Women of child bearing age where a MOE of 1,000 or larger is appropriate, the addition of water to the diet of women, 13 years and older, reduces the MOE (99.9th percentile) from 20,592 to 7,916. It can be concluded that there is a reasonable certainty that no harm will result to the overall U.S. population and many non-child/infant subgroups from aggregate, acute exposure to flumioxazin residues.

ii. *Chronic risk*. Using the dietary exposure assessment procedures described above for flumioxazin, calculated chronic dietary exposure resulting from residue exposure from proposed uses of flumioxazin is minimal. The estimated chronic dietary exposure from food for the overall U.S. Population and many non-child/infant subgroups is 0.42 to 3.89% of the appropriate c-PAD. Addition of the small but worse case potential exposure from drinking water (calculated above) increases exposure by 0.000013 mg/kg /day and the maximum occupancy of the c-PAD from 3.89% to 5.22% (women 13 +). Generally, the Agency has no cause for concern if total residue contribution is less than 100% of the appropriate c-PAD. It can be concluded that there is a reasonable certainty that no harm will result to the overall U.S. Population and many non-child/infant subgroups from aggregate, chronic exposure to flumioxazin residues.

2. *Infants and children—Safety factor for infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of flumioxazin, FFDCA section 408 provides that EPA shall apply an additional margin of safety, up to ten-fold, for added protection for infants and children in the case of threshold effects unless EPA determines that a different margin of safety will be safe for infants and children.

i. *Children*. The toxicological data base for evaluating prenatal and postnatal toxicity for flumioxazin is complete with respect to current data requirements. Developmental toxicity was observed by both oral and dermal routes in rats. Therefore, reliable data support use of the standard 100–fold UF and an additional UF of 10X for flumioxazin to be further protective of infants and children.

ii. *Developmental toxicity studies*. Flumioxazin shows developmental toxicity in the absence of maternal toxicity in rats. Mechanistic studies demonstrate that the effect is specifically related to the inhibition of heme synthesis, that the effect shows considerable species specificity, and that the rat is a conservative surrogate species for the potential for developmental toxicity in man. No developmental toxicity was observed in rabbits. Developmental toxicity to the pups was seen in the rat reproduction study at doses that were not toxic to the parental animals.

a. *Rats*. In the definitive rat oral developmental toxicity study, pregnant rats were administered oral doses of 0, 1, 3, 10, or 30 mg/kg/day of flumioxazin technical on days 6 through 15 of gestation. No maternal deaths were observed at any dosage and no treatment-related effects on clinical signs or food consumption were noted. A decrease in maternal body weight gain was found at 30 mg/kg/day. The number of live fetuses and fetal body weights were decreased in the 30 mg/kg/day group and the incidence of embryo mortality tended to be higher but was not statistically significant. No effects on the number of implantations, sex ratios, or external abnormalities were found. The incidence of fetuses with cardiovascular abnormalities, primarily VSD, was increased in the 30 mg/kg/day group. Other developmental effects observed at 30 mg/kg/day included an increase in the incidence of wavy ribs and curvature of the scapula, and a decrease in the number of ossified sacrococcygeal vertebral bodies. Based on these findings, a maternal NOAEL of 30 mg/kg/day and a developmental NOAEL of 3 mg/kg/day are proposed.

On days 6–15 of gestation, pregnant rats were exposed dermally to dose levels of 30, 100, or 300 mg/kg/day of flumioxazin technical in corn oil. No adverse effects were observed in the dams throughout the study. Increased fetal mortality was accompanied by decreases in the number of live fetuses and fetal body weights at doses of 300 mg/kg/day. No external abnormalities were observed at any dose level. An increase in cardiovascular abnormalities, primarily VSD, an increase in wavy ribs and a decrease in the number of ossified vertebral bodies was observed at 300 mg/kg/day. Based on these results, a maternal NOAEL of

300 mg/kg/day and a developmental NOAEL of 30 mg/kg/day are proposed.

To measure the dermal penetration of flumioxazin under the conditions of the dermal teratology study, 13–day pregnant rats were dermally exposed to (phenyl-^{14}C) flumioxazin. The systemic absorption ranged from 3.8% at 2 hours to 6.9% of the recovered ^{14}C at 48 hours.

b. *Mechanistic studies.* A series of scientific studies were conducted to examine the mechanism and species differences in the production of developmental toxicity by flumioxazin. This research demonstrates clear species differences between rats, rabbits, mice, and (*in vitro*) humans and indicates a high degree of correlation between the interruption of heme synthesis and the production of developmental toxicity in rats. The data support that the rat is a conservative model for use in the risk assessment for humans. Specifically the studies demonstrate that:

• Flumioxazin interferes with normal heme biosynthesis resulting in sidroblastic anemia and porphyria in adult rats.

• ^{14}C-Flumioxazin administered to pregnant rats on day 12 of gestation crosses the placenta and reaches the rat fetus at maximum levels of radiocarbon (and flumioxazin), 4 hours later.

• No clear pattern of adsorption, distribution, metabolism, or excretion was evident which could account for the species-specific development toxicity in rats.

• The critical period of sensitivity to the developmental effects of flumioxazin in rats is day 12 of gestation. This correlates with the peak period of protoporphyrin IX (PPIX) accumulation in maternal rat liver and the rat fetus.

• A histological examination of rat fetus indicated signs of fetal anemia within 6 hours after dosing, but no histological changes in the fetal rat heart were observed until 36 or 48 hour after treatment. No effects were observed in rabbit fetus treated in the same manner as the rats.

• Other observations in the pathogenesis of the developmental effects of flumioxazin in rat fetuses included; enlarged heart, edema, anemia, (decreased red blood cell count and hemoglobin), delayed closure of the interventricular foramen, reduced serum protein and incomplete/delayed ossification of the ribs.

• The observation of enlarged heart, edema, and anemia preceding the occurrence of fetal mortality suggest these effects may be instrumental in the cause of fetal deaths.

• The occurrence of an enlarged heart preceding the failure of interventricular foramen closure could be related to the pathogenesis rather than a direct toxic effect of flumioxazin on cardiac tissue.

• A strong correlation exists between PPIX accumulation, an indicator of disrupted heme synthesis, and developmental toxicity. Evidence of this correlation exists on the basis species differences between rats and rabbits; the critical period of sensitivity in the rat; and compound-specific differences with two chemicals structurally related to flumioxazin, one which produces developmental effects in rats and one which does not.

c. *Rabbits.* Pregnant rabbits were administered 0, 300, 1,000, or 3,000 mg/kg/day of flumioxazin technical on days 7–19 of gestation by oral gavage. The highest dose was well in excess of the 1,000 mg/kg/day limit dose for developmental toxicity studies. The 3,000 mg/kg/day dosage tended to reduce maternal body weight gains and relative and absolute feed consumption values. No gross lesions were produced at any dose level. The 3,000 mg/kg/day dosage group litters tended to have reduced fetal body weights but these differences were not statistically different. No fetal external, soft tissue, or skeletal malformations or variants were attributable to the test substance. Based on these data, the maternal NOAEL was 1,000 mg/kg/day and the developmental NOAEL was 3,000 mg/kg/day.

iii. *Reproductive toxicity study.* In the 2–generation reproduction study in the rat dietary levels of 0, 50, 100, 200, and 300 ppm established a systemic NOAEL of 200 ppm based on increased clinical signs (both sexes and generations); mortality, gross and histopathology findings in the liver (F_1 females); decreased body weight/weight gain (F_0 and F_1 females during gestation, F_1 males during premating) and decreased food consumption (F_0 and F_1 females during lactation). The reproductive NOAEL of 100 ppm was mainly based on developmental toxicity at 200 ppm. Observed at 200 ppm were a decreased number of liveborn pups and reduced pup body weights. At 300 ppm the following effects were observed:

• Decreased pup body weight (both generations).

• Decreased number of live pups/litter and viability index (both generations).

• Increased incidence of abnormalities of the reproductive organs (predominately atrophied or hypoplastic testes and/or epididymides in F_1 males).

• Decreased gestation index (F_0 females).

• Decreased mating and fertility indices (F_1 males) and increased clinical signs (F_1 pups).

iv. *Prenatal and postnatal sensitivity.* Flumioxazin interferes with normal heme biosynthesis resulting in sidroblastic anemia and porphyria in adult rats. Clear species differences between rats, rabbits, mice, and (*in vitro*) humans were demonstrated. There is a high degree of correlation between the interruption of heme synthesis, consequent PPIX accumulation, and the production of developmental toxicity in rats. The data support that the rat is a conservative model for use in the risk assessment for humans.

v. *Acute exposure and risk.* The potential acute exposure from food to the various child and infant population subgroups (shown above) all provide MOE values exceeding 1,000. Addition of the worse case, but small ''background'' dietary exposure from water (0.00126 mg/kg/day) to the 99.9th percentile food exposure for infants reduces the MOE value from 2,117 to 1,121. In a conservative policy with the addition of the FQPA extra 10X UF, the Agency has no cause for concern if total acute exposure to infants and children calculated for the 99.9th percentile yields a MOE of 1,000 or larger. It can be concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate, acute exposure to flumioxazin residues.

vi. *Chronic exposure and risk.* Using the conservative exposure assumptions described above, the percentage of the c-PAD that will be utilized by dietary (food only) exposure to residues of flumioxazin ranges from 0.73% for children 7–12 years, to 12.72% for non-nursing infants. Adding the worse case potential incremental exposure to infants and children from flumioxazin in drinking water (0.000045 mg/kg/day) increases the aggregate, chronic dietary exposure by 2.5%. The addition of the exposure attributable to drinking water increases the occupancy of the c-PAD for non-nursing infants to 15.22%. EPA generally has no concern for exposures below 100% of the c-PAD because the c-PAD, in this case including the extra 10X FQPA UF, represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. It can be concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate, chronic exposure to flumioxazin residues.

vii. *Determination of safety—Safety determination summary.* Aggregate acute or chronic dietary exposure to various sub-populations of children and adults demonstrate acceptable risk. Chronic dietary exposures to flumioxazin occupy considerably less

than 100% of the appropriate c-PAD, and all acute dietary MOE values exceed 1,000. Chronic and acute dietary risk to children from flumioxazin should not be of concern. Further, flumioxazin has only agricultural uses and no other uses, such as indoor pest control, homeowner or turf, that could lead to unique, enhanced exposures to vulnerable sub-groups of the population. It can be concluded that there is a reasonable certainty that no harm will result to the U.S. population or to any sub-group of the U.S. population, including infants and children, from aggregate chronic or aggregate acute exposures to flumioxazin residues resulting from proposed uses.

F. International Tolerances

Flumioxazin has not been evaluated by the JMPR and there are no Codex maximum residue limits (MRL) for flumioxazin. MRL values have been established to allow the following uses of flumioxazin in the following countries.

Country	Crop	MRL (ppm)
Brazil	Soybean	0.05
Argentina	Soybean	0.015
	Sunflower	0.02
Paraguay	Soybean	0.015
South Africa	Soybean	0.02
	Groundnut	0.02

[FR Doc. 01–3620 Filed 2–13–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50879; FRL–6765–2]

Experimental Use Permit; Cry1Ac Soybean Receipt of Application for Extension

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 524–EUP–91 from Monsanto Company requesting an extension for an experimental use permit (EUP) for the *Bacillus thuringiensis* Cry1Ac protein and the genetic material necessary for its production (vectors PV-GMBT01 and PV-GMBT02) in soybean. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments, identified by docket control number OPP–50879, must be received on or before April 2, 2001.

ADDRESSES: Comments and data may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50879 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Alan Reynolds, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 605–0515; e-mail address: *reynolds.alan@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 interested in plant-pesticides or who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). 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/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–50879. 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.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50879 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 Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–50879. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

EPA has received an application from Monsanto Company, 700 Chesterfield Parkway North, St. Louis, MO 63198, for an extension of their EUP (524–EUP–91) for *Bacillus thuringiensis* Cry1Ac protein and the genetic material necessary for its production (vectors PV-GMBT01 and PV-GMBT02) in soybean. Notice of the original issuance of this EUP was published in the **Federal Register** on June 22, 2000 (65 FR 38828) (FRL–6592–5). Monsanto Company proposes to plant 199.7 acres of the plant-pesticide in Alabama, Arkansas, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Pennsylvania, Puerto Rico, and Tennessee in 2001. All soybeans will be grown under containment procedures. Plant material and seed produced will be destroyed or used for experimental purposes only.

III. What Action is the Agency Taking?

Following the review of the Monsanto Company application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

IV. What is the Agency's Authority for Taking this Action?

The Agency's authority for taking this action is under FIFRA section 5.

List of Subjects

Environmental protection, Experimental use permits.

Dated: January 31, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–3384 Filed 2–13–01; 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, NW., Room 940. 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.: 011606–003.

Title: COSCO/KL Slot Exchange Agreement.

Parties: COSCO Container Lines, Kawasaki Kisen Kaisha, Ltd.

Synopsis: The proposed amendment extends the effectiveness of the agreement to terminate upon the effective date of the COSCO/KL/YMUK Asia/U.S. Pacific Coast Slot Allocation Agreement. The agreement shall continue to apply to voyages in progress at the time the successor agreement becomes effective until completion of same. The parties requested expedited review.

Agreement No.: 011746.

Title: COSCON/KL/YMUK Asia/U.S. Pacific Coast, Slot Allocation Agreement.

Parties: COSCO Container Lines, Kawasaki Kisen Kaisha, Ltd., Yangming (UK) Ltd.

Synopsis: The proposed agreement would replace three previous agreements between the parties and/or their affiliates. The parties requested expedited review.

Dated: February 9, 2001.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–3765 Filed 2–13–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission 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, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

O. K. Shipping, Inc., 17936 E. Ajax Circle, Suite C, City of Industry, CA 91748. Officers: David Homan, President/Secretary, (Qualifying Individual), Chin-Cheng Kuo, Chairman

International Cargo Consolidators, Inc., 10049 N.W. 89th Avenue, Bay #2–3, Medley FL 33178. Officers: Maria T. Olivero, Vice President, (Qualifying Individual), Pedro Rodriguez, President

Simpson's Shipping Enterprise, 166 West First Street, Mount Vernon, NY 10550. Officers: George Simpson, Manager, (Qualifying Individual), Linda Morris Simpson, Partner

Safco Int'l Freight Forwarders, Inc., 5250 W. Centuy Blvd., Suite 458, Los Angeles, CA 90045. Officers: John Edison Crabtree, Vice President, (Qualifying Individual), Theresa, Suh-Bih Chen, President/CEO

P.Y. Logistics, Inc., Pumyang Overseas Express U.S.A., 19401 S. Main Street, Suite 102, Gardena, CA 90248. Officer: Hae Sun Song, President, (Qualifying Individual)

Future International Inc., 11222 La Cienega Blvd., #448, Inglewood, CA 90304. Officer: Sung Moo Kim, President, (Qualifying Individual),

Harbour-Link International, Inc., 1579 Louis Kossuth Ave., P.O. Box 470, Bohemia, NY 11716. Officers: Mario N. Serrao, President, (Qualifying Individual), Sheldon F. Serrao, Vice President

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Cubic Express Company Ltd., 60 Helwig Street, Berea, OH 44017. Officers: Edward L. Evans, General Manager, (Qualifying Individual), Keith W. Baker, President

FEI Holdings d/b/a The Focus 21 Forwarding Group/Vision Freight Lines, 2813 Parkview Terrace, Fairfield, CA 94533. Officers: Matthew Sanford Ford, CEO/President, (Qualifying Individual), Barbara A. Walthall-Ford, Vice President

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Global Shipping Enterprises Inc., 8425 NW 29 Street, Miami, FL 33122. Officer: Gustavo Merck, President/Secretary, (Qualifying Individual)

Military Relocation Services, Inc., 815 S. Main Street, Jacksonville, FL 32207. Officers: Stephen F. Crooks, Vice President, (Qualifying Individual), Stephen M. Suddath, President

Cargo Links Logistics, Inc., 5581 NW 72 Avenue, Miami, FL 33166. Officers: Jose S. Sanchez, Vice President, (Qualifying Individual), Cristina Iapichino, President/Secretary

All Dimensions, Inc., 1094 Jefferson Court, Newburgh, IN 47630. Officers: Rhine Blake, President, (Qualifying Individual), Ann Blake, Vice President

Dated: February 9, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–3767 Filed 2–13–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocations

The Federal Maritime Commission hereby gives notice that the following ocean transportation intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding dates shown below:

License Number: 13917N.
Name: Best Efforts Express, Inc.
Address: 177–25 Rockway Blvd., Rm. 203, Jamaica, NY 11434.
Date Revoked: January 18, 2001.
Reason: Failed to maintain a valid bond.

License Number: 16811F.
Name: Chemo International, Inc.
Address: 8100 N.W. 68th Street, Miami, FL 33166.
Date Revoked: December 16, 2000.
Reason: Failed to maintain a valid bond.

License Number: 11486N.
Name: CHR Greene International Company d/b/a Green Sea-Trailer Line.
Address: 8100 Mitchell Road, Suite 200, Eden Prairie, MN 55344.
Date Revoked: January 13, 2001.
Reason: Failed to maintain a valid bond.

License Number: 563F.
Name: Frances J. Calabro d/b/a Seven Seas Mercantile Transport Co.
Address: 200 Spring Street, New York, NY 10012.
Date Revoked: January 20, 2001.
Reason: Failed to maintain a valid bond.

License Number: 16429N.
Name: Global Consolidation Services, LLC.
Address: 200 Middlesex Avenue, Carteret, NJ 07008.
Date Revoked: January 12, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4607F.
Name: Jolaco Maritime Services Inc.
Address: 3620 Willow Bend, Suite 1102, Houston, TX 77054.
Date Revoked: January 7, 2001.
Reason: Failed to maintain a valid bond.

License Number: 14390N.
Name: KAI Express Inc.
Address: 925 S. Atlantic Blvd., Suite #206, Monterey Park, CA 91754.
Date Revoked: January 3, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4444F.
Name: Lloyd International, Inc.
Address: 931 Main Street, Norwell, MA 02061.
Date Revoked: January 10, 2001.
Reason: Failed to maintain a valid bond.

License Number: 15483N.
Name: Manna Freight Systems, Inc.
Address: 2440 Enterprise Drive, Mendota Heights, MN 55120.
Date Revoked: January 18, 2001.
Reason: Failed to maintain a valid bond.

License Number: 2714N and 2714F.
Name: Oceangate Forwarding, Inc. d/b/a Oceangate Container Line.
Address: 19401 S. Main Street, Suite 102, Gardena, CA 90248
Date Revoked: January 7, 2001 and January 18, 2001.
Reason: Failed to maintain valid bonds.

License Number: 1770F.
Name: Svetlana Cirilov d/b/a Lana International.
Address: 11099 S. La Cienega Blvd., Suite 185, Los Angeles, CA 90045.
Date Revoked: January 6, 2001.
Reason: Failed to maintain a valid bond.

License Number: 3863N.
Name: Tera Trading Group, Inc. d/b/a T.T.G. International Freight Forwarders.
Address: 1850 N.W. 82nd Avenue, Miami, FL 33126.
Date Revoked: January 14, 2001.
Reason: Failed to maintain a valid bond.

License Number: 15089N.
Name: World Express Air/Sea Inc.
Address: Yangji Bldg., 2nd Floor, 162–6 Dongkyo-Dong, Mapo-Ku, Seoul, Korea.
Date Revoked: December 7, 2000.
Reason: Failed to maintain a valid bond.

License Number: 10845N.
Name: Worldstar Cargo Management, Inc.
Address: 19851 E. Valley Blvd., Walnut, CA 91789.
Date Revoked: January 11, 2001.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–3768 Filed 2–13–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Reissuances

Notice is hereby given that the following Ocean Transportation

Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR 515.

License No.	Name/address	Date reissued
4055N	International Cargo Services, Inc., 139 Mitchell Avenue, Suite #106, South San Francisco, CA 94080.	December 31, 2000.
18F	International Transportation Corp., 17 Battery Place, Suite 928, New York, NY 10004	June 10, 1999.
4577F	Transtar Shipping, Inc., 405 Victory Avenue, Suite D, South San Francisco, CA 94080	January 1, 2001.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–3766 Filed 2–13–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

Agency Holding the Meeting: Board of Governors of the Federal Reserve System.

Time and Date: 11:00 a.m., Tuesday, February 20, 2001.

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 items carried forward from a previously announced meeting.

Contact Person for More Information: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: February 9, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–3814 Filed 2–9–01; 4:49 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Mnagement and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. *Office of Research Integrity Educational Program:* A Needs Assessment—NEW—The Office of Research Integrity (ORI) is proposing a survey of officials of research institutions to collect information on training needs in the areas of the promotion of research integrity and the prevention of scientific misconduct. The results of this survey will be used to develop a strategic plan for the ORI educational program which will be consistent with the recent organizational change requiring ORI to place greater emphasis on education and prevention. *Respondents:* Research Institutions; *Number of Respondents:* 500; *Burden per Response:* 10 minutes; *Total Burden:* 84 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Mnagement and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington DC, 20201. Written comments should be received within 30 days of this notice.

Dated: January 29, 2001.

Kerry Weems

Acting Deputy Assistant Secretary, Budget.

[FR Doc. 01–3737 Filed 2–13–01; 8:45 am]

BILLING CODE 4150–31–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Peripheral and Central Nervous System Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Peripheral and Central Nervous System Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 13, 14, and 15, 2001, 8 a.m. to 5 p.m.

Location: Holiday Inn, The Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact: Sandra L. Titus or Lauren W. Parcover, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, or e-mail: Tituss@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area) code 12543. Please call the Information Line for up-to-date information on this meeting.

Agenda: On March 13, 2001, the committee will discuss drug development for individuals with mild cognitive impairment (MCI). In the

recent literature there has been a discussion of an entity referred to as MCI. While MCI is considered by some to be a distinct clinical entity, others consider that the majority of patients diagnosed with MCI have an early form of Alzheimer's Disease. It is critical for regulatory purposes that the issues surrounding this diagnosis are fully explored. Toward that end the committee will listen to speakers and discuss the following and other related questions:

1. Can MCI be clearly defined in a clinical setting?
2. Are there valid criteria for the diagnosis of MCI?
3. Can MCI be distinguished from Alzheimer's Disease and other causes of dementia?
4. What outcome measures are appropriate to use in clinical drug trials conducted in MCI?
5. Should clinical drug trials in MCI incorporate any special features in their design?

On March 14, 2001, the committee will discuss drug development for individuals with vascular dementia. While vascular dementia is considered by some to be a distinct entity others do not agree that it can be easily distinguished from Alzheimer's Disease and/or other dementias. It is critical for regulatory purposes that the issues surrounding this diagnosis are fully explored. Toward that end the committee will listen to presentations and then discuss the following and other related questions:

1. Can vascular dementia be clearly defined in a clinical setting?
2. Are there valid criteria for the diagnosis of vascular dementia?
3. Can vascular dementia be distinguished from Alzheimer's Disease and other causes of dementia?
4. What outcome measures are appropriate to use in clinical drug trials conducted in vascular dementia?
5. Should clinical drug trials in vascular dementia incorporate any special features in their design?

FDA will provide a background position paper on MCI and on vascular dementia prior to each meeting. When the background material becomes available, it will be posted under the Peripheral and Central Nervous Systems Drugs Advisory Committee Docket site at http://www.fda.gov/ohrms/dockets/ac/acmenu.htm. (Click on the year 2001 and scroll down to the Peripheral and Central Nervous Systems Drugs meetings.)

On March 15, 2001, the committee will consider the safety and efficacy of new drug application (NDA) 21–196, Xyrem® (sodium oxybate, Orphan Medical, Inc.), proposed to reduce the incidence of cataplexy and to improve the symptom of daytime sleepiness for persons with narcolepsy. A main focus of the deliberations will be on risk management issues.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by March 1, 2001. On March 13 and 14, 2001, oral presentations from the public will be scheduled between approximately 10:30 a.m. and 12:30 p.m. Time allotted for each presentation may be limited. On March 15, 2001, oral presentations from the public will be scheduled between approximately 1 p.m. and 1:30 p.m. Those desiring to make formal oral presentations should notify the contact person before March 1, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 6, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–3665 Filed 2–13–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: January 2001

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of January 2001, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
AHMED, ASHFAQ BROWNSTOWN TWP, MI	02/20/2001
BIAGGI, BART SAN JOSE, CA	02/20/2001
BINDER, MARK ALBERT UTICA, NY	02/20/2001
BISLAMIAN, ARTHUR SAMVEL LOS ANGELES, CA	02/20/2001
BODISON, LARRY L WALTERBORO, SC	02/20/2001
CENTRAL AMBULANCE SERVICE, INC CORAOPOLIS, PA	02/20/2001
CHIN, JENNY LONG BEACH, CA	02/20/2001
CRAWFORD, CAROLYN PICKENS, MS	02/20/2001
D'AMATO, JAMES W BABYLON, NY	02/20/2001
DONNELLY, BARBARA J CINCINNATI, OH	02/20/2001
ELLENWOOD, JANET L NAVARRE, OH	02/20/2001
FELEKIAN, HRACH LONG BEACH, CA	02/20/2001
GALIANO, JORGE MIAMI, FL	02/20/2001
GOLDSTEIN, JOSEPH SCARSDALE, NY	02/20/2001
GOROSH, RICHARD P LANSING, MI	02/20/2001
GREATHOUSE, BETTY LARVED, KS	02/20/2001
GUIDOTTI-ALEXANDER, ELAINE SAN JOSE, CA	02/20/2001
IMPERIAL, NORMAN ANAHEIM, CA	02/20/2001
JOHNSON, DEROTT STURTEVANT, WI	02/20/2001
JOYNER, MELBA J WINTERVILLE, NC	02/20/2001
KURINETS, VLADIMIR BROOKLYN, NY	02/20/2001
LORENZO, LORENZO HIALEAH, FL	02/20/2001
MACDONALD, DANESSA MAICHELE PUNXSUTAWNEY, PA	02/20/2001
MATHIS, NELSON D HENDERSONVILLE, NC	02/20/2001
MATO, AMPARO HIALEAH, FL	02/20/2001
MATO, ADOLFO HIALEAH, FL	02/20/2001
NICKOLAOU, MARK LOUIS SAINT JOHN, IN	02/20/2001
NIKOGOSYAN, VARDAN LOS ANGELES, CA	02/20/2001
PATEL, NIRANJAN	02/20/2001

Subject city, state	Effective date
BAYSIDE, NY	
PHILLIPS, MITCHEL EARL ..... LAS VEGAS, NV	02/20/2001
PHILLIPS, RAMONA DENISE OKLAHOMA CITY, OK	02/20/2001
PIKESH, KEVIN D ..... SPRINGFIELD, IL	02/20/2001
PISANI, LOUIS A ..... GARDEN CITY, NY	02/20/2001
RESTORATION COUNSELING CTR, INC ..... SAINT JOHN, IN	02/20/2001
RICHARDS, AARON D ..... DEAL, NJ	02/20/2001
ROBLES, MARCELINO ..... PHILADELPHIA, PA	02/20/2001
SANVITO, ANTHONY J ..... CORAOPOLIS, PA	02/20/2001
SANVITO, MARGARET M ..... PITTSBURGH, PA	02/20/2001
SCHILLERSTROM, HERBERT LEE JR ..... PEORIA, AZ	10/04/2000
SENEGAL, JOAN A ..... PORT ARTHUR, TX	02/20/2001
SHAIKH, NAZIR AHMED ..... JAMAICA ESTATES, NY	02/20/2001
SHOOSTER, CHARLES NATHAN ..... BEVERLY HILLS, CA	02/20/2001
THOMAS, ANTHONY ..... BERKSHIRE, UK,	02/20/2001
ZEYTUNYAN, ARUTYUN ..... VAN NUYS, CA	02/20/2001

FELONY CONVICTION FOR HEALTH CARE FRAUD

Subject city, state	Effective date
ANGLADA, NITZA ..... JAMAICA, NY	02/20/2001
AUSTIN, LATOYA ..... MILWAUKEE, WI	02/20/2001
CARR, ALESHIA B ..... LEXINGTON, KY	02/20/2001
CHAVARRIA, KEVIN ..... MONTGOMERY, PA	02/20/2001
GRANGER, MAI D ..... WILLINGBORO, NJ	02/20/2001
HARRIS, TIFFANY ANN ..... MILWAUKEE, WI	02/20/2001
JOHNSON, SHEILA RENAE .... MILWAUKEE, WI	02/20/2001
MERNICK, MITCHELL HARVEY ..... OTISVILLE, NY	02/20/2001
PETERSON, CHARMOND ANTICE ..... MILWAUKEE, WI	02/20/2001
POWELL, VICKIE REGINA ..... MILWAUKEE, WI	02/20/2001
RAMFT, LINDA J ..... WINTER PARK, FL	02/20/2001
WALDEN, GLADYS MARIE ..... HILLSBORO, AL	02/20/2001

FELONY CONTROL SUBSTANCE CONVICTION

Subject city, state	Effective date
ALLGOOD, LISA ..... GOODLETTSVILLE, TN	02/20/2001
BAYME, LLOYD G ..... LONG BRANCH, NJ	02/20/2001
BECKER, DAVID STEPHEN .... HALLANDALE, FL	02/20/2001
BURNS, JOHN EDWARD ..... SHAMOKIN, PA	02/20/2001
FISHER, DAVID MICHAEL ..... SHAMOKIN, PA	02/20/2001
HARDING, VALERIE L ..... LINWOOD, MA	02/20/2001
HENSON, RHEA E ..... FAIRFAX, VA	02/20/2001
HYLINSKI, JOSEPH ..... KING OF PRUSSIA, PA	02/20/2001
LEE, KIMBERLY A ..... HIGH POINT, NC	02/20/2001
MAGUIRE, SEAN M ..... CINCINNATI, OH	02/20/2001
MAY, DARLA MARIE ..... PEARL, MS	02/20/2001
MAYNARD, PAMELA P CARVER ..... SMITHVILLE, TN	02/20/2001
MCLAUGHLIN, GERARD P ..... E LIVERPOOL, OH	02/20/2001
STARE, JOHN C ..... N OLMSTED, OH	02/20/2001
WEEKS, LOIS ELIZABETH ..... MARIANNA, FL	02/20/2001

PATIENT ABUSE/NEGLECT CONVICTIONS

Subject city, state	Effective date
CONNER, DEBRA KAY ..... CONNELLSVILLE, PA	02/20/2001
FAIR, KEITH ALFRED ..... CHEHALIS, WA	02/20/2001
FLEMING, PHYLLIS R ..... BROOKHAVEN, MS	02/20/2001
GALBRAITH, CHARLES WILLIS ..... ENID, OK	02/20/2001
GBENGA, ADENIRAN B ..... COLUMBUS, OH	02/20/2001
GREEN, MARILYN DELORIS .. CLEVELAND, OH	02/20/2001
HALL, INDIA S ..... PEPPER TREE VILAS, OH	02/20/2001
HANDY-CLARK, VICKI ..... JACKSON, MS	02/20/2001
HARPER, DOROTHY ..... MCCOMB, MS	02/20/2001
HEBB, SONJA M ..... CASSOPOLIS, MI	02/20/2001
HUBER, MARK D ..... BLOOMER, WI	02/20/2001
JAMES, DELORIS MATTHEWS ..... MINDEN, LA	02/20/2001
JEFFERSON, BANSHEE P ..... MANSFIELD, OH	02/20/2001
JOHNSON, RENEE J ..... COLUMBUS, OH	02/20/2001
PAIGE, STACY R ..... HALLETTSVILLE, TX	02/20/2001
PAYNTER, SHANNON B ..... STANARDSVILLE, VA	02/20/2001
RISHEL, THOMAS ..... LONG BEACH, MS	02/20/2001
RUDOWSKY, LINDA ..... PARMA, OH	02/20/2001
SIDHU, DARSHAN SINGH ..... SALINAS, CA	02/20/2001
SIMMONS, JOHN H II ..... LUFKIN, TX	02/20/2001
STRAWBERRY, MICHAEL ..... LEXINGTON, MS	02/20/2001
STROUSE, STEPHANIE ..... MILLERSBURG, OH	02/20/2001
WILLIAMS, DEBBIE ..... CANTON, MS	02/20/2001
WILLIAMS, QUINESSA B ..... NEW ORLEANS, LA	02/20/2001
WINFORD, MARY ..... COLUMBUS, MS	02/20/2001
WINTERS, DOROTHY ..... JACKSON, MS	02/20/2001

CONTROLLED SUBSTANCE CONVICTIONS

Subject city, state	Effective date
NELKIE, KAREN ANN ..... EAST TAWAS, MI	02/20/2001
PATEL, DINKAR N ..... GRUNDY, VA	02/20/2001

LICENSE REVOCATION/SUSPENSION/SURRENDERED

Subject city, state	Effective date
AGEE, LAWRENCE CARTER AUBURN, CA	02/20/2001
ALDER, DAMIAN M ..... GULFPORT, MS	02/20/2001
ALLEN, FRANK BENTON ..... TRINITY CENTER, CA	02/20/2001
ANDERSON, MEGAN ..... STRATFORD, CT	02/20/2001
AQUINO, LOURDES ANABEL PASADENA, CA	02/20/2001
ARDEHALI, MOHAMMAD ..... NEWARK, NJ	02/20/2001
ARMSTRONG, PETRICIA G .... CAPE CORAL, FL	02/20/2001
ARORA, VIJENDER KUMAR ... MINNEAPOLIS, MN	02/20/2001
ATWELL, BRENDA DIANE ..... NARROWS, VA	02/20/2001
BAINBRIDGE, MICHELLE A .... ERIE, PA	02/20/2001
BARRY, CHERYL JOAN ..... PARIS, TX	02/20/2001
BARTLETT, JENNIFER M ..... SPRINGFIELD, VT	02/20/2001
BAURLEY, JAMES R ..... MARTINSVILLE, IN	02/20/2001
BEASLEY, KAREN ..... JACKSON, MS	02/20/2001
BEATTY, BRUCE E ..... MARION, IN	02/20/2001
BECK, ALLAN GERSON ..... WATERFORD, NJ	02/20/2001
BERG, ALBERT JACK ..... MAITLAND, FL	02/20/2001
BETOUSHANA, DEMATOUR .. SAN JOSE, CA	02/20/2001
BISHOP, KAREN ELIZABETH EL CAMPO, TX	02/20/2001
BLAKE, HAYDEN ANTHONY .. MEDFORD, NY	02/20/2001
BOE, NAN GALLAGHER ..... TAUNTON, MA	02/20/2001
BOGARDUS, RICHARD JAMES ..... SACRAMENTO, CA	02/20/2001
BOLES, CAROL A ..... BELLVIEW, FL	02/20/2001
BONANCA, PATRICIA S ..... FALL RIVER, MA	02/20/2001
BOWER, KAREN ..... BERWICK, PA	02/20/2001
BRADEN, CLARA T ..... LAKE CITY, TN	02/20/2001
BRADFORD, SUSAN L	02/20/2001

Subject city, state	Effective date
COATSVILLE, PA	
BRADFORD, IDA J	02/20/2001
GOODLETTSVILLE, TN	
BREEDLOVE, KIRSTEN LEE	02/20/2001
SHERMAN, TX	
BRELAND, PAMELA C	02/20/2001
RIDGELAND, MS	
BROWN, MARK W	02/20/2001
ENTERPRISE, MS	
BRUSOLA, LEONIDA BANAL	02/20/2001
SEATTLE, WA	
BUCK, ROBERT ARCHIE	02/20/2001
KALAMAZOO, MI	
BURDETTE, VIVIAN REED	02/20/2001
SENATOBIA, MS	
BURGE, SHERRI ANN	02/20/2001
NAMPA, CA	
BURNS, PEGGY LOUISE	02/20/2001
STAR CITY, AR	
BUTLER, JOHN JEFFRIES	02/20/2001
STOCKTON, CA	
CAMP, JANICE E	02/20/2001
MANCHESTER, CT	
CAMPBELL, MARGARET JANE	02/20/2001
WATERTOWN, NY	
CAMPBELL, FRANCIS MICHAEL	02/20/2001
SAN JOSE, CA	
CANDIA, TYWILLA J	02/20/2001
BOONEVILLE, MS	
CARNAHAN, TRACY ELIZABETH	02/20/2001
CONNEAUT LAKE, PA	
CHESHIER, BEVERLY V G	02/20/2001
BUCHANAN DAM, TX	
CHESTER, ALTHEA LORETTA	02/20/2001
MORENO VALLEY, CA	
CHRISTY, ELAINE	02/20/2001
WALDORF, MD	
COLINA, ERNESTO	02/20/2001
PLANT CITY, FL	
COLLIER, KELLY	02/20/2001
ST PETERSBURG, FL	
COLLINS, KENNETH G	02/20/2001
COLORADO SPRINGS, CO	
CONLEE, STEVEN PAUL	02/20/2001
EDINBURG, TX	
CUCCIA, RONALD DANIEL	02/20/2001
SAN DIMAS, CA	
CUNNINGHAM, PATRICK JOSEPH	02/20/2001
CLARKSTON, WA	
CYR, JOSEPH GUYNEMER	02/20/2001
VAN BUREN, ME	
CZERTKO, GEORGE	02/20/2001
WARREN, MI	
DIONEDA, RUDOLFO DUAZO	02/20/2001
GRANITE CITY, IL	
DIXON, CATHY LYNN	02/20/2001
JONESBORO, AR	
DODD, WARREN DUANE	02/20/2001
THOUSAND OAKS, CA	
DOERING, MARY C	02/20/2001
LITHIA SPRINGS, GA	
DOLPH, WILLIAM W JR	02/20/2001
HOMEWOOD, IL	
ECKARD, SHERIE BOWSER	02/20/2001
MCKEES ROCKS, PA	
ELLISON, DIANE N	02/20/2001
LEWISTON, ID	
FERRO, JOSEPH C	02/20/2001
ASTON, PA	
FIDDES, ROBERT ALAN	02/20/2001
BOSTON, MA	
FINLEY, CYNTHIA D	02/20/2001
DURAND, MI	
FLYNN, JOHN EDWARD JR	02/20/2001
LEVITTOWN, PA	
FODIMAN, MARTIN S	02/20/2001
MEMPHIS, TN	
FORLIZZO, JOSEPH	02/20/2001
ST PETERSBURG, FL	
FRASE-GONZALES, TERESA MARIE	02/20/2001
NEW SMYRNA BEACH, FL	
FRIEDMAN, BOBBI ANN	02/20/2001
SAN DIEGO, CA	
GAGNON, DIANN H	02/20/2001
SPRINGFIELD, MA	
GAMAL, DEEMA ANN	02/20/2001
LIVONIA, MI	
GARVEY, LEO WILLIAM	02/20/2001
PATCHOGUE, NY	
GILDER, MICHAEL O	02/20/2001
ALLISON PARK, PA	
GILL, LORI ANN	02/20/2001
IDAHO FALLS, ID	
GREIDER, ELAINE M	02/20/2001
OAKVILLE, CT	
HAMILTON, CYNTHIA JEAN	02/20/2001
AMERICAN CANYON, CA	
HANINCHECK, SUSAN	02/20/2001
BALTIMORE, MD	
HANSON-LIZEWSKI, KATRINA	02/20/2001
WINOOSKI, VT	
HARRISON-EKLUND, CATHERINE	02/20/2001
W HAMPTON, NY	
HAYNES, TERESA MAE	02/20/2001
SACRAMENTO, CA	
HENDERSON, WILLIAM LARRY	02/20/2001
WILDOMAR, CA	
HEUSNER, JAMES J	02/20/2001
ACWORTH, GA	
HILLEGAS, SHERRY	02/20/2001
BALTIMORE, MD	
HILSE, ANDREA M	02/20/2001
LAWRENCE, MA	
HINES, JOHN EDWARD	02/20/2001
FULLERTON, CA	
HOLBERT, CHARLES MIKE	02/20/2001
VANCLEAVE, MS	
INGLE, ALISON RENEE	02/20/2001
GUIN, AL	
JACOBS, JANET KAY	02/20/2001
SAN BERNARDINO, CA	
JOHNSON, LINDA K	02/20/2001
ST JOHNSBURY, VT	
KING, RHONDA CYLLE	02/20/2001
GARY, IN	
KIRKPATRICK, CHRISTINE J BRISSETTE	02/20/2001
NORTHFIELD, VT	
KONOBECK, MARIAN VIRGINIA	02/20/2001
STILLWATER, MN	
KRIEGER, KATHY FUNK	02/20/2001
CHAMBERSBURG, PA	
KUSSE, LEE JOHN	02/20/2001
DANNEMORA, NY	
KYLES, VANESSA	02/20/2001
MONROEVILLE, AL	
LOMELIN, EDWARD	02/20/2001
LAREDO, TX	
MAGNUS, VERNON JOHN	02/20/2001
LODI, CA	
MANN, DONNA JEAN	02/20/2001
RIVERDALE, UT	
MARQUEZ, CAMILO R	02/20/2001
PHOENECIA, NY	
MARTIN, GEORGIA MARIE	02/20/2001
RUPERT, ID	
MARTIN, LAWRENCE F	02/20/2001
WAYNESBURG, PA	
MARTIN, ELIZABETH MURRAY	02/20/2001
HOLLYWOOD, FL	
MARTZ, BARBARA	02/20/2001
MOYIE SPRINGS, ID	
MCGRIFF, LEISA DIANE	02/20/2001
HANCEVILLE, AL	
MCGUINESS, JOSEPH LEWIS	02/20/2001
PITTSBURGH, PA	
MCINTOSH, JOE G	02/20/2001
OVETT, MS	
MCKERRIGAN, MONTE G	02/20/2001
KOKOMO, IN	
MILLAR, WILLIAM H	02/20/2001
PHILADELPHIA, PA	
MITCHELL, BRENDA KAY	02/20/2001
MANSFIELD, TX	
MLYNSKI, CHARLES EDWARD JR	02/20/2001
WYTHEVILLE, VA	
MOHS, SHEILA GARDNER	02/20/2001
VISALIA, CA	
NDAWULA, PAUL	02/20/2001
CERRITOS, CA	
NELSON, GENEVIEVE SIGNE SWENSON	02/20/2001
JEROME, ID	
NEWSON, GERTRUDE O	02/20/2001
CHICAGO, IL	
NEWTON, SUSAN E	02/20/2001
NEW CASTLE, PA	
NICHOLSON, PENNY KATE	02/20/2001
SAN ANSELMO, CA	
O'SHEA, FRANK M	02/20/2001
ELLICOTT CITY, MD	
OBERDORFER, JUDITH M	02/20/2001
CORONA, CA	
ODIE, ELAINE	02/20/2001
JACKSON, MS	
OLADINNI, ALLEN O	02/20/2001
LOUISVILLE, KY	
OLIVER, BONNIE L	02/20/2001
RED CREEK, NY	
OMOROGBE, FLORA MAE	02/20/2001
BELLWOOD, IL	
PADULA, MICHAEL JOHN	02/20/2001
MOSCOW, ID	
PALMER, ASHLEY D	02/20/2001
LEBANON, NH	
PARRISH, CHARLES EZRA JR	02/20/2001
BRODNAX, VA	
PASCHAL, NORMA J	02/20/2001
CLARKSDALE, MS	
PAUL, NANCY E	02/20/2001
FLORA, MS	
PETTWAY, BARBARA BAGGETT	02/20/2001
MT OLIVE, MS	
PHELPS, CAROL B	02/20/2001
SHEAP RANCH, CA	
PHOENIX, JANA KAY	02/20/2001
CENTRALIA, IL	
PLUMMER, JULIA C	02/20/2001

Subject city, state	Effective date
ALTOONA, PA	
POLLAK, LYNNE ..... NEW MILFORD, CT	02/20/2001
PRICE, TIMOTHY ABELL ..... PALO ALTO, CA	02/20/2001
PRITCHETT, JOSEPHINE ..... CHICAGO, IL	02/20/2001
RAGLAND, ELIZABETH JOAN COLLEGEVILLE, PA	02/20/2001
REED, VELVERN ELANE ..... WHITESBORO, TX	02/20/2001
REVITZER, MAX MICHAEL ..... DETROIT, MI	02/20/2001
RIGAUD, RALPH GILBERT ..... CHICAGO, IL	02/20/2001
ROBERTS, WENDY L ..... ANDOVER, MA	02/20/2001
ROBINS, EMMA LEE ..... CHICAGO, IL	02/20/2001
ROBINSON, JOSEPH ..... WINTER PARK, FL	02/20/2001
ROLING-DAHLGREN, KIRSTEN ..... TIBURON, CA	02/20/2001
RUTLAND, WILLIAM ..... BRANDON, MS	02/20/2001
SANBORN, MICHELE R ..... ANNAPOLIS, MD	02/20/2001
SAUNDERS, WESLEY ..... JACKSONVILLE, FL	02/20/2001
SCHLUETER, JULIA ..... QUINTON, VA	02/20/2001
SELLERS, DENNIS ..... GAUTIER, MS	02/20/2001
SIMMONS, KATHERINE ..... GRENADA, MS	02/20/2001
SNEAD, PAUL ..... BALTIMORE, MD	02/20/2001
STINSON, MICHAEL D ..... LAWRENCEVILLE, GA	02/20/2001
STONE, BERYL N ..... RONKONKOMA, NY	02/20/2001
SUMMERIES, BRENDA ..... CHICAGO, IL	02/20/2001
SWAIN, BRETT F ..... ENTERPRISE, MS	02/20/2001
TALLEY, DEBORAH CARLENE ..... MALVERN, AR	02/20/2001
TAPPER, FREDERIC S ..... WARREN, NJ	02/20/2001
TAYLOR, DAPHNE VINSON ... PALMYRA, VA	02/20/2001
TERRY-HARPER, MELINDA S DELTA, CO	02/20/2001
THOMAS-MCCAULEY, TINA M CLEVELAND HGTS, OH	02/20/2001
TILLEY, GEORGE F ..... PITTSBURGH, PA	02/20/2001
TURNER, TERRI LEE ..... TWIN FALLS, ID	02/20/2001
VASCONCELOS, ANNA LEE .. E PROVIDENCE, RI	02/20/2001
VAUGHAN, JENNIFER LEE .... SAN ANTONIO, TX	02/20/2001
VAUGHAN, NANCY MARY LANCE ..... LEWISTON, ID	02/20/2001
VILLARTA, ANTONIO QUIDES JR ..... PITTSFIELD, MI	02/20/2001
WATERMAN, JOYCE A ..... WINDSOR LOCKS, CT	02/20/2001
WELSH, PATRICIA ..... MONTPELIER, VT	02/20/2001
WHITTLE, MICHAEL R ..... CORDELE, GA	02/20/2001
WILEY, LISA ANN ..... W HOLLYWOOD, CA	02/20/2001
WILKINSON, JAMES M ..... PEABODY, MA	02/20/2001
WILLIAMS, LYNN ..... WATERFORD, CT	02/20/2001
WILSON, BRENDA ..... JACKSON, MS	02/20/2001
WINTERS, PATRICIA ANN ..... CHICAGO, IL	02/20/2001
WIRTZ, CHARLOTTE ANN ..... SAN DIEGO, CA	02/20/2001
WISHARD, RONALD JASON .. HONEY GROVE, TX	02/20/2001
FEDERAL/STATE EXCLUSION/ SUSPENSION	
ALLEN, PROBYN ..... WILLINGBORO, NJ	02/20/2001
ELCHAGEA, ISMAIL ..... PATERSON, NJ	02/20/2001
MATURA, DENISE ..... BRICK, NJ	02/20/2001
PICO MEDICAL PRODUCT ..... LOS ANGELES, CA	02/20/2001
POTEET, CHERYL ..... BRECKENRIDGE, TX	02/20/2001
RUSH, DAVID ALLEN ..... CAMDEN, NJ	02/20/2001
SCALZI, FRANCIS P JR ..... MERIDEN, CT	02/20/2001
OWNED/CONTROLLED BY CONVICTED EXCLUDED	
AMERILOU PHARMACY CORP ..... E GARDEN CITY, NY	02/20/2001
COUNTRY DOCTOR'S CLINIC, INC ..... GARRETTSVILLE, OH	02/20/2001
NOVA PHARMACY ..... MIAMI, FL	02/20/2001
ROBERT P LOUIS FAM DENTISTRY ..... BROOKLYN, NY	02/20/2001
DEFAULT ON HEAL LOAN	
CADE, CRAIG BRYAN ..... ROSEBUD, SD	02/20/2001
COLBERT, DENISE Y ..... FREDERIKSTED, VI	02/20/2001
FEATHER, MELODIE K ..... WOODBRIDGE, VA	02/20/2001
FIALLO, LUZ G ..... ORLANDO, FL	02/20/2001
HANEY, ROCHELLE E ..... ULYSSES, KS	02/20/2001
HARIRIE, JIM A ..... NORWALK, CA	02/20/2001
HARPER, RONALD A ..... LITTLE ROCK, AR	02/20/2001
HOLTHUS, BRUCE J ..... LITTLETON, CO	02/20/2001
IRRERA, STEPHEN A ..... HARTFORD, CT	12/28/2000
KAISER, BART A ..... RENTON, WA	02/20/2001
LEWIS, BENNETT A ..... W PALM BEACH, FL	02/20/2001
LIPMAN, FREDERICK S ..... MEMPHIS, TN	02/20/2001
MABRY, OFELIA M ..... NEWTON CENTER, MA	02/20/2001
MASON, RICHARD R ..... CENTERBURG, OH	02/20/2001
MCGREGOR-MYERS, MYRNA V ..... GRAND TERRACE, CA	02/20/2001
MIKOLINNAS, THOMAS A ..... LEOMINSTER, MA	02/20/2001
MULCAHY, PATRICK J ..... BRUNSWICK, OH	02/20/2001
OBREGON, KATHRYN E ..... BISMARK, ND	02/20/2001
PUMILIA, CATHRYN A ..... ROCKFORD, IL	02/20/2001
RAMIREZ, LAURA A ..... BURLINGTON, VT	02/20/2001
RANSOM, SHERRY M ..... MT VERNON, NY	02/20/2001
REYNOSO, ALFONSO C ..... SAN YSIDRO, CA	02/20/2001
RICHARDS, CYNTHIA JOYCE DAYTON, OH	02/20/2001
ROSE, MARK D ..... CHINCOTEAGUE ISLND, VA	02/20/2001
RUSSELL, KAREN MERKEL ... LITTLETON, CO	02/20/2001
SIKOE, ROGER ELLIOTT ..... PEMBROKE PINES, FL	02/20/2001
TAPIA, JUANITA V ..... CHICAGO, IL	02/20/2001
TULL, HEIDI M ..... ATLANTA, GA	02/20/2001
WASHINGTON, SHEILA D ..... SLIDELL, LA	02/20/2001

Dated: February 5, 2001.

Calvin Anderson, Jr.,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 01–3681 Filed 2–13–01; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Community Mental Health Centers (CMHC) Construction Grantee Checklist—(OMB No. 0930–0104,Extension, no change)—Recipients of Federal CMHC construction funds are obligated to use the constructed facilities to provide mental health services. The CMHS Act was repealed in 1981 except for the provision requiring grantees to continue using the facilities for mental health purposes for a 20-year period. In order for SAMHSA's Center for Mental Health Services to monitor compliance of construction grantees the grantees are required to submit an annual report. This annual Checklist enables grantees to supply necessary information efficiently and with a minimum of burden. The following table summarizes the annual burden for this program.

	Annual respondents	Responses/ respondent	Hours per response	Annual burden
CMHS Grantee Construction Checklist [42 CFR 54.209(h), 42 CFR 54.213, 42 CFR 54.214]	*24	1	.33	8

*Average over the 3-year approval period as grantees with service obligations continue to complete their period of obligation.

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 8, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–3690 Filed 2–13–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974, As Amended; Addition of a New System of Records

AGENCY: Department of the Interior.

ACTION: Proposed addition of a new system of records.

SUMMARY: The Department of Interior is issuing public notice of its intent to add a new department-wide Privacy Act system of records to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a). This action is necessary to meet the requirements of the Privacy Act to publish in the Federal Register notice of the existence and character of records systems maintained by the agency (5 U.S. C. 552a(e)(4)). The new system of records is called the ''Interior Child Care Subsidy Program Records System.''

EFFECTIVE DATE: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this proposed system of records may do so by submitting comments in writing to the Office of the Secretary Freedom of Information Act/Privacy Act Officer, U.S. Department of the Interior, National Business Center, MS 1414 MIB, 1849 C Street NW, Washington, DC 20240, or by e-mail at osfoia@nbc.gov. Comments received within 40 days of publication in the **Federal Register** will be considered. The system will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. In that case the Department will publish any changes to the routine uses.

FOR FURTHER INFORMATION CONTACT: Sue Ellen Sloca, Office of the Secretary Freedom of Information Act/Privacy Act Officer, by phone at 202–208–6045, by fax at 202–208–5048, by e-mail at osfoia@nbc.gov, or by mail at U.S. Department of the Interior, National Business Center, MS 1414 MIB, 1849 C Street NW, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Interior Child Care Subsidy Program Records system will contain information from Interior employees collected for the purpose of determining their eligibility for the child care subsidy program and the amounts of their subsidy. The system will contain information about the employee, the employee's spouse, the child or children for whom the employee applies for a child care subsidy, and the employee's child care provider(s). The information collected will include the employee's name, spouse's name, employee's title, grade, and salary, the employee's home and work telephone numbers, the employee's home and work addresses, the organization in which the employee works, the employee's Social Security Number, the spouse's Social Security Number, the employee's tax returns, the spouse's tax returns, the name and Social Security Number of the child on whose behalf the parent is applying for a subsidy, the child's date of birth, the date of entry into the Child Care Subsidy Program, and the amount of subsidy received; the name, address, telephone number, employer identification number (EIN), license and accreditation status of the child care center in which the employee's child(ren) is (are) enrolled, and the dates of attendance. Collection of data will be by child care subsidy application forms submitted by employees. A copy of the system notice for ''Interior Child Care Subsidy Program Records,'' DOI–01, follows:

Dated: February 9, 2001.

Sue Ellen Sloca,

Office of the Secretary Freedom of Information Act/Privacy Act Officer, National Business Center.

INTERIOR/DOI–01

SYSTEM NAME:

Interior Child Care Subsidy Program Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of the Interior, Office of the Secretary, Labor/Employee Relations and Systems Group, MS 5221 MIB, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Present and former employees of the Department of the Interior who voluntarily apply for a child care subsidy, their spouses, and children

who are enrolled in government-subsidized child care.

(2) Child-care providers of these employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information collected will include the employee's name, spouse's name, employee's title, grade, and salary, the employee's home and work telephone numbers, the employee's home and work addresses, the organization in which the employee works, the employee's Social Security Number, the spouse's Social Security Number, the employee's tax returns, the spouse's tax returns, the name and Social Security Number of the child on whose behalf the parent is applying for a subsidy, the child's date of birth, the date of entry into the Child Care Subsidy Program, and the amount of subsidy received; the name, address, telephone number, employer identification number (EIN), license and accreditation status of the child care center in which the employee's child(ren) is (are) enrolled, and the dates of attendance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 105–554, section 633 and Executive Order 9397.

PURPOSE(S):

The primary use of the records maintained in this system is to establish and verify Department of the Interior employees' eligibility for child care subsidies in order to provide monetary assistance to them. Other uses of the records in the system include verifying the eligibility of child care centers and verifying compliance with regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures outside the Department of the Interior may be made under the routine uses listed below without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected.

(1) To an expert, consultant, or contractor (including employees of the contractor) of the Department that performs, on the Department's behalf, services requiring the use of these records.

(2) To child care providers, in order to verify a covered child's dates of attendance at the provider's facility.

(3) The Department of Justice, or to a court, adjudicative or other administrative body, or to a party in litigation before a court or adjudicative or administrative body, when:

(a) One of the following is a party to the proceeding or has an interest in the proceeding:

(1) The Department or any component of the Department;

(2) Any Departmental employee acting in his or her official capacity;

(3) Any Departmental employee acting in his or her individual capacity where the Department or the Department of Justice has agreed to represent the employee, or

(4) The United States, when the Department determines that the Department is likely to be affected by the proceeding; and

(b) The Department deems the disclosure to be:

(1) Relevant and necessary to the proceedings; and

(2) Compatible with the purpose for which we compiled the information.

(4) To appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license, when the Department becomes aware of a violation or potential violation of a statute, rule, regulation, order or license.

(5) To a congressional office in response to an inquiry an individual has made to the congressional office.

(6) To the Office of Personnel Management or the General Accounting Office when the information is required for evaluation of the child care subsidy program.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored both in file folders, and in electronic form, in computer systems.

RETRIEVABILITY:

Records are retrieved by the names and Social Security Numbers of employees applying for child care subsidies.

SAFEGUARDS:

Access to records in the system is limited to authorized personnel whose official duties require such access. Paper records are maintained in locked metal file cabinets and/or in secured rooms. Electronic records are password-protected and maintained with safeguards meeting the security requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with National Archives and Records Administration guidelines and authorized Office of the Secretary records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Team Leader, Labor/Employee Relations and Systems Group, Office of the Secretary, U.S. Department of the Interior, MS 5221 MIB, Washington, D.C. 20240.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records contained in the system should be addressed to the System Manager. The request must be in writing, signed by the requester, include the requester's full name and Social Security Number, and meet the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access to records contained in the system should be addressed to the System Manager. The request must be in writing, signed by the requester, include the requester's full name and Social Security Number, and meet the content requirements of 43 CFR 2.62.

CONTESTING RECORD PROCEDURES:

A petition for amendment of records contained in the system should be addressed to the System Manager. The request must be in writing, signed by the requester, include the requester's full name and Social Security Number, and meet the content requirements of 42 CFR 2.71.

RECORD SOURCE CATEGORIES:

Applications for child care subsidies and supporting records, which are voluntarily submitted by Interior employees applying for child care subsidies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Privacy Act of 1974—Narrative Statement for a New System of Records to Implement the Interior Department Childcare Subsidy Program

The purpose of the new system of records is to collect information from employees of the Interior Department in order to determine their eligibility for childcare subsidy in the form of tuition assistance, to determine the amount of the subsidy, and to implement the program for eligible employees. The new system of records also collects information from employees' child care provider(s) for verification purposes, such as ensuring that providers are

licensed, and information needed to issue payments directly to child care providers.

Authority for the Interior Department's childcare subsidy program is found in the Consolidated Appropriations Act of 2001, Public Law 106–544, which permits Federal agencies to use appropriated funds available for salaries to assist lower income employees with their child care costs. (See Section 633 of H.R. 5658, incorporated by reference into Public Law 106–544.) The authority in the Consolidated Appropriations Act of 2001 expires at the end of fiscal year 2001. If legislation is enacted extending the authority, the Department may choose to continue to operate this program if appropriated funds are available. The notice of establishment of this system of records is intended to cover the potential extension of the program.

It is estimated that one percent of Interior Department employees might be eligible for the subsidy. If one percent apply for the subsidy, the total number of individual records will not exceed 6000.

The Interior Department proposes to enter into a contract with a non-federal organization to process the applications and implement the program. This contractor will receive employees completed applications and determine eligibility and tuition assistance amount based on a formula determined by the Interior Department. The non-federal organization is currently administering the childcare subsidy programs for other federal agencies, and as a result currently handles federal employee personal information and has established procedures to minimize the risk of unauthorized access to the system of records. The contract between the Interior Department and the non-federal organization will require the organization to adhere to federal standards of privacy.

The new system of records will collect income and provider data on an application form (''Child Care Provider Information Form—OPM Form 1644'' [OMB Clearance Number 3206–0240]) submitted by employees. The application will only request personal data that is necessary to determine whether an employee is eligible for the subsidy and information necessary to administer the subsidy for eligible employees. The system will contain information from only those individuals who choose to apply for the subsidy. The proposed collection of records will only be used for the purpose of determining eligibility, determining the amount of the subsidy, and for administration of the subsidy program.

The proposal relates to State and local governments. One of the requirements of the subsidy is for childcare providers to be licensed or regulated in the state or location in which they operate. Childcare providers will be required to submit a copy of their latest license and/or statement of compliance from their state and/or local authority.

This system of records does not entail any changes to computer installations, communications networks, or any other general changes in information collection, handling, storage or dissemination.

[FR Doc. 01–3702 Filed 2–13–01; 8:45 am]

BILLING CODE 4310–RJ–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection to be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Intent To Request Information Collection Authority.

SUMMARY: We, the U.S. Fish and Wildlife Service, will be submitting to the OMB the collection of information described for approval under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements and explanatory material may be obtained by contacting our Information Collection Clearance Officer at the address or phone number listed below.

DATES: You must submit comments on or before April 16, 2001.

ADDRESSES: Your comments and suggestions on specific requirements should be sent to our Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222, ARLSQ, 1849 C Street, NW, Washington, D.C. 20240; Telephone 703/358–1943.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Horwath, Division of Fish and Wildlife Management Assistance and Habitat Restoration, Arlington, Virginia, at 703/358–1718.

SUPPLEMENTARY INFORMATION: We propose to submit the following information collection clearance requirements to the OMB for review and approval under the Paperwork Reduction Act of 1995, Pub. L. 104–13. We currently have OMB approval #1018–0070, which expires 10/31/01. Your comments are invited on: (1) Whether this collection of information is necessary for us to properly perform our functions, including whether this information will have practical utility; (2) the accuracy of our estimate of burden, including the validity of the methodology and assumptions we use; (3) ways to enhance the quality, utility, and clarity of the information we are proposing to collect; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. An agency may not conduct or sponsor, and a person is not required to a collection of information unless the agency displays a currently valid OMB control number.

Section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972 authorizes us, acting on behalf of the Secretary of the Interior, to allow the incidental, unintentional take of small numbers of marine mammals during a specified activity (other than commercial fishing) in a specified geographic region. Prior to allowing these takes, however, we must find that the total of such taking will have a negligible impact on the species or stocks, and will not have an unmitigable adverse impact on the availability of the species or stocks for subsistence uses by Alaska Natives.

The information that we propose to collect will be used to evaluate applications for specific incidental take regulations from the oil and gas industry to determine whether such regulations, and subsequent Letters of Authorization (LOA), should be issued; the information is needed to establish the scope of specific incidental take regulations. The information is also required to evaluate the impacts of the activities on the species or stocks of the marine mammals and on their availability for subsistence uses by Alaska Natives. It will ensure that all available means for minimizing the incidental take associated with a specific activity are considered by applicants.

We estimate that the burden associated with the request will be a total of 3,140 hours for the full 3-year period of OMB authorization. Two hundred hours will be required to complete the request for specific procedural regulations. For each LOA expected to be requested and issued subsequent to issuance of specific procedural regulations, we estimate that 20 hours will be invested: 8 hours will be required to complete each request for

a LOA, 4 hours will be required for on-site monitoring activities, and 8 hours will be required to complete each final monitoring report. We estimate that seven companies will be requesting LOAs and submitting monitoring reports annually for each of seven sites in the region covered by the specific regulations.

Title: Marine Mammals: Incidental Take During Specified Activities.

Bureau form number: None.

Frequency of collection: Biannually.

Description of respondents: Oil and gas industry companies.

Number of respondents: 7 for each of 7 active sites per year (49).

Estimated completion time: For the one time request to promulgate the procedural rule, a 200-hour application burden is estimated. Annually for three years, 8 hours per LOA, 4 hours for on-site monitoring, and 8 hours per final monitoring reports are estimated for each requesting company for seven active sites (20 hours × 7 companies × 7 sites = 980 hours × 3 years = 2,940 + 200 = 3,140 hours burden for three years).

Burden estimate: 3,140 hours.

Dated: February 9, 2001.

Rebecca A. Mullin,

Information Collection Officer, U.S. Fish and Wildlife Service.

[FR Doc. 01–3735 Filed 2–13–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). 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.

Applicant: Joe Milton Thompson, Bonsall, CA

PRT–038549

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Diane C. Brumbelow, Dallas, TX

PRT–038559

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Duke University, Durham, NC

PRT–038508

The applicant requests a permit to export and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the permittee's collection, for scientific research. This notification covers activities conducted by the applicant for a five year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Written data, comments or requests for copies of these complete applications or requests for a public hearing on these applications should be sent to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281. These requests must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–038448

Applicant: Iskande L. V. Larkin, University of Florida, Gainesville, FL

Permit Type: scientific research.

Name and Number of Animals: Florida manatee (*Trichechus manatus*), 5 females.

Summary of Activity to be Authorized: The applicant requests a permit to study the reproductive physiology and indicators of stress by taking and using urine, fecal, blood, and vaginal smear samples from 4 captive females and fecal samples from 1 wild female to measure steroid and protein reproductive hormone concentrations and glucocorticosteroids.

Source of Marine Mammals: 2 captive females at Miami Seaquarium; 2 captive females at Living Seas, Epcot; 1 wild female as identified and tagged by Sirenia Project personnel.

Period of Activity: 1 year.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: James Grookett, Rockledge, PA

PRT–037534

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted prior to May 31, 2000, from the McClintock Channel polar bear population in Canada for personal use.

The U.S. Fish and Wildlife has information collection approval from OMB through February 28, 2001. OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

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, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 2, 2001.

Anna Barry,

Branch of Permits, Division of Management Authority.

[FR Doc. 01–3753 Filed 2–13–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Final Comprehensive Conservation Plans and Finding of No Significant Impact for Edwin B. Forsythe and Cape May National Wildlife Refuges, the Jersey Coast Refuges

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service has prepared Final Comprehensive Conservation Plans, an associated Environmental Assessment, and a Finding of No Significant Impact for

both Edwin B. Forsythe and Cape May National Wildlife Refuges in New Jersey, collectively referred to as the Jersey Coast Refuges. These documents were prepared in compliance with the National Wildlife Refuge System Improvement Act of 1997, and the National Environmental Policy Act of 1969 and its implementing regulations.

The Acting Regional Director, Northeast Regional Office, in making his decision considered a reasonable range of three management alternatives discussed in the Environmental Assessment. The three alternatives were:

Alternative A. This was the No Action Alternative requirement by the Council of Environmental Quality's regulations on the implementation of the National Environmental Policy Act. Under this Alternative there would be no change from our current management programs and emphasis at both Refuges. Seasonal travel and parking of motor vehicles would continue to be allowed in the Holgate Unit of the Brigantine Wilderness Area, on lands above mean high tide, in violation of the Wilderness Act of 1964. The beach at the Two Mile Beach Unit would continue to be closed to access by the public.

Alternative B. This was the Service's Proposed Action. This Alternative would initiate new wildlife population and habitat management programs; provide new wildlife-dependent recreation opportunities; increase our land protection efforts; and provide new office and visitor facilities at both Refuges. All lands above mean high tide in the Holgate Unit of the Brigantine Wilderness Area would be closed to motor vehicles by the public year-round in compliance with the Wilderness Act. We would initiate efforts to establish a seasonal boat concession to ferry anglers and other Refuge visitors to the southern tip of the Holgate Peninsula. The beach at the Two Mile Beach Unit would be open to seasonal access by the public.

Alternative C. This Alternative would initiate new wildlife population and habitat management programs; provide new wildlife-dependent recreation opportunities Refuge-wide; increase our land protection efforts; and provide new or remodeled office and visitor facilities at both Refuges. All lands above mean high tide in the Holgate Unit of the Brigantine Wilderness Area would be closed to motor vehicle access by the public year-round in compliance with the Wilderness Act. We would also seek to further restrict motor vehicle access at the Holgate Unit by obtaining a license from the New Jersey Tidelands Council to close State-owned riparian lands below the mean high line. We would initiate efforts to establish a seasonal boat concession to ferry anglers and other Refuge visitors to the southern tip of the Holgate Peninsula. The beach at the Two Mile Beach Unit would be open year-round to access by the public.

Based on the analysis provided in the Environmental Assessment and the comments received from the public, the Acting Regional Director selected Alternative B (the Service's Proposed Action) to be enacted on the Refuges.

Alternative B was selected because it best achieves Refuge purposes, vision and goals; helps fulfill the mission of the National Wildlife Refuge System; maintains and, where appropriate, restores the ecological integrity of both Refuges and the Refuge System; addresses the significant issues and mandates; and is consistent with the principles of sound fish and wildlife management.

Based on his evaluation, the Acting Regional Director determined that the implementation of Alternative B would not have a significant impact on the quality of the human environment in accordance with Section 102(2)(c) of the National Environmental Policy Act and concluded that an environmental impact statement is not required. However, since the proposed closure of the Holgate Unit of the Brigantine Wilderness Area to motor vehicle use by the public above mean high tide has been highly controversial, he decided to provide a 30-day public review period for this period for this Finding of No Significant Impact prior to signing it. The public review period will end 30 days after this Notice is published. This public review period is in compliance with Council of Environmental Quality Regulation 1501.4(e)(2).

FOR FURTHER INFORMATION CONTACT: Copies of either Refuge Comprehensive Conservation Plan, or the Finding of No Significant Impact, may be obtained by contacting: Mr. Stephen Atzert, Refuge Manager, Ediwn B. Forsythe National Wildlife Refuge, P.O. Box 72, Great Creek Road, Oceanville, NJ 08231.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Improvement Act of 1997 and Service policy require that all lands within the National Wildlife Refuge System be managed in accordance with an approved refuge Comprehensive Conservation Plan. The Plan guides management decisions and identifies refuge goals, objectives, and strategies for achieving refuge purposes. The Service's planning process considered many elements, including habitat and wildlife management, habitat protection and land acquisition, wildlife-dependent recreational uses, and cultural resources. Public input into the planning process also assisted in the development of the Refuge Comprehensive Conservation Plans, Environmental Assessment, and Finding of No Significant Impact. The Plans will provide other agencies and the public with a clear understanding of the desired conditions for the Refuges and how the Service will implement its management strategies.

Dated: January 25, 2001.

G. Adam O'Hara,

Acting Regional Director, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. 01–3691 Filed 2–13–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability

SUMMARY: Pursuant to the National Wildlife Refuge System Improvement Act of 1997, the U.S. Fish and Wildlife Service (Service) has published a Draft Comprehensive Conservation Plan and Environmental Assessment for Ohio River Islands National Wildlife Refuge. This plan describes how the Service intends to manage the refuge over the next 15 years. The refuge is composed of all or part of 21 islands covering over 3,200 acres in four states (West Virginia, Pennsylvania, Kentucky and Ohio).

DATES: A public meeting will be held in each of the four states, with dates, times and addresses to be announced later in local newspapers and on the regional website (*http://northeast.fws.gov*). The meetings will provide an opportunity for all interested parties to present oral or written testimony on the draft document. The public meetings will be held in late February and early March.

All other comments should be sent by either traditional or electronic mail, no later than 45 days from date of this publication, to: Thomas Bonetti, Planning Team Leader, Northeast Regional Office, 300 Westgate Center Drive, Hadley, MA 01035–9589; or FW5RW__CCP@fws.gov.

ADDRESSES: Additional information or copies of the Draft CCP/EA may be obtained by contacting Thomas Bonetti at the above address, or by contacting Ohio River Islands National Wildlife Refuge, 3004 7th Street, Parkersburg, WV 26102–1811, telephone 304/422–0752.

SUPPLEMENTARY INFORMATION: The draft Comprehensive Conservation Plan and Environmental Assessment fully

describes, evaluates, and compares four alternatives for managing the natural resources and public use opportunities for the Ohio River Islands National Wildlife Refuge. One of the alternatives represents the Service's Proposed Action. The four alternatives are:

Alternative A. This alternative is the No Action alternative as required by National Environmental Policy Act regulations. Selection of this alternative would maintain the status quo; there would be no significant changes to current management practices. This alternative serves as the baseline from which to compare the other three alternatives.

Alternative B. This alternative represents the Service's Proposed Action; that is, the alternative currently recommended for approval. Selection of this alternative would include expansion of the Refuge by acquiring remaining islands and embayments, which total to over 8,000 acres. Alternative B would emphasize restoration and reforestation of native bottomland floodplain forest to the Ohio River. Opportunities for all six priority public uses would improve, including an increased importance on environmental education and outreach programs.

Alternative C. This alternative would increase Refuge habitat diversity with increased management of early successional habitat. This habitat would also be more favorable for many game species and associated expanded consumptive recreational uses. Fishing, hunting and trapping allowable by state laws regulations would be offered and promoted. Selection of this alternative would also increase acquisition to over 8,000.

Alternative D. This alternative would manage Refuge lands to provide and maximize undisturbed resting, feeding, and breeding areas for wildlife, especially migratory birds. All visitation would be tightly regulated and confined to certain designated areas. Hunting and fishing would be eliminated from all Refuge lands under this Alternative. Boating and shore use would also be prohibited on Refuge lands. Selection of this alternative would also increase acquisition to over 8,000 acres.

Dated: February 2, 2001.

G. Adam O'Hara,

Acting Regional Director, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. 01–3692 Filed 2–13–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letters of Authorization To Take Marine Mammals

AGENCY: U.S. Fish and Wildlife Services, Interior.

ACTION: Notice of issuance of a letter of authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations [50 CFR 18.27(f)(3)], notice is hereby given that a Letter of Authorization to take polar bears incidental to oil and gas industry exploration activities has been issued to the following company:

Company: BP Exploration (Alaska) Inc.

Activity: Production.

Location: Northstar.

Date Issued: January 9, 2001.

CONTACT: Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3810.

SUPPLEMENTARY INFORMATION: The Letters of Authorization are issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations ''Marine Mammals; Incidental Take During Specified Activities (65 FR 16828; March 30, 2000).''

Dated: January 29, 2001.

David B. Allen,

Regional Director.

[FR Doc. 01–3736 Filed 2–13–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–1430–EU]

Termination of Desert Land Entry Classification and Segregation; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action terminates the desert-land classification N–58996, dated April 8, 1982, and also terminates the segregation for desert-land entries N–24429, N–24431, and N–24432, dated December 18, 1996. The land will be opened to the operation of the public land laws, including location and entry under the mining laws.

EFFECTIVE DATE: March 16, 2001.

FOR FURTHER INFORMATION CONTACT: Mary L. Figarelle, Winnemucca Field Office, 5100 E. Winnemucca Boulevard, Winnemucca, Nevada 89445, 775–623–1500.

SUPPLEMENTARY INFORMATION: The desert-land classification for N–58996 was made on April 8, 1982, pursuant to Section 7 of the Taylor Grazing Act (43 U.S.C., etc. seq.). When entry to the land was allowed on December 18, 1996 for desert-land entries N–24429, N–24431, and N–24432, the lands became segregated from all other forms of appropriation under the public land laws, including location and entry under the mining laws. All three desert-land entrymen withdrew their applications after failing to provide final proof by the deadline of December 28, 2000.

Pursuant to Section 7 of the Taylor Grazing Act (43 U.S.C., et. seq.), the desert land classification N–58996 made on April 8, 1982, and the desert-land entries allowed on December 18, 1996, are hereby terminated for the following described lands:

Mount Diablo Meridian, Nevada

T. 41 N., R. 28 E.,
Sec. 2: SW¼SW¼;
Sec. 3: S½S½;
Sec. 4: SE¼SE¼;
Sec. 9: NE¼NE¼; S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 10: N½, NW¼SW¼;
Sec. 11: W½NW¼.

The area described contains 960 acres in Humboldt County.

1. At 9 a.m. on March 16, 2001, the land described above will be opened to the operation of the public land laws generally, subject to valid existing rights, the provision of existing withdrawals, other segregation of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on March 16, 2001, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

2. At 9 a.m. on March 16, 2001, the land described above will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregation of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30.U.S.C. 38 (1988), shall best not rights against the United States. Acts

required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: January 30, 2001.

Michael R. Holbert,

Associate Field Manager.

[FR Doc. 01–3747 Filed 2–13–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–058–01–1610–DG]

Notice of Availability

February 7, 2001.

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice of Availability.

SUMMARY: Pursuant to Public Law 103–621 (11/2/94) which expanded the boundaries of RRCNCA as designated in the Red Rock Canyon National Conservation Establishment Act (Public Law 101–621 11/16/90) and amends portions of the Act, the Las Vegas Field Office, BLM, has completed the Proposed General Management Plan/Final Environmental Impact Statement (GMP/FEIS) for Red Rock Canyon National Conservation Area.

The Proposed Plan and FEIS is available to the public for a 30 day protest period. Originally the protest period was to begin on January 29, 2001 and continue through February 28, 2001. Due to delays in printing of the document, the new protest period will begin on March 1, 2001 and continue through March 30, 2001. The Proposed Plan may be protested by any person who participated in the planning process and who has an interest which is or may be adversely affected by the approval of the Proposed Plan. A protest may raise only those issues which were submitted for the record during the planning process (see 43 Code of Federal Regulations 1610.5–2).

All protest must be written and must be postmarked on or before March 30, 2001 and shall contain the following information:

The name, mailing address, telephone number and interest of the person filing the protest.

A statement of the issue or issues being protested.

A statement of the part or parts of the document being protested.

A copy of all documents addressing the issue or issues previously submitted during the planning process by the protesting party, or an indication of the date the issue or issues were discussed for the record.

A concise statement explaining precisely why the Bureau of Land Management, Nevada State Director's decision is wrong.

Upon resolution of any protests, an Approved Plan and record of Decision will be issued. The approved Plan/Record of Decision will be mailed to all individuals who participated in this planning process and all other interested publics upon their request.

ADDRESSES: Protests must be filed with: Director, Bureau of Land Management, Attn. Ms Brenda Williams, Protest Coordinator, 1849 C Street NW, Washington, D.C. 20240.

Copies of the Proposed Plan may be obtained from the Las Vegas Field Office, W. Vegas Drive, Las Vegas, NV 89108.

Public reading copies are available for review at the Clark County public libraries, all government repository libraries and the following BLM locations:

Office of External Affairs, Main Interior Building, Room 5000, 1849 C Street, NW, Washington, DC:

Public Room, Nevada State Office, 1340 Financial Blvd., Reno, NV;

and the Las Vegas Field Office at the above address.

FOR FURTHER INFORMATION CONTACT: Gene Arnesen, GMP Team Leader, at BLM's Las Vegas Field Office listed above or telephone (702) 647–5068.

Dated: February 7, 2001

Mark T. Morse,

Las Vegas Field Office Manager.

[FR Doc. 01–3746 Filed 2–13–01; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1430–EU, WYW148816]

Intent to Prepare an Environmental Impact Statement and Notice of Scoping on Proposed Exchange, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement and Notice of Scoping on a proposal from The Pittsburg and Midway Coal Mining Co. to exchange privately owned lands and minerals in WY for Federal coal in the decertified Powder River Federal Coal Production Region.

SUMMARY: BLM received a proposal to exchange Federal coal in the WY Powder River Basin (PRB) for properties owned by Pittsburg & Midway Coal Mining Co. (P&M) on February 4, 1999. P&M is a wholly owned subsidiary of Chevron Corporation. The Federal coal P&M proposes to acquire is located in northern Sheridan County, WY. The lands and minerals P&M proposes to offer in exchange for the coal are located in Carbon, Lincoln, and Sheridan counties, WY. A portion of the lands being offered in Lincoln County are located within the Bridger-Teton National Forest (BTNF), and would be administered by the U. S. Forest Service (FS) if an exchange is completed. The exchange would be processed under the provisions of 43 CFR 2200. The Powder River Regional Coal Team (RCT) reviewed this exchange proposal at a public meeting held on October 27, 1999, in Gillette, WY. BLM has determined that the requirements of NEPA would be best served by preparing an environmental impact statement (EIS) for this exchange proposal.

DATES: As part of the public scoping process, public scoping meetings are scheduled at the following times and places:

7 p.m., March 5, 2001, LaBarge Town Hall, LaBarge, WY

7 p.m., March 6, 2001, BLM Rawlins Field Office, 1300 N. Third Street, Rawlins, WY

7 p.m., March 7, 2001, Sheridan Holiday Inn, 1809 Sugarland Drive, Sheridan, WY

If you have concerns or issues that you believe the BLM should address in processing this exchange proposal, you can express them verbally at the scoping meetings; or you can mail, e-mail or fax written comments to BLM at the address given below by March 30, 2001.

ADDRESSES: Please address questions, comments or concerns to the BLM Casper Field Office, attn: Nancy Doelger, 2987 Prospector Drive, Casper, WY 82604, fax: 307–261–7587, or e-mail comments to the attention of Nancy Doelger at casper_wymail@blm.gov.

FOR FURTHER INFORMATION CONTACT: Nancy Doelger or Mike Karbs at the above address, or phone: 307–261–7600, or Jim Paugh at the BLM Wyoming State Office (921), P.O. Box 1828, Cheyenne, Wyoming 82003–1828, 307–775–6306.

SUPPLEMENTARY INFORMATION: On February 4, 1999, BLM received a proposal from P&M to exchange properties P&M owns in WY, including all minerals owned by P&M under these properties, for Federal coal in Sheridan

County, WY. P&M is offering to exchange the following lands:

Lincoln County, Wyoming:

T. 26 N., R. 115 W., 6th PM, Wyoming tracts 49, 57, and 71;
T. 26 N., R. 116 W., 6th PM, Wyoming tracts 39, 41, and 42;
T. 26 N., R. 117 W., 6th PM, Wyoming tracts 37 through 43;
T. 27 N., R. 117 W., 6th PM, Wyoming tracts 37 through 42.

Carbon County, Wyoming:

T. 16 N., R. 90 W., 6th PM, Wyoming tract 46;
section 6, lots 20, 23, 24, 27, NE¼SW¼;
section 17, lot 17, SW¼SW¼;
section 18, NE¼SE¼;.
T. 16 N., R. 91 W., 6th PM, Wyoming
section 12, NE¼NE¼, SW¼NE¼, SW¼SW¼, E½SW¼, W½SE¼;
section 13, W½NW¼, SE¼NW¼, NW¼SW¼;
section 14, SE¼NE¼, NE¼SE¼, S½SE¼;
section 22, SE¼SE¼, SE¼SE¼SW¼SE¼;
section 23, W½NE¼, S½NW¼, N½SW¼, SW¼SW¼.

Sheridan County, Wyoming:

T. 57 N., R. 84 W., 6th PM, Wyoming
section 1, S½NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
section 2, lots 2, 3, S½N½, S½;
section 3, lots 3, 4, S½N½, N½S½, SE¼SE¼;
section 4, lots 1 through 4, S½NE¼, SE¼NW¼, N½SE¼.
Total Offered Lands: Approximately 6068 acres.

P&M would offer the above lands to BLM in exchange for all or a portion of the Federal coal underlying the following lands in Sheridan County:

T. 58 N., R. 84 W., 6th PM, Wyoming
section 15, lot 1;
section 20, SE¼;
section 21, E½NE¼, S½;
section 22, NW¼, W½SW¼;
section 23, lots 3,4;
section 27, W½NW¼,W½SW¼;
section 28, all;
section 29, NE¼, NE¼SE¼;
section 33, N½NE¼;
section 34, SW¼NE¼, NW¼NW¼.
Total Selected Lands: Approximately 2045 acres.

The value of the coal to be exchanged will be equal to the value of the offered private lands. The amount of coal to be included in the exchange will be dependent on the fair market value of the coal as determined by BLM. The surface of the above Federal coal lands being considered for exchange is privately owned.

The EIS will consider the impacts of BLM and FS acquisition of the lands being offered for exchange as well as the impacts of mining the coal which P&M proposes to acquire in Sheridan County. There is not currently a mine in this area.

The lands P&M is offering for exchange in Lincoln County, WY, include lands within the BTNF which represent most of the remaining parcels of private land within the Kemmerer Ranger District. Acquisition of these lands is a high priority for the Forest Service. The FS will be a cooperating agency on the EIS.

The Office of Surface Mining Reclamation and Enforcement (OSM) will be a cooperating agency in the preparation of the EIS. The Surface Mining Control and Reclamation Act (SMCRA) gives OSM primary responsibility to administer programs that regulate surface coal mining operations and the surface effects of underground coal mining operations. Pursuant to Section 503 of SMCRA, the Secretary of the Interior approved a permanent program in 1980, which authorized the Wyoming Department of Environmental Quality (DEQ) to regulate surface coal mining operations and surface effects of underground mining on non-federal lands within the state of WY. If an exchange is completed, P&M would be required to prepare and obtain DEQ approval of a permit to conduct coal mining operations before any mining could occur.

The major issues related to mining coal that have been identified by BLM in evaluating recent applications to lease and mine Federal coal in other areas of the Wyoming PRB are related to potential site-specific and cumulative impacts to air quality, groundwater, and wildlife. If you have specific concerns about these issues, or have other concerns or issues that BLM should consider in processing this proposed exchange, please address them in writing to the above individuals or state them verbally at the public scoping meetings scheduled at the times and locations shown above. BLM will accept written comments at the address shown above through March 30, 2001.

Comments, including names and street addresses of respondents, will be available for public review at the address listed above during regular business hours (7:45 a.m.-4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: February 1, 2001.

Jim Paugh,

Realty Officer, Lands and Minerals.

[FR Doc. 01–3748 Filed 2–13–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 3, 2001. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by March 1, 2001.

Arkansas
Boone County:
Bear Creek Motel, (Arkansas Highway History and Architecture MPS) US 65, Bear Creek Springs, 01000175
Pulaski County:
Capitol View Neighborhood Historic District, Roughly bounded by Riverview Dr., S. Schiller St., W. 7th St. and Woodrow St., Little Rock, 01000176
Florida
Hillsborough County:
Turkey Creek High School, Historic, 5005 Turkey Creek Rd., S, Plant City, 01000177
Illinois
Fayette County:
Dycus, Floyd and Glenora, House, 305 S. Second St., Brownstown, 01000179
Lake County:
Ree, Mrs. Kersey Coates, House, 1315 N. Lake Rd., Lake Forest, 01000178
Kansas
Barton County:
Abel House, (Lustron Houses of Kansas MPS) 2601 Passeo, Great Bend, 01000180
Nagel House, (Lustron Houses of Kansas MPS) 1411 Wilson St., Great Bend, 01000181
Clark County:
Stein House, (Lustron Houses of Kansas MPS) 420 Cedar St., Ashland, 01000182
Ellis County:
Drees House, (Lustron Houses of Kansas MPS) 00 E. 19th St., Hays, 01000183
Gallagher House, (Lustron Houses of Kansas MPS) 310 E. 20th St., Hays, 01000184
Ellsworth County:
Weinhold House, (Lustron Houses of Kansas MPS) Address Restricted, Wilson, 01000185
Harvey County:
Coleman House, (Lustron Houses of Kansas MPS) 408 Mead St., Newton, 01000186
Jackson County:
McFadden House, (Lustron Houses of Kansas MPS) 315 W. 5th St., Holton, 01000187
Pawnee County:
Ooten House, (Lustron Houses of Kansas MPS) 507 W 15th St., Larned, 01000188

Patterson House, (Lustron Houses of Kansas MPS) 841 W 8th St., Larned, 01000189
Russell County:
Mann House, (Lustron Houses of Kansas MPS) 614 Oakdale, Russell, 01000190
Woelk House, (Lustron Houses of Kansas MPS) 615 Sunset, Russell, 01000191
Smith County:
Grimes House, (Lustron Houses of Kansas MPS) 214 Park St., Smith Center, 01000192
Martyn House, (Lustron Houses of Kansas MPS) 216 Park St., Smith Center, 01000195
Trego County:
Stradal House, (Lustron Houses of Kansas MPS) 409 N 13th St., Wa Keeney, 01000193
Massachusetts
Barnstable County:
Old Town Center Historic District, Roughly along Locust Public Rd. and Salt Pond Rd., Eastham, 01000196
Essex County:
Rowley Village Forge Site, Address Restricted, Boxford, 01000201
Missouri
Greene County:
Commercial Street Historic District, Roughly Commercial St., from Lyons to Washington, Springfield, 01000202
Montana
Glacier County:
Lee Creek Snowshoe Cabin, (Glacier National Park MPS) NE corner of Glacier National Park, Glacier National Park, 01000203

Carol D. Shull,

Keeper of the National Register Of Historic Places.

New Hampshire
Hillsborough County:
Hollis Village Historic District, Roughly parts of Ash St., Broad St., Cleasby Ln., Depot Rd., Main St., Monument Sq. and Silver Lake Rd., Hollis, 01000204
Strafford County:
Jenness Farm, 626 Pickering Rd., Rochester, 01000206
Sullivan County:
Blow-Me-Down Grange, 1071 NH 12–A, Plainfield, 01000205
Ohio
Cuyahoga County:
William Tricker Inc. Historic District, 7125 Tanglewood Rd., Independence, 01000200
Darke County:
Clemens, James and Sohia, Farmstead, 467 Stingley Rd., Palestine, 01000199
Franklin County:
Gelpi, Eleanor A., House, 7125 Roverside Dr., Dublin, 01000198
Tosheff's Restaurant and Hotel, 1943–1953 Parsons Ave., Columbus, 01000197
Oklahoma
Osage County:
Chapman—Barnard Ranch Headquarters, 1511 Cty Rte. 4201, Pawhuska, 01000208
Stephens County:
Simmons, Louis B., House, 401 N. 9th ST., Duncan, 01000207
Texas
Jasper County:
Aldridge Sawmill, (Early Logging Industry in East Texas MPS) Angelina National Forest., S end of Forest System Rd., Zavalla, 01000209
Vermont
Addison County:
First Congregational Church, (Religious Buildings, Sites and Structures in Vermont MPS) 464 Main St., Orwell, 01000210
Salisbury Congregational Church, (Religious Buildings, Sites and Structures in Vermont MPS) West Salisbury Rd., Salisbury, 01000212
Shoreham Congregational Church, (Religious Buildings, Sites and Structures in Vermont MPS) School St., Shoreham, 01000211
Chittenden County:
First Baptist Church, (Religious Buildings, Sites and Structures in Vermont MPS) 81 St. Paul St., Burlington, 01000217
Methodist Episcopal Church of Winooski, (Religious Buildings, Sites and Structures in Vermont MPS) 24 W Allen St., Winooski, 01000216
Franklin County:
Enosburg Congregational Memorial Church, (Religious Buildings, Sites and Structures in Vermont MPS) TH No. 2, Enosburg, 01000222
First Congregational Church of Swanton, (Religious Buildings, Sites and Structures in Vermont MPS) 42 Academy St., Swanton, 01000220
Georgia Plain Baptist Church, (Religious Buildings, Sites and Structures in Vermont MPS) Stonebridge Rd. and Georgia Plain Rd., Geogia, 01000213
Methodist Episcopal Church, (Religious Buildings, Sites and Structures in Vermont MPS) 25 Grand Ave., Swanton, 01000219
Parish of the Holy Trinity, (Religious Buildings, Sites and Structures in Vermont MPS) 38 Grand Ave., Swanton, 01000221
St. George's Catholic Church, (Religious Buildings, Sites and Structures in Vermont MPS) VT 25, Bakersfield, 01000218
Grand Isle County:
Congregational Church—Grand Isle, (Religious Buildings, Sites and Structures in Vermont MPS) 12 Hyde Rd., Grand Isle, 01000224
Methodist Episcopal Church of Isle La Motte, (Religious Buildings, Sites and Structures in Vermont MPS) 67 Church St., Isle La Motte, 01000223
Orange County:
South Tunbridge Methodist Episcopal Church, (Religious Buildings, Sites and Structures in Vermont MPS) VT 110. 1/3 mi. N of Royalton town line, Tunbridge, 01000215
Windsor County:
St. Pauls's Episcopal Church, (Religious Buildings, Sites and Structures in Vermont MPS) Jct. of Bridge St. and VT 14, Royalton, 01000214

A request for Removal has been made for the following Resources:

Wisconsin
Dodge County:
Dodge County Courthouse 220 E. State St. Juneau, 82000661
Vilas County:
Presque Isle State Graded School Jct. Of Co. Trunk Hwy. B and School Loop St. Presque Isle, 93000158

[FR Doc. 01–3701 Filed 2–13–01; 8:45 am]
BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–873–875, 877–880, and 882 (Final)]

Certain Steel Concrete Reinforcing Bars From Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731–TA–873–875, 877–880, and 882 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether 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 less-than-fair-value imports from Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine of certain steel concrete reinforcing bars, provided

for in subheading 7214.20.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: January 24, 2001.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202–205–3188), 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.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain steel concrete reinforcing bars from Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigations were requested in petitions filed on June 28, 2000, by the Rebar Trade Action Coalition (RTAC) (Washington, DC) and its individual members.[2]

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

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 the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on March 23, 2001, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on April 5, 2001, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 28, 2001. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on April 2, 2001, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 30, 2001. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is April 12, 2001; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before April 12, 2001. On May 8, 2001, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 10, 2001, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. Parties may also issue final comments on Commerce's final determinations on Belarus, China, Korea and Latvia on or before June 29, 2001; such comments must not contain new factual information except for information contained in Commerce's determinations on the four countries, and must otherwise comply with section 207.30 of the Commission rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (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: These investigations are being conducted under authority of title VII of the

[1] For purposes of these investigations, Commerce has defined the subject merchandise as "all rebar sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (i.e., non-deformed or smooth bars) and rebar that has been further processed through bending or coating."

[2] Such members include Ameristeel (Tampa, FL); Auburn Steel Co., Inc. (Auburn, NY); Birmingham Steel Corp. (Birmingham, AL); Border Steel, Inc. (El Paso, TX); Marion Steel Co. (Marion, OH); Riverview Steel (Glassport, PA); Nucor Steel (Darlington, SC); and CMC Steel Group (Seguin, TX). Auburn Steel Co., Inc. is not a petitioner involving certain steel concrete reinforcing bars from Indonesia.

Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.
Issued: February 7, 2001.

Donna R. Koehnke

Secretary.

[FR Doc. 01–3749 Filed 2–13–01; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Appellate Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Appellate Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Appellate Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: April 11–12, 2001.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Hotel Inter-Continental, 444 St. Charles Avenue, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: February 8, 2001.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 01–3705 Filed 2–13–01; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: March 15–16, 2001.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Hotel Inter-Continental, 444 St. Charles Avenue, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: February 8, 2001.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 01–3704 Filed 2–13–01; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Civil Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Civil Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Civil Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: April 23–24, 2001.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle, NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: February 8, 2001.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 01–3707 Filed 2–13–01; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearing and Meeting of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Criminal Procedure.

ACTION: Notice of open hearing and meeting.

SUMMARY: The hearing and meeting will be open to public observation but not participation. The hearing will be held from 8:30 a.m. to 12 noon on April 25. The meeting will be held from 1:00 p.m. on April 25 to 5:00 p.m. on April 27.

DATES: April 25–27, 2001.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: February 8, 2001.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 01–3708 Filed 2–13–01; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Evidence

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Evidence.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Evidence will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: April 19–20, 2001.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle, NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: February 8, 2001.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 01–3706 Filed 2–13–01; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States, Committee on Rules of Practice and Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Committee on Rules of Practice and Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: June 7–8, 2001.

TIME: 8:30 a.m. to 5:00 p.m.

ADDRESSES: University of Pennsylvania Law School, 3400 Chestnut Street, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: February 8, 2001.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 01–3709 Filed 2–13–01; 8:45 am]

BILLING CODE 2210–55–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 23, 2000, and December 5, 2000, Cerilliant Corporation, 14050 Summit Drive #121, P.O. Box 201088, Austin, Texas 78708–0189, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
4-Methylaminorex (cis isomer) (1590)	I
Gamma hydroxybutyric acid (2010)	I
Methaqualone (2565)	I
Alpha-Ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3,4,5-Trimethoxyamphetamine (7390)	I
4-Bromo-2,5-dimethoxyamphetaime (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
4-Methyl-2,5-dimethoxyamphetamine (7395)	I
2,5-Dimethoxyamphetamine (7396)	I
2,5-Dimethoxy-4-ethylamphetamine (7399)	I
3,4-Methylenedioxyamphetamine (7400)	I
5-Methoxy-3,4-methylenedioxyamphetamine (7401)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Acetyldihydrocodeine (9051)	I
Benzylmorphine (9052)	I
Codeine-N-oxide (9053)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
Pholcodine (9314)	I
Acetylmethadol (9601)	I
Allyprodine (9602)	I
Alphacetylmethadol except Levo-Alphacetylmethadol (9603)	I
Alphameprodine (9604)	I
Alphamethadol (9605)	I
Betacetylmethadol (9607)	I
Betameprodine (9608)	I
Betamethadol (9609)	I
Betaprodine (9611)	I
Hydromorphinol (9627)	I
Noracymethadol (9633)	I
Norlevorphanol (9634)	I
Normethadone (9635)	I
Trimeperidine (9646)	I
Para-Fluorofentanyl (9812)	I
3-Methylfentanyl (9813)	I
Alpha-methylfentanyl (9814)	I
Acetyl-alpha-methylfentanyl (9815)	I
Beta-hydroxyfentanyl (9830)	I
Beta-hydroxy-3-methylfentanyl (9831)	I

Drug	Schedule
Alpha-Methylthiofentanyl (9832)	I
3-Methylthiofentanyl (9833)	I
Thiofentanyl (9835)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenmetrazine (1631)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Nabilone (7379)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Alphaprodine (9010)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture small quantities of the listed controlled substances to make deuterated and non-deuterated drug reference standards which will be distributed to analytical and forensic laboratories for drug testing programs.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA **Federal Register** Representative (CCR), and must be filed no later than April 16, 2001.

Dated: January 25, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–3752 Filed 2–13–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated September 25, 2000, and published in the **Federal Register** on October 3, 2000, (65 FR 59018), Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee 37409, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
N-Ethylamphetamine (1475)	I
4-Methoxyamphetamine (7411)	I
2,5-Dimethoxyamphetamine (7396)	I
Difenoxin (9168)	I
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II

The firm plans to bulk manufacture the listed controlled substances to produce products for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Chattem Chemicals, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Chattem Chemicals, Inc. to ensure that the company's registration is consistent with the public interest. This investigation included inspection and testing of the company's physical security systems, verification of the

company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: January 25, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–3750 Filed 2–13–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated October 31, 2000, and published in the **Federal Register** on November 14, 2000, (65 FR 68158), Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07605, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of coca leaves (9040), a basic class of controlled substance listed in Schedule II.

The firm plans to import the coca leaves to manufacture bulk controlled substance.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Stepan Company, Natural Products Department to import coca leaves is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Stepan Company, Natural Products Department on a regular basis to ensure that the company's continued registration is consistent with the public interest. This investigation included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, section 1301.34, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: January 25, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–3751 Filed 2–13–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Extension of Information Collection; Comment Request; Prohibited Transaction Exemption 91–55

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) 44 U.S.C. 3506(c)(2)(A). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the information collection request (ICR) incorporated in Prohibited Transaction Exemption 91–55, Transactions Between Individual Retirement Accounts and Authorized Purchasers of American Eagle Coins. A copy of the ICR may be obtained by contacting the office listed in the Addresses section of this notice.

DATES: Written comments must be submitted to the office shown in the Addresses section below on or before April 16, 2001.

ADDRESSES: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Washington, D.C. 20210. Telephone: (202) 219–4782 (this is not a toll-free number); FAX: (202) 219–4745. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Exemption 91–55 permits purchases and sales by certain ''individual retirement accounts,'' as defined in Internal Revenue Code section 408 (IRAs) of American Eagle bullion coins (''Coins'') in principal transactions from or to broker-dealers in Coins that are ''authorized purchasers'' of Coins in bulk quantities from the United States Mint and which are also ''disqualified persons,'' within the meaning of Code section 4975(e)(2), with respect to IRAs. The exemption also describes the circumstances under which an interest-free extension of credit in connection with such sales and purchases is permitted. In the absence of an exemption, such purchases and sales and extensions of credit would be impermissible under the Employee Retirement Income Security Act of 1974 (ERISA).

The information collection request for this exemption includes three requirements. First, certain information related to covered transactions in Coins must be disclosed by the authorized purchaser to persons who direct the transaction for the IRA. Currently, it is standard industry practice that most of this information is provided to persons directing investments in an IRA when transactions in Coins occur. The exemption also requires that the disqualified person maintain for a period of at least six years such records as are necessary to allow accredited persons, as defined in the exemption, to determine whether the conditions of the transaction have been met. Finally, an authorized purchaser must provide a confirmation statement with respect to each covered transaction to the person who directs the transaction for the IRA.

The recordkeeping requirement facilitates the Department's ability to make findings under section 408 of ERISA and section 4975(c) of the Code. The confirmation and disclosure requirements protect a participant or beneficiary investing in IRAs transacting in Coins with authorized purchasers by providing the investor or the person directing his or her investments with timely information about the market in Coins and about the individual's account in particular.

II. Desired Focus of Comments

The Department of Labor is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

This Notice requests comments on the extension of the ICR included in PTE 91–55. The Department is not proposing or implementing changes to the existing ICR at this time.

Type of Review: Extension of a currently approved collection of information.

Agency: Pension and Welfare Benefits Administration, Department of Labor.

Title: Prohibited Transaction Exemption 91–55.

OMB Number: 1210–0079.

Affected Public: Business or other for-profit; Not-for-profit institutions; Individuals.

Total Respondents: 3.

Frequency: On occasion.

Total Responses: 55,000.

Estimated Total Burden Hours: 2,400 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 6, 2001.

Gerald B. Lindrew,

Pension and Welfare Benefits Administration, Deputy Director, Office of Policy and Research.

[FR Doc. 01–3729 Filed 2–13–01; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2001–07; Exemption Application No. D–10855, et al.]

Grant of Individual Exemptions; American Express Financial Corporation (AEFC)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

American Express Financial Corporation (AEFC) Located in Minneapolis, MN; Exemption

[Prohibited Transaction Exemption 2001–07; Exemption Application No. D–10855]

Section I. Exemption for the Acquisition, Holding and Disposition of American Express Company Stock

The restrictions of sections 406(a)(1)(D), 406(b)(1) and section 406(b)(2) of the Act, section 8477(c)(2)(A) and (B) of the Federal Employees Retirement System Act, and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(D) and (E) of the Code, shall not apply to the acquisition, holding and disposition of the common stock of American Express Company or its current and future affiliates (AE Stock) by Index and Model-Driven Funds (collectively, the Funds) that are managed by AEFC and its affiliates [as defined in Section III(g)(1)], provided that the following conditions and the General Conditions of Section II are met:

(a) The acquisition or disposition of AE Stock is for the sole purpose of maintaining strict quantitative conformity with the relevant index upon which the Index or Model-Driven Fund is based, and does not involve any agreement, arrangement or understanding regarding the design or operation of the Fund acquiring the AE Stock which is intended to benefit AEFC or any party in which AEFC may have an interest.

(b) Whenever AE Stock is initially added to an index on which an Index or Model-Driven Fund is based, or initially added to the portfolio of an Index or Model-Driven Fund, all acquisitions of AE Stock necessary to bring the Fund's holdings of such Stock either to its capitalization-weighted or other specified composition in the relevant index, as determined by the independent organization maintaining such index, or to its correct weighting as determined by the model which has been used to transform the index, occur in the following manner:

(1) Purchases are from, or through, only one broker or dealer on a single trading day;

(2) Based on the best available information, purchases are not the opening transaction for the trading day;

(3) Purchases are not effected in the last half hour before the scheduled close of the trading day;

(4) Purchases are at a price that is not higher than the lowest current independent offer quotation, determined on the basis of reasonable inquiry from non-affiliated brokers;

(5) Aggregate daily purchases do not exceed 15 percent of the average daily trading volume for the security, as determined by the greater of either (i) the trading volume for the security occurring on the applicable exchange and automated trading system on the date of the transaction, or (ii) an aggregate average daily trading volume for the security occurring on the applicable exchange and automated trading system for the previous five (5) business days, both based on the best information reasonably available at the time of the transaction;

(6) All purchases and sales of AE Stock occur either (i) on a recognized U.S. securities exchange (as defined in Section III(j) below), (ii) through an automated trading system (as defined in Section III(i) below) operated by a broker-dealer independent of AEFC that is registered under the Securities Exchange Act of 1934 (the '34 Act), and thereby subject to regulation by the Securities and Exchange Commission (SEC), which provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) through an automated trading system (as defined in Section III(i) below) that is operated by a recognized U.S. securities exchange (as defined in Section III(j) below), pursuant to the applicable securities laws, and provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer; and

(7) If the necessary number of shares of AE Stock cannot be acquired within 10 business days from the date of the event which causes the particular Fund to require AE Stock, AEFC appoints a fiduciary which is independent of AEFC to design acquisition procedures and monitor compliance with such procedures.

(c) Subsequent to acquisitions necessary to bring a Fund's holdings of AE Stock to its specified weighting in the index or model pursuant to the restrictions described in paragraph (b) above, all aggregate daily purchases of AE Stock by the Funds do not exceed on any particular day the greater of:

(1) 15 percent of the average daily trading volume for the AE Stock occurring on the applicable exchange and automated trading system (as defined below) for the previous five (5) business days, or

(2) 15 percent of the trading volume for AE Stock occurring on the applicable exchange and automated trading system (as defined below) on the date of the transaction, as determined by the best available information for the trades that occurred on such date.

(d) All transactions in AE Stock not otherwise described in paragraph (b) above are either: (i) Entered into on a principal basis in a direct, arms-length transaction with a broker-dealer, in the ordinary course of its business, where such broker-dealer is independent of AEFC and is registered under the '34 Act, and thereby subject to regulation by the SEC, (ii) effected on an automated trading system (as defined in Section III(i) below) operated by a broker-dealer independent of AEFC that is subject to regulation by either the SEC or another applicable regulatory authority, or an automated trading system operated by a recognized U.S. securities exchange (as defined in Section III(j) below) which, in either case, provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) effected through a recognized U.S. securities exchange (as defined in Section III(j) below) so long as the broker is acting on an agency basis.

(e) No transactions by a Fund involve purchases from, or sales to, AEFC (including officers, directors, or employees thereof), or any party in interest that is a fiduciary with discretion to invest plan assets into the Fund (unless the transaction by the Fund with such party in interest would otherwise be subject to an exemption).

(f) No more than five (5) percent of the total amount of AE Stock, that is issued and outstanding at any time, is held in the aggregate by Index and Model-Driven Funds managed by AEFC.

(g) AE Stock constitutes no more than five (5) percent of any independent third party index on which the investments of an Index or Model-Driven Fund are based.

(h) A plan fiduciary independent of AEFC authorizes the investment of such plan's assets in an Index or Model-Driven Fund which purchases and/or holds AE Stock, other than in the case of an employee benefit plan sponsored or maintained by AEFC for its own employees (an AEFC Plan), pursuant to the procedures described herein.

(i) A fiduciary independent of the AEFC directs the voting of the AE Stock held by an Index or Model-Driven Fund on any matter in which shareholders of AE Stock are required or permitted to vote.

(j) No more than ten (10) percent of the assets of any Fund that acquires and holds AE Stock is comprised of any AEFC Plan(s) for which AEFC exercises investment discretion.

Section II. General Conditions

(a) AEFC maintains or causes to be maintained for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (b) of this Section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of AEFC, the records are lost or destroyed prior to the end of the six year period, and (2) no party in interest other than AEFC shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b)(1) Except as provided in paragraph (b)(2) and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (a) of this Section are unconditionally available at their customary location for examination during normal business hours by —

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a plan participating in an Index or Model-Driven Fund who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan participating in an Index or Model-Driven Fund or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any plan participating in an Index or Model-Driven Fund, or a representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph II(b) shall be authorized to examine trade secrets of AEFC or commercial or financial information which is considered confidential.

Section III. Definitions

(a) The term ''Index Fund'' means any investment fund, account or portfolio sponsored, maintained, trusteed, or managed by AEFC, in which one or more investors invest, and —

(1) Which is designed to track the rate of return, risk profile and other

characteristics of an independently maintained securities Index, as described in Section III(c) below, by either (i) replicating the same combination of securities which compose such Index or (ii) sampling the securities which compose such Index based on objective criteria and data;

(2) For which AEFC does not use its discretion, or data within its control, to affect the identity or amount of securities to be purchased or sold;

(3) That contains ''plan assets'' subject to the Act, pursuant to the Department's regulations (see 29 CFR 2510.3–101, Definition of ''plan assets''—plan investments); and,

(4) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund which is intended to benefit AEFC or any party in which AEFC may have an interest.

(b) The term ''Model-Driven Fund'' means any investment fund, account or portfolio sponsored, maintained, trusteed, or managed by AEFC, in which one or more investors invest, and —

(1) Which is composed of securities the identity of which and the amount of which are selected by a computer model that is based on prescribed objective criteria using independent third party data, not within the control of AEFC, to transform an independently maintained Index, as described in Section III(c) below;

(2) Which contains ''plan assets'' subject to the Act, pursuant to the Department's regulations (see 29 CFR 2510.3–101, Definition of ''plan assets''—plan investments); and

(3) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund or the utilization of any specific objective criteria which is intended to benefit AEFC or any party in which AEFC may have an interest.

(c) The term ''Index'' means a securities index that represents the investment performance of a specific segment of the public market for equity or debt securities in the United States, but only if —

(1) The organization creating and maintaining the index is—

(A) Engaged in the business of providing financial information, evaluation, advice or securities brokerage services to institutional clients,

(B) A publisher of financial news or information, or

(C) A public stock exchange or association of securities dealers; and,

(2) The index is created and maintained by an organization independent of AEFC; and,

(3) The index is a generally accepted standardized index of securities which is not specifically tailored for the use of AEFC.

(d) The term ''opening date'' means the date on which investments in or withdrawals from an Index or Model-Driven Fund may be made.

(e) The term ''Buy-up'' means an acquisition of AE Stock by an Index or Model-Driven Fund in connection with the initial addition of such Stock to an independently maintained index upon which the Fund is based or the initial investment of a Fund in such Stock.

(f) The term ''AEFC'' refers to American Express Financial Corporation and its affiliates, as defined below in paragraph (g).

(g) An ''affiliate'' of AEFC includes:

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with the person;

(2) Any officer, director, employee or relative of such person, or partner of any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(h) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(i) The term ''automated trading system'' means an electronic trading system that functions in a manner intended to simulate a securities exchange by electronically matching orders on an agency basis from multiple buyers and sellers, such as an ''alternative trading system'' within the meaning of the SEC's Reg. ATS [17 CFR part 242.300], as such definition may be amended from time to time, or an ''automated quotation system'' as described in section 3(a)(51)(A)(ii) of the '34 Act [15 USC 8c(a)(51)(A)(ii)].

(j) The term ''recognized U.S. securities exchange'' means a U.S. securities exchange that is registered as a ''national securities exchange'' under Section 6 of the '34 Act (15 USC 78f), as such definition may be amended from time to time, which performs with respect to securities the functions commonly performed by a stock exchange within the meaning of definitions under the applicable securities laws (e.g., 17 CFR part 240.3b–16).

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on September 19, 2000 at 65 FR 56715.

Written Comments

The Department received one written comment with respect to the Notice and no requests for a public hearing. The comment, which was submitted by the applicant, AEFC, requests certain modifications to the conditional language and the Summary of Facts and Representations (the Summary) of the Notice. AEFC has requested these changes for purposes of clarification or to correct several typographical errors.

Following is a discussion of AEFC's comment and the Department's responses to the areas of concern raised by AEFC.

1. *Investment by the AEFC plans in the funds.* On page 56716 of the Notice, Section I(j) provides that ''[n]o more than ten (10) percent of the assets of any Fund that acquires and holds AE Stock is comprised of any AEFC Plan(s) for which AEFC exercises investment discretion.'' AEFC assumes that this condition relates to the aggregate interest of all Plans that are sponsored by AEFC and its affiliates. AEFC also assumes that this condition does not restrict Fund investments by any AEFC Plan that is a participant-directed, defined contribution plan, even though AEFC or its affiliates may have used their authority to make such Fund available as a permissible investment under such Plan.

In consideration of AEFC's comment, the Department hereby confirms that the 10 percent investment limitation refers to the aggregate interest that all AEFC Plans may have in a Fund. The Department also wishes to confirm that this limitation does not restrict Fund investments by any AEFC Plan, which is a defined contribution, participant-directed plan, even though AEFC or its affiliates may have used their authority to make such Fund available to an AEFC Plan participant as a Plan investment option.

In addition to the above, AEFC has requested the Department to clarify that the 10 percent investment limitation would be met if a collective investment fund (in which an AEFC Plan has more than a 10 percent interest) invests in an Index or Model-Driven Fund that holds AE Stock. On a ''look-through'' basis, AEFC represents that the AEFC Plan would not hold more than a 10 percent interest in the second Fund.

In response to this comment, the Department wishes to emphasize that this principle would apply as long as the AEFC Plan's interest in the second Fund does not exceed, on a ''look-through'' basis, 10 percent of the second Fund. For purposes of illustration, the

Department is providing the following example.

Assume that Plan A, an AEFC Plan, has invested $30 million in Collective Investment Fund #1 and that Collective Investment Fund #1 has total assets of $100 million. On the basis of the foregoing, Plan A has a 30 percent undivided ownership interest in Collective Investment Fund #1.

Assume that Collective Investment Fund #1 invests all of its assets in Index Fund #2 which has $500 million in total assets and invests in AE Stock.

Plan A's ownership interest in Index Fund #2 would be determined as follows: $30 million/$100 million + $500 million = 5 percent.

Thus, on a ''look-through'' basis, Plan A would not hold more than a 10 percent interest in Index Fund #2.

2. *Fund transactions.* On page 56716 of the Notice, in Section I(e), and on page 56720 of the Summary, in Representation 14(f), it states that ''[n]o transactions by a Fund involve purchases from or sales to, AEFC (including officers, directors, or employees thereof), or any party in interest that is a fiduciary with discretion to invest plan assets into the Fund (unless the transaction by the Fund with such party in interest would be otherwise subject to an exemption).'' AEFC has requested that the Department clarify that the foregoing language is meant to cover only transactions that are subject to this exemption.

Accordingly, the Department concurs with AEFC's interpretation of the subject language.

3. *Affiliate definition.* On page 56717 of the Notice, Section III(g) of the Definitions provides, in part, that the term ''affiliate'' means, with respect to AEFC, ''an entity which directly or indirectly, through one or more intermediaries, is controlled by AEFC.'' AEFC believes that this definition is confusing and duplicative because it implies that only those entities controlled by AEFC are affiliates rather than those which AEFC directly or indirectly controls, is controlled by or is under common control with. Therefore, AEFC suggests that Section III(g) be deleted and that Section III(h), which also defines the term ''affiliate,'' be redesignated as Section III(g).

In response, the Department concurs with AEFC's clarification and has modified Section III(g) of the Notice, accordingly. In addition, the Department has redesignated paragraphs (i) through (k) of Section III as paragraphs (h) through (j) in the final exemption.

4. *Miscellaneous revisions.* On page 56717 of the Notice, Representation 1 of the Summary provides a description of AEFC ''together with its subsidiaries.'' AEFC has requested that the Department modify this phrase to read ''together with its affiliates.''

In addition, on page 56718 of the Notice, Representation 2 of the Summary states, in part, that ''AEFC acts as investment manager of institutional accounts, including employee benefit plans, with assets totaling approximately $38.3 million.'' However, AEFC points out that the ''$38.3 million'' figure should be revised to read ''$38.3 billion.''

In response to the foregoing comments, the Department has noted these revisions to the Summary.

For further information regarding AEFC's comment letter or other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10855) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Accordingly, after giving full consideration to the entire record, including the written comment provided by AEFC, the Department has made the aforementioned changes to the Notice and has decided to grant the exemption subject to the modifications and clarifications described above.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

ING Barings LLC, ING Institutional Trust Company and Affiliates, Located in New York, New York, Exemption

[Prohibited Transaction Exemption 2001–08 Exemption Application No.: D–10908].

Section I—Transactions

Effective as of December 6, 2000, the date of the publication of the proposed exemption in the **Federal Register**, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code,[1] shall not apply to:

(a) the lending of securities to:

(1) ING Barings LLC (ING);

(2) the London branch (ING Bank London) of ING Bank N.V. or any successor in interest bank which is subject to the laws of the United Kingdom and the Netherlands;

(3) ING Barings Limited (ING London);

(4) ING Baring Securities (Japan) Limited (ING Japan); and

(5) any broker-dealer that, now or in the future, is an affiliate of ING which is subject to regulation under the laws of the United States or the United Kingdom or Japan;[2] by employee benefit plans, including commingled investment funds holding assets of such plans (the Client Plan(s)), for which in connection with securities lending activities, an affiliate of the ING Borrowers, the ING Institutional Trust Company (ING Institutional), its corporate successors, or any foreign or domestic affiliate of ING,[3] acts as a securities lending agent (or sub-agent) or as a directed trustee or custodian for such Client Plans under either of two securities lending arrangements referred to herein as Plan A and Plan B; and

(b) the receipt of compensation by ING Trust in connection with securities lending transactions, provided that for all transactions described above the conditions, as set forth in Section II, below, are satisfied.

Section II—Conditions

(a) For each Client Plan, neither the ING Borrowers nor ING Trust has or exercises discretionary authority or control with respect to the investment of the assets of such Client Plan involved in the transaction (other than with respect to the investment of cash collateral after the securities have been loaned and collateral received), or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, including any decisions concerning such Client Plan's acquisition or disposition of securities available for securities lending transactions;

(b) With regard to:

(1) Plan A, under which ING Trust lends securities of a Client Plan to an ING Borrower in either an agency or sub-agency capacity, such arrangement is approved in advance by a fiduciary of the Client Plan (the Client Plan Fiduciary) that is independent of ING

[1] For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer to the corresponding provisions of the Code.

[2] ING, ING Bank London or any successor in interest bank which is subject to the laws of the United Kingdom and the Netherlands, ING London, ING Japan, and any broker-dealer that, now or in the future, is an affiliate of ING which is subject to regulation under the laws of the United States or the United Kingdom or Japan are referred to herein collectively as ING Borrowers or individually as ING Borrower.

[3] ING Institutional, its corporate successors, or any foreign or domestic affiliate of ING are referred to herein collectively as ING Trust.

Trust and the ING Borrower and is negotiated by ING Trust, which acts as a liaison between the lender and the borrower to facilitate the securities lending transaction.[4]

(2) Plan B, under which an ING Borrower directly negotiates an agreement with the Client Plan Fiduciary, including a Client Plan for which ING Trust provides services with respect to the portfolio of securities to be loaned, pursuant to an exclusive borrowing arrangement (an Exclusive Borrowing Arrangement), such Client Plan Fiduciary is independent of both the ING Borrower and ING Trust, and ING Trust does not participate in any such negotiations.

(c) Before a Client Plan participates in a securities lending program with respect to Plan A and before any loan of securities to an ING Borrower pursuant to Plan A is affected, a Client Plan Fiduciary that is independent of ING Trust and the ING Borrower must have:

(1) Authorized and approved a securities lending authorization agreement with ING Trust (the Agency Agreement), where ING Trust is acting as the direct securities lending agent;

(2) Authorized and approved the primary securities lending authorization agreement (the Primary Lending Agreement) with the primary lending agent, where ING Trust is lending securities under a sub-agency arrangement with a primary lending agent; and

(3) Approved the general terms of the securities loan agreement (the Basic Loan Agreement) between such Client Plan and the ING Borrower, the specific terms of which are negotiated and entered into by ING Trust.

(d) The terms of each loan of securities by a Client Plan to an ING Borrower are at least as favorable to such Plan as those of a comparable arm's-length transaction between unrelated parties;

(e) A Client Plan may terminate a securities lending agency (or sub-agency) agreement under Plan A or an Exclusive Borrowing Arrangement under Plan B at any time without penalty on five (5) business days notice, whereupon the ING Borrower shall deliver securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization, or merger of the issuer of the borrowed securities) to the Client Plan within:

(1) The customary delivery period for such securities;

(2) Five (5) business days; or

(3) The time negotiated for such delivery by the Client Plan and the ING Borrower, whichever is less.

(f) ING Institutional (or another custodian designated to act on behalf of the Client Plan) as agent for the Client Plan receives from the ING Borrower (either by physical delivery or by book entry in a securities depository located in the United States, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to such ING Borrower, collateral consisting of U.S. currency, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, irrevocable letters of credit issued by a United States Bank, other than ING Trust or the ING Borrowers, or any combination thereof, or other collateral permitted under PTCE 81–6 (as it may be amended or superseded);

(g) The market value (or in the case of a letter of credit, a stated amount) of the collateral on the close of business on the day preceding the day of the loan is initially at least 102 percent (102%) of the market value of the loaned securities. The applicable Basic Loan Agreement gives the Client Plan a continuing security interest in and an lien on the collateral. The level of collateral is monitored daily either by ING Trust under Plan A or ING Trust or other designee of the Client Plan under Plan B. If the market value of the collateral, on the close of trading on a business day, is less than 100 percent (100%) of the market value of the loaned securities at the close of business on that day, the ING Borrower is required to deliver by the close of business on the next day, sufficient additional collateral such that the market value of the collateral will again equal 102 percent (102%).

(h) With regard to:

(1) Plan A, prior to a Client Plan entering into a Basic Loan Agreement, the ING Borrower will furnish its most recent available audited and unaudited statements to ING Trust, which, in turn, will provide such statements to the Client Plan before such Client Plan approves of the terms of the Basic Loan Agreement. The Basic Loan Agreement contains a requirement that the applicable ING Borrower must give prompt notice at the time of a loan of any material adverse changes in its financial condition since the date of the most recently furnished financial statements. If any such changes have taken place, ING Trust will not make any further loans to the ING Borrower, unless an independent Client Plan Fiduciary is provided notice of any material change and approves the loan in view of the changed financial condition;

(2) Plan B, prior to a Client Plan entering into an Exclusive Borrowing Arrangement, the ING Borrower will furnish its most recent available audited and unaudited statements to the Client Plan before the Client Plan elects to enter into such agreement. The Exclusive Borrowing Arrangement contains a requirement that the ING Borrower must give prompt notice at the time of the loan of any material adverse changes in its financial condition since the date of the most recently furnished financial statements;

(i) In return for lending securities, the Client Plan either:

(1) receives a reasonable fee which is related to the value of the borrowed securities and the duration of the loan; or

(2) has the opportunity to derive compensation through the investment of cash collateral. (Under such circumstances, the Client Plan may pay a loan rebate or similar fee to the ING Borrower, if such fee is not greater than the fee the Client Plan would pay in a comparable arm's length transaction with an unrelated party.)

(j) All the procedures regarding the securities lending activities will at a minimum conform to the applicable provisions of PTCE 81–6 and PTCE 82–63 as well as the applicable banking laws of the United Kingdom and the Netherlands and securities laws of the United States or the United Kingdom or Japan;

(k) ING Institutional agrees to indemnify and hold harmless the Client Plans in the United States (including the sponsor and fiduciaries of such Client Plans) for any transactions covered by this exemption with ING Borrowers so that the Client Plans do not have to litigate in the case of ING Borrowers in foreign jurisdictions or sue ING Borrowers to realize on the indemnification. Such indemnification by ING Institutional is against any and all reasonably foreseeable damages, losses, liabilities, costs, and expenses (including attorney's fees) which the Client Plans may incur or suffer, arising from any impermissible use by ING Borrowers of the loaned securities or from an event of default arising from ING Borrowers' failing to deliver loaned securities in accordance with the applicable Basic Loan Agreement or

[4] The Department, herein, is not providing exemptive relief for securities lending transactions engaged in by primary lending agents, other than ING Trust, beyond that provided pursuant to Prohibited Transaction Class Exemption 81–6 (PTCE 81–6) (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987), and Prohibited Transaction Class Exemption 82–63 (PTCE 82–63) (47 FR 14804, April 6, 1982).

otherwise failing to comply with the terms of such agreement, except to the extent that such losses or damages are caused by the Client Plans' own negligence.

(1) If any event of default occurs, ING Institutional promptly and at its own expense (subject to rights of subrogation in the collateral and against such borrower), will purchase or cause to be purchased, for the account of the Client Plans, securities identical to the borrowed securities (or their equivalent as discussed above). If the collateral is insufficient to accomplish such purchase, ING Institutional will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on loans or failure to properly indemnify under this provision). Alternatively, if such replacement securities cannot be obtained on the open market, ING Institutional will pay the Client Plan the difference in U.S. dollars between the market value of the loaned securities and the market value of the related collateral on the date of the borrower's breach of its obligation to return the loaned securities.

(2) If, however, the event of default is caused by the ING Borrower's failure to return securities within a designated time, the Client Plan has the right to purchase securities identical to the borrowed securities and apply the collateral to payment of the purchase price and any other expenses of the Plan associated with the sale and/or purchase.

(l) The Client Plan receives the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including, but not limited to, cash dividends, and interest payments on the loaned securities, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions.

(m) Prior to any Client Plan's approval of the lending of its securities to any ING Borrower, a copy of the notice of proposed exemption and a copy of the final exemption will be provided to such Client Plan.

(n) Each Client Plan receives monthly reports with respect to the securities lending transactions, including but not limited to the information described in representation number 19, as published in the Summary of Facts and Representations in the Notice of Proposed Exemption (the Notice), so that an independent Client Plan Fiduciary may monitor such transactions with the ING Borrowers.

(o) Only Client Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to the ING Borrowers; provided, however, that—

(1) In the case of two or more Client Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Client Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with the ING Borrowers, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(2) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations, or employee organization (the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with the ING Borrowers, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such plan or an employee organization whose members are covered by such plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(A) Has full investment responsibility with respect to Client Plan assets invested therein; and

(B) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million. (In addition, none of the entities described above must be formed for the sole purpose of making loans of securities.)

(p) With respect to any calendar quarter, at least 50 percent (50%) or more of the outstanding dollar value of securities loans negotiated on behalf of Client Plans will be to unrelated borrowers, unless the Client Plan has entered into an Exclusive Borrowing Arrangement with the ING Borrowers.

(q) In addition to the above, all loans involving Foreign Borrowers, as defined in Section III (c), below, must satisfy the following supplemental requirements:

(1) Such Foreign Borrower is a bank which is regulated by both the Dutch Central Bank (De Nederlandsche Bank or DNB) and the Financial Services Authority (FSA) of the United Kingdom or must be a registered broker-dealer subject to regulation by either the Securities and Futures Authority of the United Kingdom (the SFA) or the Ministry of Finance (the MOF) and the Tokyo Stock Exchange.

(2) Such Foreign Borrower must be in compliance with all applicable provisions of Rule 15a–6 (17 CFR 240.15a–6) under the Securities and Exchange Act of 1934 (the 1934 Act) which provides for foreign broker-dealers a limited exemption from United States registration requirements;

(3) All collateral is maintained in United States dollars or United States dollar-denominated securities or letters of credit;

(4) All collateral is held in the United States and the situs of the securities lending agreements (either the Basic Loan Agreement under Plan A or the Exclusive Borrowing Arrangement under Plan B) is maintained in the United States under an arrangement that complies with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)–1; and

(5) Prior to entering a transaction involving a Foreign Borrower, the applicable Foreign Borrower must—

(A) Agree to submit to the jurisdiction of the United States;

(B) Agree to appoint an agent for service of process in the United States, which may be an affiliate (the Process Agent);

(C) Consent to service of process on the Process Agent; and

(D) Agree that enforcement by a Client Plan of the indemnity provided by ING Institutional will occur in the United States courts;

(r) ING maintains or causes to be maintained within the United States for a period of six (6) years from the date of each securities lending transaction, in

a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described in Section II (s)(1) below to determine whether the conditions of this exemption, if granted, have been met; except that—

(1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of ING or the other ING Borrowers, the records are lost or destroyed prior to the end of the six year period; and

(2) no party in interest with respect to an employee benefit plan, other than ING or the other ING Borrowers, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) or (b) of the Code, if such records are not maintained, or are not available for examination as required by Section II(s)(1), below.

(s)(1) Except as provided in subparagraph (2) of this Section II(s) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in Section II(r), above, are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the Securities and Exchange Commission (SEC);

(B) Any fiduciary of a participating Client Plan or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any participating Client Plan, or any duly authorized employee or representative of such employer; and

(D) Any participant or beneficiary of any participating Client Plan, or any duly authorized representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B)–(D) of Section II(s)(1) shall be authorized to examine trade secrets of ING or the other ING Borrowers, or commercial or financial information which is privileged or confidential.

Section III—Definitions

For purposes of this exemption,

(a) The term ''affiliate'' of another person shall include:

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, employee, or relative (as defined in section 3(15) of the Act) of such other person or any partner in such person; and

(3) Any corporation or partnership of which such other person is an officer, director, employee or in which such person is a partner.

(b) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term, ''Foreign Borrower or Foreign Borrowers'' means: (1) ING Bank London or any successor in interest bank subject to the laws of the United Kingdom and the Netherlands; (2) ING London; (3) ING Japan; and (4) any broker-dealer that, now or in the future, is an affiliate of ING which is subject to regulation under the laws of the United States or the United Kingdom or Japan.

Written Comments

In the Notice, the Department of Labor (the Department) invited all interested persons to submit written comments and requests for a hearing on the proposed exemption within thirty (30) days of the date of the publication of the Notice in the **Federal Register** on December 6, 2000. All comments and requests for a hearing were due by January 5, 2001.

During the comment period, the Department received no requests for a hearing. However, the Department did receive comment letters from the applicant. In this regard, in a letter dated January 3, 2001, the applicants requested certain modifications and clarifications to the language of the exemption, as proposed, and requested certain amendments to the language of the Summary of Facts and Representations (SFR) in the Notice. Subsequently, in a letter dated January 19, 2001, the applicants revised various portions of the previous comment letter. A discussion of each of the applicant's comments and the Department's responses, thereto, are set forth in the numbered paragraphs below.

1. The applicants have requested that any reference to IITC in the final exemption be changed to ''ING Trust.'' In this regard, the applicants believe that the use of the term, ''IITC,'' will be confusing to potential clients when the exemption documents are provided to such clients prior to entering into a securities lending arrangement.

Although the Department concurs with the applicants' request and has changed all references to ''IITC'' in the final exemption to ''ING Trust,'' the Department notes that, throughout the proposed exemption, the Department distinguished between the ING Institutional Trust Company (ING Institutional), acting in its individual capacity, and IITC, a collective term, which refers to ING Institutional, its corporate successors, or any foreign or domestic affiliate of ING Barings LLC. Accordingly, in compliance with the applicants' request the words, ''ING Trust,'' in the final exemption will collectively refer to ING Institutional, its corporate successors, or any foreign or domestic affiliate of ING Barings LLC.

2. In its revised comment letter, dated January 19, 2001, the applicants requested an amendment of paragraph (f) of Section II, as published in the Notice (65 FR 76294), by replacing the phrase, ''Client Plan,'' with the words, ''ING Institutional.''

The Department concurs and has modified Section II(f) of the final exemption. Words that have been stricken appear in the closed brackets, and additions have been underlined in the text below, as follows:

(f) [Client Plans] *ING Institutional* (or another custodian designated to act on behalf of the Client Plan) *as agent for the Client Plan* receives from the ING Borrower (either by physical delivery or by book entry in a securities depository located in the United States, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to such ING Borrower, collateral consisting of U.S. currency, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, irrevocable letters of credit issued by a United States Bank, other than ING Trust or the ING Borrowers, or any combination thereof, or other collateral permitted under PTCE 81–6 (as it may be amended or superseded);

Further, the Department notes that for the sake of consistency, the text of paragraph 17, as published in the Notice (65 FR 76299), should have been modified by striking the words, ''IITC,'' and substituting the phrase, ''ING Institional acting as agent.'' Accordingly, words that should have been stricken in the first sentence of paragraph 17 in the Notice appear in the closed brackets, and additions are underlined in the text below, as follows:

[IITC] *ING Institutional acting as agent* on behalf of a Client Plan will receive collateral from ING Borrowers by physical delivery, book entry in a U.S. securities depository, wire transfer, or similar means by the close of business on or before the day the loaned securities are delivered to such ING Borrowers.

3. The applicants have suggested certain deletions and additions to the language in the SFR, as published in the Notice, and have requested that the Department substitute the text which is quoted below for the language that appeared in the Notice. The Department concurs and has made the requested deletions and additions in the language

in the SFR, as published in the Notice. The applicants' deletions to the language that appeared in the SFR are noted below by the words stricken in the closed brackets, and the applicants' additions have been underlined in the text below.

(A) The text of subparagraph (d) of paragraph 36, as published in the SFR in the Notice (65 FR 76303), should have read as follows:

Neither the ING Borrowers nor IITC will exercise any discretionary authority or control with respect to the investment of the assets of Client Plans involved in the securities lending transactions (*other than with respect to the investment of cash collateral after the securities have been loaned and the collateral received*), or render investment advice with respect to those assets, including any decisions concerning a Client Plan's acquisition or disposition of securities available for lending.

(B) The applicants seek to strike the entire text of subparagraph (h) of paragraph 36, as published in the SFR in the Notice(65 FR 76303), as set forth, below:

[The market value of the collateral which secures any loan of securities will at all times equal at least 102 percent (102%) of the market value of the loaned securities;]

and substitute in its entirety the following language:

The level of collateral is monitored daily either by ING Trust under Plan A or ING Trust or other designee of the Client Plan under Plan B. The market value of the collateral will initially equal 102 percent (102%) of the loaned securities. If the market value of the collateral falls below 100 percent (100%), the ING Borrower will deliver additional collateral on the following day such that the market value of the collateral will again equal 102 percent (102%).

After giving full consideration to the entire record, including the written comments from the applicants, the Department has decided to grant the exemption, as described, amended, and concurred in above. In this regard, the comment letters submitted by the applicants to the Department have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension Welfare Benefits Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on December 6, 2000, at 65 FR 76293.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 8th day of February, 2001.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 01–3689 Filed 2–13–01; 8:45 am]

BILLING CODE 4510–29–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

February 8, 2001.

TIME AND DATE: 2 p.m., Thursday, February 15, 2001.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Central Sand & Gravel Co., Docket No. CENT 98–230–RM (Issues include whether the judge erred in concluding that the operator violated 30 CFR 56.12045 by failing to maintain clearances between a stockpile and overhead powerlines).

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject 20 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk,

[FR Doc. 01–3842 Filed 2–12–01; 2:10 pm]

BILLING CODE 6735–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Federal Financial Assistance Management Improvement Act of 1999; Request for Comment; Interim/Draft Plan of Action To Implement Public Law 106–107, the Federal Financial Assistance Management Improvement Act of 1999

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice; request for public comments.

SUMMARY: This notice notifies interested parties that the National Archives and Records Administration (NARA) is participating in the joint effort with other Federal grant-making agencies to satisfy the provisions of Public Law 106–107, the Federal Financial Assistance Management Improvement Act of 1999 (henceforth ''the Act''). The Act requires each agency to develop and implement a plan that streamlines and simplifies the application, administrative, and reporting procedures for Federal financial assistance programs. The Act also requires the agencies to consult with representatives of non-Federal entities during the development and implementation of their plans. NARA's National Historical Publications and Records Commission (NHPRC) makes grants to state and local archives, colleges and universities, libraries, historical societies, other nonprofit organizations, and individuals in the

U.S. to help identify, preserve, and provide public access to records, photographs, and other materials that document American history.

Accordingly, NARA seeks public comment on the interim/draft plan of action published jointly by 23 Federal grant-making agencies in the January 17, 2001 **Federal Register** (66 FR 4584). NARA requests your comments on the Federal grantmaking process and the objectives outlined in this plan, particularly on the questions contained in the notice under the heading ''Desired Focus of Comments''. The notice may be accessed through GPO Access or on NARA's web site at *http://www.nara.gov/nara/grant-plan-notice.html*. Further information about the NHPRC grant program is available on NARA's web site at *http://www.nara.gov/nhprc/*.

DATES: Comments in response to this notice must be received on or before March 19, 2001. Each Federal agency will submit an implementation plan to OMB and Congress before May 20, 2001 and report annually thereafter.

ADDRESSES: General comments on this notice, and those relating to more than one Federal agency, should be addressed to: Attn: PL 106–107 Comments, Department of Health and Human Services, 200 Independence Avenue, SW., Room 517–D, Washington, DC 20201. Comments may also be transmitted by email (PL106107@os.dhhs.gov) or by fax, (202) 690–8772.

Comments that are specific to NARA and the NHPRC grant program should be addressed to: Regulation Comment Desk (NPOL), National Archives and Records Administration, 8601 Adelphi Rd., Room 4100, College Park, MD 20740–6001. Comments may also be transmitted by email to *comments@nara.gov*, with the subject heading PL106–107, or by fax to (301) 713–7270.

FOR FURTHER INFORMATION CONTACT: For general questions regarding this notice, please contact Rodd Clay, Office of Grants Management, Department of Health and Human Services by email (rclay@os.dhhs.gov) or phone at (202) 690–8723; for the hearing impaired only: TDD 202–690–6415. For NHPRC-specific issues, please contact Nancy Allard by email at nancy.allard@nara.gov or by phone at 301–713–7360 ext. 226. Additional information regarding the agencies' reform efforts may be found at the Chief Financial Officers (CFO) Council's Grants Management Committee home page (*http://www.financenet.gov/fed/cfo/grants/grants.html*).

Dated: February 8, 2001.

John W. Carlin,

Archivist of the United States.

[FR Doc. 01–3757 Filed 2–13–01; 8:45 am]

BILLING CODE 7515–01–U

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 4, ''Nondiscrimination in Federally Assisted Commission Programs.''
2. *Current OMB approval number:* 3150–0053.
3. *How often the collection is required:* Occasionally.
4. *Who is required or asked to report:* Recipients of Federal Financial Assistance (Agreement States) provided by the NRC.
5. *The number of annual respondents:* Approximately 32.
6. *The number of hours needed annually to complete the requirement or request:* 352 hours (96 hours reporting and 256 hours recordkeeping) or approximately 3 hours per response.
7. *Abstract:* Recipients of NRC financial assistance provide data to demonstrate assurance to NRC that they are in compliance with nondiscrimination regulations and policies.

Submit, by April 16, 2001, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 8th day of February, 2001.

For the Nuclear Regulatory Commission.

Brenda Jo Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–3740 Filed 2–13–01; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB review; Comment Request

AGENCY: Overseas Private Investment Corporation.

ACTION: Request for Comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the Agency is preparing an information collection request for OMB review and approval and to request public review and comment on the submission. Comments are being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology. The proposed form under review is summarized below.

DATES: Comments must be received on or before April 16, 2001.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: *OPIC Agency Submitting Officer:* Carol Brock, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; 202/336–8563.

SUMMARY OF FORM UNDER REVIEW:

Type of Request: Reinstatement, with change, of a previously approved collection for which approval is expiring.

Title: Finance Application.

Form Number: OPIC–115.

Frequency of Use: Once per project.

Type of Respondents: Business or other institutions, individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 3 hours per project.

Number of Responses: 300 per year.

Federal Cost: $14,796 per year.

Authority for Information Collection: Sections 231 and 234 (b) and (c) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The application is the principal document used by OPIC to determine the investor's and project's eligibility, assess the environmental impact and developmental effects of the project, measure the economic effects for the United States and the host country economy, and collection information for underwriting analysis.

Dated: February 8, 2001.

Rumu Sarkar,

Assistant General Counsel, Administrative Affairs, Department of Legal Affairs.

[FR Doc. 01–3703 Filed 2–13–01; 8:45 am]

BILLING CODE 3210–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43932; File No. SR–CBOE–00–21]

Self-Regulatory Organizations; Order Approving Proposed Rule Change, and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to Proposed Rule Change, by the Chicago Board Options Exchange, Inc. To Amend its Rule Governing the Operation of Its Automatic Book Priority System To Permit Split-Price Executions

DATE: February 6, 2001.

I. Introduction

On May 24, 2000, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange''), filed with 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 to amend its rules governing the operation of its Retail Automatic Execution System (''RAES'') to provide for split-price executions under the Automatic Book Priority (''ABP'') system. On June 22, 2000, CBOE filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change was published in the **Federal Register** on October 19, 2000.[4] No comments were received on the proposal. On November 30, 2000, CBOE filed Amendment No. 2 to the proposed rule change.[5] This order approves the proposed rule change, as amended. In addition, the Commission is publishing this notice to solicit comments on Amendment No. 2 to the proposed rule change, and is simultaneously approving Amendment No. 2 on an accelerated basis.

II. Description of the Proposed Rule Change

A. Text of the Proposed Rule Change

The CBOE proposes to amend its rules governing the operation of its Retail Automatic Execution System (''RAES'') to provide for split-price executions under the ABP system. Below is the text of the proposed rule change. Proposed new language is *italicized* and proposed deletions are in [brackets].[6]

* * * * *

Rule 6.8. RAES Operations

This Rule governs RAES operations in all classes of options, except to the extent otherwise expressly provided in this or other Rules in respect of specified classes of options.

(a)(i) Firms on the Exchange's Order Routing System (''ORS'') will automatically be on the Exchange's Retail Automatic Execution System (''RAES'') for purposes of routing small public customer market or marketable limit orders into the RAES system. Those orders which are eligible for routing to RAES may be subject to such contingencies as the appropriate Floor Procedure Committee (''FPC'') shall approve. Public customer orders are orders for accounts other than accounts in which a member, non-member participant in a joint-venture with a member, or any non-member broker-dealer (including a foreign broker-dealer as defined in Rule 1.1 (xx)) has an interest. The appropriate Floor Procedure Committee (''FPC'') shall determine the size of orders eligible for entry into RAES in accordance with paragraph (e) of this Rule. For purposes of determining what a small customer order is, a customer's order cannot be split up such that its parts are eligible for entry into RAES. Firms on ORS have the ability to go on and off ORS at will. Firms not on ORS that wish to participate will be given access to RAES from terminals at their booths on the floor.

(ii) When RAES receives an order, the system automatically will attach to the order its execution price, determined by the prevailing market quote at the time of the order's entry to the system, except as otherwise provided in *paragraph (b) of this Rule in instances where the best bid or offer on the Exchange's book constitutes the prevailing market best bid or offer, and as otherwise provided in* Interpretation and Policy .02 under this Rule 6.8 in respect of multiply-traded options. A buy order will pay the offer, a sell order will sell at the bid. A Market-Maker logged on to participate in RAES (a ''Participating Market-maker'') will be designated as contra-broker on the trade. A trade executed on RAES at an erroneous quote should be treated as a trade reported at an erroneous price and adjusted to reflect the accurate market after receiving a Floor Official's approval.

(b) *When the best bid or offer on the Exchange's book constitutes the best bid or offer on the Exchange and is for a size less than the RAES order eligibility size for that class, such fact shall be*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, CBOE amended the text of the proposed rule change and included a discussion of the indicator to be used when a book order is establishing CBOE's best bid or offer. *See* letter from Angelo Evangelou, Attorney, CBOE, to Joseph Corcoran, Attorney, Division of Market Regulation, Commission, dated June 20, 2000 (''Amendment No. 1'').

[4] Securities Exchange Act Release No. 43430 (October 11, 2000), 65 FR 62776 (October 19, 2000) (''Notice'').

[5] In Amendment No. 2, CBOE amended the text of the proposed change to CBOE Rule 6.8, Interpretation and Policy .04, to correspond with the proposed changes to the remainder of the rule by obligating the trading crowd to execute orders rejected from RAES up to, and not in addition to, the Book Price Commitment Quantity. *See* letter from Angelo Evangelou, Attorney, CBOE, to Andrew Shipe, Attorney, Division of Market Regulation, Commission, dated November 29, 2000 (''Amendment No. 2'').

[6] The text of the proposed rule change was previously published in the Notice. This publication of rule text corrects technical errors in the Notice relating to numbering, and reflects certain unrelated changes made to the CBOE Rule since the filing of the proposed rule change with the Commission. In addition, rule text has been revised to correct a typographical error in the original text. *See* telephone conversation between Angelo Evangelou, Attorney, CBOE, and Andrew Shipe, Attorney, Division of Market Regulation, Commission, January 8, 2001.

denoted in the Exchange's disseminated quote by a ''Book Indicator''. It is possible that the *best bid or offer on the Exchange's book constitutes the* prevailing market bid or offer [may be equal to the best bid or offer on the Exchange's book]. In those instances, a RAES order will be executed against the order in the book. In the event the order in the book is for a smaller number of contracts than the RAES order, the balance of the RAES order will be assigned to participating market-makers at the same price at which the *initial portion* [rest] of the order was executed *up to an amount prescribed by the appropriate Floor Procedure Committee on a class-by-class basis (the ''Book Price Commitment Quantity''). Any remaining balance thereafter shall be (i) routed to the crowd PAR terminal if Autoquote is not in effect for that series; (ii) assigned to participating market-makers at the Autoquote price if Autoquote constitutes the new prevailing market bid or offer; or (iii) executed against any order in the book that constitutes the new prevailing market bid or offer with the balance of the RAES order being assigned to participating market-makers at that price up to the Book Price Commitment Quantity. Any additional remaining balance of a RAES order shall be handled in accordance with (ii) or (iii) of this paragraph.*

(c)–(g) Unchanged.

* * * Interpretations and Policies:

.01–.03 Unchanged.

.04 In those option classes where the Automated Book Priority (''ABP'') system *is not operational or* has not yet been implemented, if a RAES order would be executed at the price of one or more booked orders, the order will be rerouted on ORS to either the DPM or to another location pursuant to the firm's routing parameters. Under ordinary circumstances, in those option classes where the Automated Book Priority system *is not operational or* has not yet been implemented, when one or more RAES eligible orders in a class of options is re-routed on ORS as described (but not in cases when the orders are routed to the firm's booth), the crowd will be obligated to sell (buy) the rerouted order (or the first order in any group of rerouted orders at the same price) up to the number of contracts *represented by the booked order(s) and, in the event a balance remains on the rerouted order (or the first order in any group of rerouted orders at the same price) up to the Book Price Commitment Quantity (as defined in paragraph (b) of this Rule) where applicable,* [equal to applicable maximum size of RAES eligible orders for that class of options] at the offer (bid) which existed at the time of the order's entry into the RAES system. Because the first such rerouted order will be entitled to a price that existed when the order was initially entered into the RAES system, it is imperative that such an order be represented by the floor brokers as quickly as possible. Orders re-routed to the firm's booth and orders rerouted to the trading station that are not entitled to the above protection will be entitled to be filled by the trading crowd at the bid or offer existing when the Floor Broker represents the order in open outcry in the crowd, pursuant to Rule 8.51.

.05–.08 Unchanged.

* * * * *

B. Description of the Proposed Rule Change

Under current CBOE Rule 6.8, the ABP system allows an order entered into RAES to trade directly with an order on the Exchange's customer limit order book where the best bid or offer on the Exchange's book is equal to the prevailing market bid or offer. If any portion of the RAES order remains to be filled thereafter, the entire balance of the RAES order is assigned to participating market-makers at the price at which the initial portion of the order was executed against the book, regardless of the next prevailing best bid or offer on the Exchange. According to the Exchange, market-makers participating on RAES may find themselves holding positions at prices substantially different from those they quoted, and subject to unanticipated market risk.

To address this situation, the Exchange proposes to modify Rule 6.8 so that such RAES order balances would be executed against participating market-makers at the book price only up to an amount pre-determined by the appropriate Floor Procedure Committee (''FPC'') for the subject option class. The pre-determined amount, to be called the ''Book Commitment Quantity,'' would be set by the FPC from zero contracts up to the maximum RAES eligible order size for that option class. The Exchange anticipates that the FPC will mandate a generally uniform Book Price Commitment Quantity among option classes, which would become widely known to CBOE customers and other market participants. The Exchange also intends to issue a regulatory circular regarding Book Price Commitment Quantity parameters established by the FPC. The FPC would have to conduct a meeting to adjust the Book Price Commitment Quantity.[7]

If, after execution up to the Book Price Commitment Quantity, any portion of the RAES order is still unexecuted, that remaining balance would be: (i) Routed to the Public Automated Routing (''PAR'') system if Autoquote is not in effect for that series; (ii) assigned to participating market-makers at the Autoquote price if Autoquote represents the best bid or offer; or (iii) executed against an order in the book if such order equals or represents the best bid or offer, with any further balance of the RAES order again being assigned to participating market-makers at the new book price up to the Book Price Commitment Quantity. As long as an order in the book equals or represents the next best bid or offer (and Autoquote is in effect for the subject series), any remaining balance of a RAES order would be handled pursuant to (ii) or (iii) above.[8]

CBOE further proposes to affix a ''Book Indicator'' to its disseminated quotation when an order in the book represents the best bid or offer on the Exchange. This indicator will alert brokers and the public that the bid, offer, or both are being generated by orders in the book, not by market maker quotes,[9] However, the indicator would not be disseminated if the booked order is for a size greater than the RAES order eligibility size because a split-price execution would not occur in such instance.

Where ABP is not in place, CBOE Rule 6.8, Interpretation and Policy .04 currently provides that the trading crowd is obligated to execute the first order rejected from RAES at the price of the booked order that caused the rejection, or ''kickout''. The Exchange now proposes, in order to provide consistency with the proposed ABP rule, to amend Interpretation and Policy .04 to provide that the first order rejected from RAES (because of a kickout based on a booked order) be filled against the book, with any remainder thereafter being executed by the crowd at the book price up to the Book Price Commitment Quantity. Finally, CBOE proposes to amend Interpretation and Policy .04 to apply in

[7] *See* Amendment No. 1, *supra.*

[8] *See* Amendment No. 1, *supra.*

[9] The indicator would be a ''B'' if the bid on the book is better than the trading crowd bid; ''O'' if the book offer is better than the trading crowd offer; and ''C'' if both were better than the trading crowd bid and offer. This indicator would be disseminated in the ''Special Market Conditions'' field that also includes indicators for, among other things, fast markets and trading halts. *See* Amendment No. 1, *Supra.*

all instances where ABP is not operational.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[10] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[11] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.

Under the proposal, in those options classes where ABP is in place, if an incoming RAES order is larger than the booked order establishing the Exchange's best price, the RAES order would be executed against the booked order. The remainder of the RAES order no longer would be executed in its entirety at the book price against market-makers participating on RAES. Rather, only the amount of that order up to the Book Price Commitment Quantity would be executed in this manner. Thereafter, if any portion of the RAES order remains unfilled, the balance of the order will be executed at the next prevailing bid or offer, *i.e.,* the book price or the Autoquote price. If the Autoquote system is not in effect, the remainder of the RAES order would be routed to the crowd PAR terminal for execution, whether against the book or competing members of the trading crowd.

The Commission notes that the proposed rule change would continue to permit limit orders in the Exchange's book to trade against RAES orders. RAES orders, on the other hand, would be permitted to trade against orders in the book up to the applicable book size, and thereafter up to the new Book Price Commitment Quantity at the book price, with market-makers participating on RAES taking the opposite side of such transactions. Any portion of the RAES order remaining thereafter would be executed at the best price available, whether from the book, Autoquote, or the trading crowd. In addition, CBOE will attach a ''Book Indicator'' to its disseminated quote to indicate to persons entering orders on RAES that their orders may be subject to a split-price execution. Therefore, firms sending orders to RAES should have notice that the displayed quote may not be good for the full RAES-eligible size, and instead would be executed at the prevailing quote up to the Book Price Commitment Quantity only. The Commission finds that these procedures are consistent with the Act.

The Commission further finds that the proposed revisions to Interpretation .04 of Rule 6.8 are proper. These changes are meant to parallel the above-described modifications to the ABP system in options classes where ABP has not been implemented. The Commission further believes that the CBOE's proposal to extend the application of Interpretation and Policy .04 to situations where ABP is not operational, such as in the case of a fast market or an operational failure, is also proper. The procedures to be employed, as outlined above, would thus be applied to all classes of options, whether ABP is in effect or not, thereby promoting uniformity of execution procedures in all classes of options.

Finally, the Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. In Amendment No. 2, the CBOE merely clarified the text of the proposed change to Interpretation and Policy .04, to reflect that where ABP is not in operation, the trading crowd is required to execute re-routed orders at the book price up to, and not in addition to, the Book Price Commitment Quantity. This confirms the Interpretation to the revised rule text. Therefore, the amendment did not substantively alter the proposal.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. Persons making written submissions should be 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 statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–00–21 and should be submitted by March 7, 2001.

V. Conclusion

For the foregoing reasons, the Commission finds that CBOE's proposal to amend its rules governing the operation of its RAES system to provide for split-price executions under the Automatic Book Priority System, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CBOE–00–21), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–3683 Filed 2–13–01; 8:45 am]

BILLING CODE 8010–01–M

[10] In approving this proposal, the Commission has considered the proposed rule's impact on efficiently, competition, and capital formation. 15 U.S.C. 78(c)(f).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43931; File No. SR–Phlx–00–109]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Amending Eligibility to Impose Fees for Computer Equipment Services, Repairs or Replacements and Relocation of Computer Equipment on Foreign Currency Options Participants on the Currency Options Trading Floor, While Exempting Track Balls from Fee Schedule Coverage

February 6, 2001.

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 January 2, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx pursuant to Rule 19b–4 of the Act, proposes to adopt fees [3] for (1) computer equipment services, repairs or replacements on the Foreign Currency Options (''FCO'') trading floor and (2) FCO participant-requested relocation of computer equipment.[4] Additionally, the Exchange proposes to exempt track ball repairs and replacements from the computer equipment services, repairs or replacements fees for both members and FCO participants.

The text of the proposed rule change is available at the Office of the Secretary, the PCX, and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Phlx's fee schedule for (1) FCO computer equipment services, repairs, or replacements and (2) FCO participant-requested relocation of computer equipment, while exempting track ball repairs or replacements from the computer equipment services, repairs and replacement fees.

First, the Exchange proposes to impose a fee on participants on the FCO trading floor for computer equipment services, repairs or replacements on the trading floors. Specifically, the Phlx will extend, to the foreign currency options trading floor, charges currently imposed on members such that $100 will be charged for every service call plus $75 an hour, with a minimum of two hours charged per service call.[5] The Exchange staff anticipates that the majority of computer services, repairs or replacements will be completed within two hours. Participants will not be billed for computer equipment services, repairs or replacements when new or refurbished equipment fails in the normal and customary manner of usage within 30 days of installation. In addition, participants will not be charged for repairing system-wide problems, rebooting central processing units and adjusting cables or replacing certain extension cables.

These charges are intended to defray the cost of servicing, repairing or replacing computer equipment on the FCO trading floor, as well as to encourage care in using the computer equipment.[6] The Exchange receives a small percentage of calls for computer equipment services, repairs or replacements from participants on the FCO trading floor.[7]

Second, the Exchange proposes to adopt a fee substantially similar to that currently imposed on members for an FCO participant-requested relocation of a FCO participant's workstation or any other piece of their computer equipment on the FCO trading floor. The charges will consist of a $100 service fee plus $75 per hour per person moving the equipment, with a minimum of two hours charged for each relocation request.[8]

The post/equipment relocation fee should assist in defraying the costs associated with the moving of computer equipment. FCO participant-requested relocations on the trading floor are very time-consuming and costly because nearly all relocations take place after business hours or on the weekends.

At this time, Exchange staff and members trading floor personnel should complete a pre-printed form prior to requesting repair or relocation service. A notice describing the equipment repair procedures was sent to all floor members prior to the implementation of the fee on equity and options floor members, and notice will be given to FCO participants as well.

Under the current fee that is applied to members on equity and options trading floor, the Exchange staff had the opportunity to review the procedures relating to computer equipment services, repairs, replacements and relocations, which include instructions to members and Exchange staff as to where the service request forms will be located, directions as to how to complete the form, and which department is required to forward the forms to the accounting department. The procedures also include a provision that states that members will not be billed for computer equipment services, repairs or replacements when new or refurbished equipment fails in the normal and customary usage within 30 days of installation. These same procedures will now be followed for computer-related requests received from FCO participants. The procedures described above have proven to be an effective way to administer these requests, including the billing of fees, and should continue to allow for the efficient handling of computer equipment services, repairs or replacement and member/participant requested relocation of computer equipment while exempting repairs and replacements of track ball equipment. The Exchange has determined to exempt repairs and/or replacements for track ball devices from the computer equipment service fees as regular and recurring maintenance of these essential peripheral devices is necessary in the ordinary course of business operations.

The Exchange has determined that the fees for computer equipment services, repairs or replacements (exempting track ball equipment) and relocation of computer equipment that are charged are appropriate and reflect the costs for these services that are incurred by the Exchange. The minimum charge of $250 per service call for computer equipment services, repairs, replacements or relocations reasonably approximates the average costs for these services. However, the minimum charge may not cover all the costs involved in repairing, servicing and relocating computer equipment. Members and FCO participants will continue to be billed on a monthly basis for these charges.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of dues, fees and charges to impose a fee for

[3] Currently, all members on the Exchange's options and equity members on the options and equity trading floors pay a fee for (1) computer equipment services, repairs, or replacements and (2) member-requested relocation of computer equipment. *See* Securities Exchange Act Release No. 43081 (SR–Phlx–00–53) (July 27, 2000).

[4] A fee will not be charged for new installation of computer equipment.

[5] Some component of this amount may reflect Pennsylvania sales tax.

[6] This proposed fee will apply to all such requests with no distinction between intentional abuse or normal wear and tear due to the difficulties associated with categorizing the types of repairs.

[7] The majority of calls are from members on equity trading floors. The lower percentage, of FCO repair requests is due to the relatively small number of computers and computer related equipment in use on the FCO trading floor as compared to the options and equity trading floors.

[8] For example, if two individuals take two hours to relocate a work station, the member will be charged $100 for the service call, plus $300 for moving the equipment ($75 × four (two people × two hours)). Again, some component of this amount may reflect Pennsylvania sales tax.

computer equipment services, repairs or replacements (while exempting track ball equipment repairs or replacements) and a fee for member/participant-requested relocation of computer equipment is consistent with Section 6(b)[9] of the Act, in general, and Section 6(b)(4) of the Act,[10] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A)[11] of the Act and subparagraph (f)(2) of Rule 19b–4[12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–00–109 and should be submitted by March 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–3682 Filed 2–13–01; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Future Value Ventures, Inc. License No. 05/05–5198; Notice of Surrender of License

Notice is hereby given that Future Value Ventures, Inc., 2745 N. Martin L. King Drive, Milwaukee, Wisconsin 53212, has surrendered their license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Future Value Ventures, Inc. was licensed by Small Business Administration on November 9, 1984.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on this date, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: January 30, 2001.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 01–3405 Filed 2–13–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3574]

Culturally Significant Objects Imported for Exhibition Determinations: ''Kandinsky and Abstraction in Russia''

AGENCY: United States Department of State.

ACTION: Notice

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Kandinsky and Abstraction in Russia,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the exhibit objects at the Museo de Arte de Puerto Rico, San Juan, Puerto Rico, from on or about March 3, 2001 to on or about May 14, 2001, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6981). The address is U.S. Department of State, SA–44, 301 4th Street, S.W., Room 700, Washington, D.C. 20547-0001.

Dated: February 8, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 01–3861 Filed 2–13–01; 8:45 am]

BILLING CODE 4710–08–P

STATE JUSTICE INSTITUTE

Sunshine Act Meeting

DATE: Friday, March 2, 2001, 9 a.m.–5 p.m.

PLACE: 1650 King Street, Suite 600, Alexandria, VA 22314.

MATTERS TO BE CONSIDERED: Consideration of proposals submitted for Institute funding and internal Institute business.

PORTIONS OPEN TO THE PUBLIC: Consideration of proposals submitted for Institute funding.

PORTIONS CLOSED TO THE PUBLIC: Discussion of internal personnel matters.

CONTACT PERSON: David Tevelin, Executive Director, State Justice

Institute, 1650 King Street, Suite 600, Alexandria, VA 22314, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 01–3901 Filed 2–12–01; 3:59 pm]

BILLING CODE 6820–SC–M

TENNESSEE VALLEY AUTHORITY

Adoption of Final Environmental Impact Statement

AGENCY: Tennessee Valley Authority.

ACTION: Adoption of Final Environmental Impact Statement.

SUMMARY: In accordance with Tennessee Valley Authority (TVA) procedures implementing the National Environmental Policy Act (NEPA) and consistent with 40 CFR 1506.3, TVA has decided to adopt a Final Environmental Impact Statement (FEIS) issued by the U.S. Department of Energy (DOE), Office of Fissile Materials Disposition in June 1996. This FEIS is titled Disposition of Surplus Highly Enriched Uranium.'' Final Environmental Impact Statement Notice of the availability of the FEIS was published by the U. S. Environmental Protection Agency in the **Federal Register** on June 28, 1996. A separate DOE Notice of Availability, summarizing the Highly Enriched Uranium Final EIS appeared in the **Federal Register** that same day. TVA has determined that the FEIS meets the standards for an adequate FEIS and can be adopted.

DATES: Submit comments no later than March 19, 2001, to Bruce Yeager, Senior NEPA Specialist, at the address listed below.

ADDRESSES: The FEIS can be inspected at the following locations:

TVA Corporate Library, East Tower Plaza, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

TVA Corporate Library, Signal Place Building (North), 1st floor, Quadrant ''A'', 1101 Market Street, Chattanooga, Tennessee 37402.

Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Athens-Limestone Public Library, 405 E. South St., Athens, Alabama 35611.

Unicoi County Public Library, 201 Nolichucky Ave., Erwin, Tennessee 37650.

Richland Public Library, 955 Northgate Dr., Richland, Washington 99352.

Aiken County Public Library, 314 Chesterfield St. SW, Aiken, South Carolina 29801.

Oak Ridge Public Library, 1401 Oak Ridge Turnpike, Oak Ridge, Tennessee 32093.

The complete FEIS and Summary are also available in electronic format on the U. S. Department of Energy NEPA website at *http://www.tis.eh.doe.gov/nepa*.

FOR FURTHER INFORMATION CONTACT: Bruce Yeager, Senior NEPA Specialist, Tennessee Valley Authority, 400 West Summit Hill Drive, Mailstop WT 8C, Knoxville, Tennessee 37902, (865) 632–8051 or e-mail *at blyeager@tva.gov*.

SUPPLEMENTARY INFORMATION: In June 1996, the Department of Energy, Office of Fissile Materials Disposition released an FEIS titled ''Disposition of Surplus Highly-Enriched Uranium.'' This FEIS assessed the environmental impacts that may result from the disposition of U.S. origin weapons-usable highly enriched uranium (HEU) that was or may be declared surplus to national defense or defense-related program needs. In addition to the No Action Alternative, this EIS assessed four alternatives that would aid U.S. non-proliferation policies. These alternatives would eliminate the weapons usability of HEU by blending it down with natural uranium, low enriched uranium (LEU) or depleted uranium to create LEU to be used either as commercial reactor fuel feedstock or disposed of as low-level radioactive waste. The EIS assessed the disposition of approximately 200 metric tons of surplus HEU.

The potential blending sites considered in the EIS were: DOE's Y–12 Plant at Oak Ridge, TN; DOE's Savannah River Site in Aiken, SC; the Babcock and Wilcox Naval Nuclear Fuel Division Facility in Lynchburg, Virginia; and the Nuclear Fuel Services Fuel Fabrication Plant in Erwin, TN. Several domestic commercial nuclear fuel fabrication plants, including Siemens Nuclear Power's plant in Richland, Washington, were identified as potential destinations for the LEU produced. Evaluations of impacts at the potential blending sites on site infrastructure, water resources, air quality, noise, socioeconomic resources, waste management, public and occupational health and environmental justice were included in the EIS. The impact of intersite transportation of nuclear and hazardous materials was also assessed. The preferred alternative was blending down as much of the HEU to LEU as possible while gradually selling the commercially usable LEU for use as reactor fuel. DOE plans to continue the activity over an approximately 15 to 20 year period.

The DOE issued a HEU Draft EIS on October 27, 1995 and held open the formal public comment period on this Draft EIS through January 12, 1996. In preparing the HEU Final EIS, DOE considered comments received via mail, fax, electronic bulletin board; transcribed messages from telephone; and recorded comments and concerns from interactive public meetings held in Knoxville, TN on November 14, 1995, and Augusta, Georgia on November 16, 1995. The Final EIS was released in June 1996, a Notice of Availability was published in the **Federal Register** on June 28, 1996 and a Record of Decision issued July 29, 1996.

The Tennessee Valley Authority proposes to take actions related to this same project. TVA proposes to enter into contracts with Framatome-Cogema and Siemens for fuel blending and fabrication services, as well as execute an Interagency Agreement with the DOE to obtain approximately 33 metric tons of HEU. These 33 metric tons of HEU are a portion of the 200 metric tons identified in the DOE EIS. The HEU for eventual use as blended down LEU fuel in TVA's Browns Ferry Nuclear Plant near Athens, Alabama, would originate from DOE's Y–12 Plant at Oak Ridge, Tennessee and the Savannah River Site in Aiken, South Carolina. Blending down and processing of the HEU to LEU would occur at the Nuclear Fuel Services (NFS) facility in Erwin, Tennessee and at DOE's Savannah River Site (SRS) in Aiken South Carolina. Commercial fuel fabrication would occur at Siemens Power Corporation (SPC) in Richland, Washington.

As a Federal agency, TVA must independently assess the environmental impacts of its actions in accordance with the National Environmental Policy Act (NEPA). In its regulations implementing NEPA, the Council on Environmental Quality (CEQ) strongly encourages agencies to reduce paperwork and duplication. One of the methods identified by CEQ to accomplish these goals is adopting the environmental documents prepared by other agencies, 40 CFR 1500.4(n). Under applicable regulations, TVA is allowed to adopt the Department of Energy FEIS as its own, since the actions covered by the DOE EIS and TVA's proposed actions are substantially the same.

The actions assessed in DOE's EIS relating to the blending down of HEU to LEU and the subsequent use of LEU as commercial reactor fuel, are also the actions that TVA seeks to carry out by entering into the necessary contracts and Interagency Agreement to obtain and use the fuel at TVA's Browns Ferry Nuclear Plant. TVA has carefully

reviewed the EIS and has concluded that the EIS adequately assesses the environmental impacts associated with the blending down of HEU and use of the resulting LEU-derived commercial reactor fuel. The impacts of the technical areas and issues TVA evaluated were bounded by the assessment in DOE's EIS and did not constitute substantial changes to relevant environmental concerns. Accordingly, TVA has adopted the DOE FEIS, ''Disposition of Surplus Highly Enriched Uranium Final Environmental Impact Statement,'' and has determined that no supplement or additional environmental review is required to support TVA's proposed action. The Notice of Adoption also constitutes the Notice of Availability of the same EIS at locations previously identified under the section titled, ''Addresses.''

Dated: February 7, 2001.

Kathryn J. Jackson,

Executive Vice President, River System Operations and Environment, Tennessee Valley Authority.

[FR Doc. 01–3693 Filed 2–13–01; 8:45 am]

BILLING CODE 8120–08–U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Review of Guatemala's Beneficiary Status Under the Caribbean Basin Trade Partnership Act

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments in connection with review of Guatemala's beneficiary status under the Caribbean Basin Trade Partnership Act.

SUMMARY: The Trade Policy Staff Committee (TPSC) is conducting a review of Guatemala's status as a beneficiary country under the Caribbean Basin Trade Partnership Act (CBTPA). This review will focus on Guatemala's performance with respect to worker rights, based on the eligibility criteria established in the CBTPA and objectives identified to the Government of Guatemala in October 2000. The TPSC is requesting written comments from the public to assist in developing information regarding Guatemala's current performance in the area of worker rights.

DATES: Public comments should be received by noon, March 16, 2001.

ADDRESSES: Public comments should be submitted to: Gloria Blue, Executive Secretary, TPSC, Office of the USTR, 600 17th Street, NW., Washington, DC 20508 Attention: Guatemala CBTPA Review.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments, contact Gloria Blue, Executive Secretary, TPSC, Office of the USTR, 600 17th Street, NW., Washington, DC 20508 (202) 395–3475. All other questions regarding the review should be addressed to Christopher Wilson, Director for Central America and the Caribbean, Office of the Western Hemisphere of the USTR (202) 395–5190.

SUPPLEMENTARY INFORMATION:

On October 2, 2000, the President designated Guatemala as a CBTPA beneficiary country. This designation followed a review by the TPSC of Guatemala's adherence to the eligibility criteria established in the CBTPA, including (1) an evaluation of the extent to which Guatemala provides internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health, and (2) whether Guatemala has implemented its commitments to eliminate the worst forms of child labor.

The review of Guatemala's eligibility for the CBTPA preferences involved extensive consideration of the worker rights situation in that country. The United States raised specific concerns with respect to anti-union violence, labor law reform, the rights of association and collective bargaining, and other issues. Guatemalan officials were taking some steps to address these concerns. For example, the United States welcomed the Ministry of Labor's efforts to that date to facilitate a resolution to the situation arising from a 1999 incident involving violence against banana workers. The Guatemalan executive branch had also presented legislation to bring the country's labor laws into conformity with ILO recommendations.

On the basis of these actions and assurances, the TPSC in October recommended that the President designate Guatemala as a CBTPA beneficiary country. However, the United States indicated its concern that the overall worker rights environment in Guatemala represented a threat to those seeking to advance basic, internationally-recognized rights for workers. Instances of anti-union violence were cited. The widespread impunity for those who provoked and carried out such violence was a particularly serious concern.

Consequently, at the time Guatemala's CBTPA designation was announced, the U.S. Trade Representative also announced that Guatemala's CBTPA beneficiary country status would be reviewed in April 2001, with a focus on further improvements in the area of worker rights. This review will cover the following factors: (a) Actions taken by the Guatemalan executive branch, within its authority, to ensure the physical safety and human and civil rights of union leaders and the effective criminal prosecution of persons charged with provoking anti-union violence, including killings of union leaders; (b) steps taken by the Government of Guatemala to provide for the re-employment of the 900 banana workers that were fired in 1999 and settlement of related labor law violations; (c) progress towards enacting a new Labor Code; and (d) performance in labor law enforcement and judicial administration related to the protection of labor rights.

As a further indication of the seriousness with which the United States views these issues, the U.S. Trade Representative initiated a review of Guatemala's eligibility as a beneficiary developing country under the Generalized System of Preferences (GSP), also to be concluded in April 2001, and focusing on the government's response to anti-union violence and other aspects of internationally recognized worker rights. USTR requested public comments in connection with this review through a **Federal Register** notice dated January 10, 2001.

Written Comments

Persons submitting written comments should provide twenty (20) copies by the date and to the address specified above. If possible, comments should be submitted before this date. Where possible, please supplement written comments with a computer disk of the submission. The disk should have a label identifying the software used and the submitter.

Comments should provide information on the current situation for worker rights in Guatemala, focusing in particular on the factors in the review summarized above. Due to the overlapping nature of the CBTPA review process and the GSP review process, individuals and organizations which have submitted comments in connection with the GSP review are informed that those comments will also be considered in connection with the CBTPA review and do not need to be resubmitted.

Written comments submitted in connection with this request, except for information granted ''business confidential'' status pursuant to 15 CFR 2003.6, will be available for public inspection in the USTR Reading Room (Room 101) at the address noted above. An appointment to review the file may be made by calling Brenda Webb at (202) 395–6186. The Reading Room is open to the public from 10:00 a.m. to 12 noon, and from 1:00 p.m. to 4:00 p.m. Monday through Friday.

Business confidential information, including any information submitted on disks, will be subject to the requirements of 15 CFR 2003.6. If a submission contains business confidential information, twenty copies of a public version that does not contain confidential information must be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, any submissions containing business confidential information must be clearly marked ''Confidential'' at the top and bottom of the cover page (or letter) and each page where such information appears. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, ''public version'' or ''non-confidential.''

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 01–3758 Filed 2–13–01; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–10]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before March 7, 2001.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to §§ 11.85 and 11.91.

Issued in Washington, D.C., on February 9, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 29897.

Petitioner: Teijin Seiko Co., Ltd.

Section of the 14 CFR Affected: 14 CFR 145.47(b).

Description of Relief Sought/ Disposition: To permit TS to use the calibration standards of the National Research Laboratory of Metrology (NRLM) and the Electrotechnical Laboratory (ETL), Japan's national standards organizations, in lieu of the calibration standards of the U.S. National Institute of Standards and Technology (NIST), formerly the National Bureau of Standards, to test its inspection and test equipment.

Grant, 01/31/2001, Exemption No. 7430

Docket No.: 25636.

Petitioner: IAE International Aero Engines AG.

Section of the 14 CFR Affected: 14 CFR 21.325(b)(1) and (3).

Description of Relief Sought/ Disposition: To permit export airworthiness approvals to be issued for Class I products (engines) assembled and tested in the United Kingdom, and for Class II and III products manufactured in the IAE consortium countries of Germany, Japan, and the United Kingdom.

Grant, 01/31/2001, Exemption No. 4991F

Docket No.: 29889.

Petitioner: Sumitomo Precision Products Co., Ltd.

Section of the 14 CFR Affected: 14 CFR 145.47(b).

Description of Relief Sought/ Disposition: To permit SPP to use the calibration standards of the National Research Laboratory of Metrology (NRLM) and the Electrotechnical Laboratory (ETL), Japan's national standards organizations, in lie of the calibration standards of the U.S. National Institute of Standards and Technology (NIST), formerly the National Bureau of Standards, to test its inspection and test equipment.

Grant, 01/31/2001, Exemption No. 7431

Docket No.: 28711.

Petitioner: Trans World Airlines, Inc.

Section of the 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/ Disposition: To permit a qualified and authorized check airmen, in lieu of an FAA inspector, to observe a qualifying pilot in command who is completing initial or upgrade training specified in 121.424 during at least one flight leg that includes one takeoff and one landing.

Grant, 01/31/2001, Exemption No. 6562B

[FR Doc. 01–3742 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–13–M

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 March 13, 2001, beginning at 8 a.m.

ADDRESSES: The meeting will be at the Boeing Company, 1200 Wilson Blvd., Roslyn, Virginia.

FOR FURTHER INFORMATION CONTACT: Gerri Robinson, Office of Rulemaking,

ARM–24, FAA, 800 Independence Avenue, SW, Washington, DC 20591, Telephone (202) 267–9078, FAX (202) 267–5075, or e-mail at gerri.robinson@faa.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a meeting of the Aging Transport Systems Rulemaking Advisory Committee to be held at the Boeing Company, 1200 Wilson Blvd. Roslyn, Virginia.

The agenda will include consideration of new taskings to ATSRAC and discussion on appropriate membership needed to review and make recommendations to the FAA, if the tasks are accepted.

Attendance is open to the interested public, but will be limited to the availability of meeting room space. The FAA will arrange teleconference capability for individuals wishing to participate by teleconference if we receive notification before February 28, 2001. Arrangements to participate by teleconference can be made by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington metropolitan area will be responsible for paying long distance charges.

The public may present written statements to the committee at any time by providing 20 copies to the Executive Director, or by bringing the copies to 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 February 8, 2001.

Anthony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 01–3741 Filed 2–9–01; 3:23 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Agency Information Collection Activities: Submission for OMB Review

AGENCY: Federal Highway Administration (FHWA), 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 November 6, 2000 (65 FR 66578). We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by March 16, 2001.

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.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Solury, (202) 366–5003, Planning and Environment Core Business Unit, Federal Highway Administration, Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0001. Office hours are from 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2125–0039 (Expiration Date: April 30, 2001).

Title: Planning and Research Program Administration.

Abstract: Under the provisions of Title 23, United States Code, Section 505, two percent of Federal-aid highway funds in certain categories that are apportioned to the States are set aside to be used only for State planning and research (SPR funds). At least 25 percent of the SPR funds apportioned annually must be used for research, development, and technology transfer activities. In accordance with government-wide grant management procedures, a grant application must be submitted for these funds. In addition, recipients must submit periodic progress and financial reports. In lieu of Standard Form 424, Application for Federal Assistance, the FHWA uses a work program as the grant application. This includes a scope of work and budget for activities to be undertaken with FHWA planning and research funds during the next one-or two-year period. The information contained in the work program includes task descriptions, assignments of responsibility for conducting the work effort, and estimated costs for the tasks. This information is necessary to determine how FHWA planning and research funds will be utilized by the State Transportation Departments and if the proposed work is eligible for Federal participation. The content and frequency of submission of progress and financial reports specified in 23 CFR part 420 are as specified in OMB Circular A–102 and the companion common grant management regulations.

Respondents: 52 State Transportation Departments, including the District of Columbia and Puerto Rico.

Estimated Total Annual Burden: 29,120 hours (560 hours per respondent).

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: February 8, 2001.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. 01–3734 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Safety Advisory 2001–01

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of safety advisory.

SUMMARY: FRA is issuing Safety Advisory 2001–1 which establishes recommended minimal guidelines for the operation of remote control locomotives.

FOR FURTHER INFORMATION CONTACT: John Conklin, Operating Practices Division, Office of Safety Assurance and Compliance, FRA, 1120 Vermont Avenue, N.W., Washington, D.C. 20590 (telephone 202–493–6318) or Mark Tessler, Office of Chief Counsel, FRA, 1120 Vermont Avenue, N.W., Washington, D.C. 20590 (telephone 202–493–6061)

SUPPLEMENTARY INFORMATION

Background

Remote control locomotives (RCL) have been in use for a number of years. The term ''remotely controlled locomotives'' or ''remote control locomotives'' refers to a locomotive which, through use of a radio transmitter and receiver system, can be operated by a person not physically located at the controls within the confines of the locomotive cab. (As used in this document, the term ''remote control locomotive'' does not refer to use of distributive power, in which a locomotive or group of locomotives entrained or at the rear of a train is

remotely controlled from the lead locomotive of a train).

FRA's first priority in assessing RCL operations is to ensure that these operations pose no threat to railroad workers or the general public. Because this technology is not widely used in railroad operations, FRA has limited data on which to base an objective safety analysis and must therefore proceed prudently. It is clear that the potential for serious injury exists, as it does in all aspects of railroad operations. RCL operations have been in existence in this country for many years; however, this technology has largely been confined to in-plant rail operations. As these operations expand, some of the traditional ways of conducting rail movements will be significantly modified. Under such circumstances, safety risk factors may change. It is FRA's task to ensure that this transition takes place safely. Throughout its history, FRA has tried to encourage and embrace technological advances in the rail industry.

In 1994, FRA proposed to conduct a national test program of RCL operations. FRA held a hearing on February 23, 1995 (FRA Docket No. 94–6), to gather testimony on the proposed RCL operating conditions. See 59 FR 59826 (November 18, 1994). Several manufacturers, labor organizations, railroads, and their associations participated in the hearing. The testimony provided by these organizations revealed a broad spectrum of opinion concerning the merits of the proposed program, the substance of the program requirements, the resultant risks to railroad employees, and the safety of the technology.

Interest in, and use of RCLs by the railroad industry has intensified since publication of the Notice of Test Program and the 1995 public hearing. FRA believed that RCL technology has progressed beyond the ''test'' period and proposed one final meeting to obtain the most recent information and comments on this technology. On July 19, 2000, FRA held a technical conference to allow all interested parties the opportunity to state their concerns and opinions on RCL operations. The conference examined all safety aspects of RCL operations, including (1) Design standards, (2) employee training, (3) operating practices and procedures, (4) test and inspection procedures, and (5) security and accident/incident reporting procedures.

The following is a brief discussion of the material and comments presented at that conference. Several commentors expressed concerns in the following areas: RCL operations in bad weather conditions, ergonomic issues in the design of the remote control transmitter (RCT), electromagnetic field (EMF) emissions from RCTs, insufficient clearance when wearing the RCTs in tight spaces, roadway worker protection issues, mental and physical stress associated with RCL operation, and lack of accurate exposure metrics for calculating accident rates.

Conversely, several commenters stated that RCL operations have enhanced safety performance. Some of the suggested enhancements included better visual contact with the leading end of rail movements, the elimination of communication error between the locomotive engineer and ground crew, and the reduction of yard accidents and injuries. Several commentors submitted data that indicate accidents and incidents dropped dramatically as RCL operations increased. Although FRA commends these commentors for their efforts in gathering such data, FRA notes that the data used were obtained without equal exposure metrics to allow valid comparisons between remote control and manual operations (i.e., comparisons were not equalized for the number of labor hours and number of employees). Normalizing safety data is necessary to clarify our understanding of the potential safety risks.

Consequently, FRA is taking steps to incorporate RCL operations into the accident/incident reporting procedures required by 49 CFR part 225. See 65 FR 79915, December 20, 2000. FRA is proposing to modify the instructions for Forms F 6180.54, 6180.55a, and 6180.57 in its Guide to Preparing Accident/Incident Reports. Two of the three form modifications will request that the ''Special Study Block'' (SSB) of each form be used to capture (with coded letters) information pertaining to accidents/incidents which involve RCL operations. The third form will capture the required data with an annotation in the narrative portion of the form.

In addition, FRA recommends that railroads maintain appropriate exposure measures, including total number of labor hours and total number of employees by location for both RCL operations and manual locomotive operations. Together these measures will allow FRA to accurately measure accident and incident rates of both types of operations and make valid comparisons between RCL operations and manual operations. Thus, the railroads will be able to closely monitor the safety performance of RCL operations as they progress. FRA will then use these data when considering any future policies on these operations.

FRA notes that many of the ergonomic design concerns experienced by remote control operators (RCOs) have been addressed in the current generation of RCTs. FRA commends the rail industry and RCL system manufacturers for their diligence in addressing the design concerns of RCOs. As this new technology expands, the continued input of the men and women who operate RCLs will be necessary to ensure that ergonomic issues and operating concerns are properly identified and fully addressed, consistent with the needs of both RCOs and the rail industry. Furthermore, we must be cognizant that gender specific issues may arise with respect to ergonomic challenges and solutions. FRA will, therefore, recommend that railroads give special consideration to the unique human/machine interface problems that may arise during the proliferation of this technology, particularly regarding female operators.

FRA has reviewed the furnished data concerning fatalities that have occurred during RCL operations on plant railroads. The data indicate that none of these fatalities occurred as a direct result of RCL system failure. All involved the same scenarios described in similar fatalities that have occurred during manual switching operations. There was no way to determine if these workers were distracted due to their added responsibility of conducting RCL operations. However, FRA will attempt to reduce possible risk by recommending that RCOs (1) Should not ride on rail cars, (2) should not mount or dismount from moving locomotives during RCL operations, and (3) should remain well clear of affected tracks when in front of a locomotive movement. FRA also believes that additional training should be provided to traditional locomotive engineers who will be required to operate RCLs and who have never worked on the ground during switching operations. These individuals lack the valuable experience gained from working around moving equipment and are less likely to recognize dangerous situations.

FRA believes that bad weather conditions, roadway worker protection procedures, RCT clearance problems, and mental and physical stress issues are operational problems that can and do occur during any railroad operation and are best addressed through proper training and through a credible communication system. There should be a direct line of communication between labor and management to quickly address RCL operating problems and training needs. Therefore, FRA recommends that a formal

communication procedure should be developed to ensure that RCL operational concerns are handled expeditiously.

In response to concerns expressed by a number of parties, FRA had previously asked DOT's Volpe Center to test the electromagnetic radiation (EMR) emissions from an RCL system, simulating realistic rail yard operating conditions (since multiple reflections of radiofrequency radiation from metallic surfaces, like railcars, can enhance the primary beam and cause hotspots). An independent test contractor then tested EMR levels according to FCC standards and found that under normal use and where the manufacturer's operating instructions were followed, EMR emissions and workers' exposure levels were in full compliance with applicable human exposure safety standards regarding radio frequency radiation.

FRA found no data that would indicate that electromagnetic field (EMF) and EMR emissions from RCTs exceed the accepted human exposure safety standards in the United States. FRA and the DOT Volpe Center technical experts will, however, continue to monitor the latest studies on potential health effects from long term low level environmental and work EMF and EMR exposures, as well as up-to-date applicable Occupational Safety and Health Administration (OSHA) standards posted on the web at *http://www.osha-slc.gov/SLTC/radiofrequencyradiation*. Standards and practices addressing EMF and EMR emissions can also be found in: FCC, 1997 Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields,'' FCC Office of Engineering Technology (OET), Ed. 97.01, FCC Bulletin 65, August 1997 and Supplement C, December 1997. Both items are posted on the web at *http://www./fcc./gov/oet/rfsafety*; IEEE, C95.1a–1988, ''IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 KHz to 300 GHz,'' Edition 16 and Supplement a, April 1999, to be ordered from IEEE Customer Service at 1–800–678–IEEE; and the ''American Conference of Governmental Industrial Hygienists (ACGIH),'' TLVs and BEIs-Threshold Limit Values for Chemical Substances and Physical Agents,'' pp. 150–155 (See *http://www.ecgih.org*). FRA intends to ensure that the margin of safety is maintained in this area and will take appropriate action if it becomes apparent that accepted safety margins are not maintained or if credible data on potential worker safety or health hazards from such exposures become available.

A review of the accident/incident reports submitted during the technical conference disclosed communication failures, speed surges, braking force problems, and emergency stops during RCL operations. However, most of the reports were dated between 1996 and 1997 and pertained primarily to one rail yard and to a specific group of RCLs in that yard. FRA believes that current generation of RCTs have addressed many of the reported problems with RCL systems. It has been FRA's experience that, as this type of technology is introduced into railroad operations, unforeseen problems in hardware and software design do develop. As a consequence, FRA suggests that railroads have procedures in place to immediately identify and address such problems to reduce the risk of accident and/or injury. In addition, the FRA suggests that railroads have scientifically valid data gathering procedures to accurately monitor accident rates in RCL operations compared with manual locomotive operations.

FRA has also reviewed data from the Occupational Safety and Health Administration (OSHA) and Mine Safety and Health Administration (MSHA) regarding any accidents investigated involving RCL operations. The records indicate that there has been considerable concern by OSHA regarding protection of rail movements. The records cite incidents of inplant rail movements that were not properly protected in the direction of travel, i.e., RCOs were not in position to observe the track ahead of the movement. MSHA also reported an accident that was caused in part by ''the inability of the remote operator to see the locomotive.'' These concerns are not new to the rail industry, which has long adopted operating rules that require switching movements to be made at a speed that will enable the movement to stop within half the range of vision short of a train, an engine, a railroad car, people or equipment fouling the track, obstructions, a stop signal, or a derail or switch lined improperly (restricted speed). Simply put, no movement should begin unless the track ahead of that movement is known to be clear. This would require RCOs to view the track ahead of the movement each time a movement is made. Because FRA believes RCL operations will be primarily conducted within heavily congested areas, i.e., railroad yards, and because FRA wishes to ensure that these operations are conducted in the safest possible manner, FRA recommends that all RCL movements be conducted at restricted speed, unless specifically exempted by railroad special instructions. However, these special instructions should ensure that a comparable means of protection is afforded these movements. FRA notes that many railroads have limited exemptions from the provisions of restricted speed. FRA plans to closely monitor how railroad operating rules are modified to accommodate RCL operations. Safety must not be compromised by these modifications. FRA also plans to monitor the accident/incident rates in areas where RCL operations exist to ensure that safety is maintained.

FRA notes that traditional railroad industry restricted speed rules or their equivalents were not developed to protect trespassers or railroad workers who are not authorized to be on the track. Therefore, in the interest of safety, FRA will recommend that the public and railroad workers in the area should be notified by clearly visible warning signs, or by other equally effective means, that RCL operations exist and train movements are being conducted without anyone in the locomotive.

FRA is also concerned about RCO safety when operations are conducted in isolated areas. There is no assurance that emergency aid can be adequately provided in a timely manner in the event of an emergency situation. Therefore, FRA recommends that the railroad or RCT should provide some automatic means of communication that will notify the railroad in the event the RCO becomes incapacitated, i.e., ''a worker alarm''. This automatic communication feature should also be capable of determining the non-responsive RCO's location to ensure that emergency help can respond effectively.

Part 240 of title 49 of the Code of Federal Regulations requires that all individuals who operate a locomotive are to be qualified and certified in accord with the requirements of that regulations. Therefore, anyone who operates a locomotive, regardless of the means used, must be properly trained and certified. The introduction of remote control operations is a significant departure from traditional on-board locomotive operations. If a railroad elects to conduct RCL operations, its locomotive engineer certification program would have to be modified to outline the training that will be required for this type of operation. This would constitute a material modification of the program requiring that the program be submitted to FRA for approval according to 49 CFR 240.103(e).

Because information currently available to FRA does not lead to the conclusion that RCL operations should be prohibited on safety grounds, FRA has elected to proceed cautiously. The range of views and safety concerns expressed underscores the need to proceed with the implementation of this new technology in a safe and consistent manner. The Safety Advisory announced today is a refinement of proposed standards contained in the original Test Program.

Safety Advisory 2001–01

Recommendation: Operation of Remote Control Locomotives

The following design criteria and operating procedures are recommendations only. Compliance is voluntary. However, railroads are strongly encouraged to regard these suggested criterion as a minimum from which to tailor their own RCL operations. It should be noted that all of the design features recommended are available with the current generation of remote control technology. In certain circumstances, due to the design of their equipment, or differences in operating practices, a railroad may not be able to obtain complete consistency with these recommendations. In those situations railroads are encouraged to develop alternative designs or practices which offer at least equivalent or greater levels of safety. FRA emphasizes that although compliance with this Safety Advisory is voluntary, nothing in this Safety Advisory is meant to relieve a railroad from compliance with all existing railroad safety regulations. Therefore, when procedures required by regulation are cited in this Safety Advisory, compliance is mandatory.

A. Safety Design and Operational Requirements

1. Each RCT should, at a minimum, have the following features:
a. directional control;
b. graduated throttle or speed control;
c. graduated locomotive independent brake application and release;
d. train brake application and release control;
e. audible warning device control (horn);
f. audible bell control, if equipped;
g. sand control (unless automatic);
h. headlight control;
i. emergency air brake application switch;
j. generator field switch or equivalent to eliminate tractive effort to the locomotive; and
k. audio or visual indication of wheel slip/slide.

2. Although an RCT can have the capability to control, at different times, different locomotives equipped with remote-control receivers, it should be designed to be capable of controlling only one RCR equipped locomotive at a time. (A locomotive may consist of one or more engines operated from a single control).

3. An RCT having the capability to control more than one RCL should have a means to lock in one RCR ''assignment address'' to prevent simultaneous control over more than one locomotive.

4. Each locomotive equipped with an RCR should respond only to the RCTs assigned to that receiver.

5. The RCT should be designed to require at least two separate actions by the RCO before RCL movement can begin (in order to prevent accidental movement).

6. When an RCT's signal to the RCL is interrupted for a set period, not to exceed five seconds, the remote-control system should cause:
a. full service application of the locomotive and train brakes; and
b. elimination of locomotive tractive effort.

7. If an RCT is equipped with an ''on'' and ''off'' switch, the switch, when moved from ''on'' to ''off'' position, should result in:
a. application of the locomotive and train brakes; and
b. elimination of locomotive tractive effort.

8. Each RCL should have a distinct and unambiguous audible or visual warning device that indicates to nearby personnel that the locomotive is under active remote control and subject to movement.

9. Each RCT should be equipped with an operator alertness device requiring manual resetting or its equivalent. It should incorporate a timing sequence not to exceed 60 seconds. Failure to reset the switch within the timing sequence should result in:
a. application of the locomotive and train brakes; and
b. elimination of locomotive tractive effort.

10. Each RCT should have a tilt feature that, when tilted to a predetermined angle, should result in:
a. an emergency application of the locomotive and train brakes; and
b. elimination of locomotive tractive effort.

Note: If RCL operations are being conducted in an isolated area, the railroad should establish timely emergency response procedures in the event the RCO is incapacitated. One method that would serve to meet this recommendation would be to equip the RCT with capability of transmitting an emergency signal. The signal should also be capable of identifying the RCO's location.

11. If the RCT is equipped with a ''tilt bypass'' system enabling the tilt protection feature to be temporarily disabled, the bypass feature should deactivate after 15 seconds, unless reactivated by the RCO.

12. The RCL should be equipped with a device that causes an application of the locomotive and train brakes and elimination of locomotive tractive effort whenever the RCL's main reservoir air pressure falls below 90 psi or when a locomotive protection alarm is activated while the locomotive is in remote operation. The device should need to be manually reset on board the RCL.

13. When the air valves and the electrical selector switch on the RCR are moved from manual to remote or from remote to manual modes, an emergency application of the locomotive and train brakes should be initiated to prevent unauthorized use of the system.

14. Railroads which acquire and utilize RCL equipment should comply with current human safety exposure standards for radio frequency radiation in their workplace. FRA further recommends that manufacturers should certify their equipment for compliance with current EMR exposure safety standards.

15. Consideration should be given to the design of the RCT to provide for a human-machine interface (HMI) that incorporates basic human factors principles for the design and operation of displays, controls, supporting software functions, and other components. FRA recommends that railroads work closely with RCOs when addressing RCT design and comfort issues. The overriding goal of the design should be to minimize the potential for design-induced error by ensuring that the RCT is suitable for operators, including female operators, and their tasks and environment. RCT systems that have been designed with human-centered design principles in mind—system products that keep human operators as the central, active component of the system—are more likely to result in improved safety. This includes the ergonomic design of the RCT. See FRA's 1998 report entitled *''Human Factors Guidelines for Locomotive Cabs''* (FRA/ORD–98/03 or DOT–VNTSC–FRA–98–8). Special consideration should be given to the effect of the RCT on the musculoskeletal system of the RCOs as well as on RCT harness comfort to avoid distraction from safety-related duties. Additional consideration should also be given to the ''breakaway'' safety feature of the RCT harness. The harness should be

designed to easily break free of the RCO in the event the harness becomes entangled on equipment.

B. Training

Each person operating an RCL must be certified and qualified in accordance with 49 CFR Part 240 if conventional operation of a locomotive under the same circumstances would require certification under that regulation. Training must be provided to all RCOs subject to the requirements of 49 CFR Part 240. Additionally, training should be afforded those RCOs not subject to the requirements of Part 240 and those locomotive engineers who have little or no on-ground experience in switching operations if they are expected to conduct RCL operations. All affected railroad employees should be trained on RCL operating rules and procedures.

Under Part 240, railroad engineer certification programs must include procedures to keep certified engineers current on methods of safe train handling, operating rules, condition of equipment, and personal safety and to provide initial training for new engineers on those subjects. § 240.123. The programs must also include skill testing in the most demanding type of service the person will perform. § 240.127. Appendix B of Part 240 requires that railroad engineer certification programs address how the railroad responds to changes such as the ''introduction of new technology'' and ''significant changes in operations.'' In FRA's view, it is likely that the introduction of remote controlled locomotives on railroads would typically necessitate a material change to each railroad's engineer certification program. Material modifications must be submitted to FRA for its review under 49 CFR 240.103(e).

C. Operating Practices

1. The railroad should establish written standard operating procedures tailored to its RCL operations. At a minimum these procedures should include:

a. Upon going off duty, each RCO should place the RCL in manual operation and properly secure it, unless control of the RCL is directly given to a relieving RCO.

b. When operating an RCL, the RCO should not:

i. ride on a freight car under any circumstances;

ii. mount or dismount moving equipment;

iii. operate any other type of machinery; or

iv. stand or walk within the gage of the track or foul the track on which the movement is occurring while physically located in front of the movement.

c. RCOs should ensure that the track is clear and properly aligned ahead of the remotely controlled movement while it is underway. Therefore, RCL operations should be operated at restricted speed not to exceed 20 mph, i.e., at a speed that will enable stopping the movement within half the range of vision assuring that all movements are protected.

d. The RCO should operate only one RCL at a time.

e. Prior to performing any function as prescribed in 49 CFR 218.22(c)(5), the RCO should apply three point protection, i.e., fully apply the locomotive and train brakes, center the reverser, and place the generator field switch to the off position (eliminate locomotive tractive effort capability).

f. Passenger trains should not be operated by use of a remote-control device.

2. The railroad must include RCL operating rules and procedures in its program required under 49 CFR part 217.

3. The railroad should establish formal communication procedures to enable the appropriate railroad officials to receive and respond to information pertaining to RCL system failures or safety problems.

4. The FRA recommends that the railroad keep a record of the total number of labor hours and the total number of employees by location for both RCL and manual switching operations to ensure that accidents and incidents are accurately measured, and that valid comparisons between the two types of operations can then be made.

5. The FRA recommends that the railroad develop and implement a program specifically designed for RCOs that addresses the risks associated with switching operations and train movements on adjacent tracks. This program should incorporate the findings and recommendations of the Switching Operations Fatality Analysis Working Group.

D. Security

1. The railroad should have instructions for the proper storing and handling of RCTs when not in use or in the operator's possession.

2. The operation control handles located in the RCL cab should be removed or pinned in place to prevent accidental or intentional movement while the RCL is being operated in remote.

3. The railroad should have strict procedures in place to ensure that only the intended RCTs are assigned to the appropriate RCL.

E. Inspections and Tests

1. The RCL system must be included as part of the calendar day inspection required by 49 CFR 229.21, since this equipment becomes an appurtenance to the locomotive.

2. Each time an RCT is used for the first time on each shift, a test of the air brakes and the RCT's safety features (tilt switch and alerter device) should be conducted. The test would not be required if the RCT were being directly transferred from one RCO to another with no change in remote status.

3. The RCL system (both the RCT and RCR), should be designed to perform a self-diagnostic test of the electronic components of the system. The system should be designed to immediately ''fail safe'' (full service application of the locomotive and train brakes and the elimination of locomotive tractive effort) in the event a failure is detected.

4. The RCL system components that interface with the mechanical devices of the locomotive, e.g., air pressure monitoring devices, pressure switches, speed sensors, etc., should be inspected and calibrated as often as necessary, but not less than the locomotive's periodic (92-day) inspection. It is recommended that records of such inspections and calibrations be kept.

F. Notification of RCL Use and Protection of Workers

1. Each RCL should have a tag placed on the control stand throttle indicating the locomotive is being used in a remote control mode. The tag should be removed when the locomotive is placed back in manual mode.

2. In areas where RCL operations are being conducted, warning signs should be posted indicating that there is no operator in the control compartment of the locomotive. These warning signs should be highly visible and posted at conspicuous locations so as to maximize their exposure to those most likely to encounter RCL operations.

3. Whenever worker protection is required according to 49 CFR part 218, the locomotive should be placed into manual mode and be properly secured. The appropriate blue signal protection should then be provided.

G. Accident-Incident Reporting Procedures

1. All accident and/or incidents described in 49 CFR part 225 must be reported to FRA using the appropriate ''remote control'' reporting codes.

2. Railroads are also reminded that they are required to comply with the

provisions of 49 CFR part 229.17—Accident reports.

Dated: Issued in Washington D.C., February 1, 2001.

Edward R. English,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 01–3733 Filed 2–13–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Authorization Agreement for Preauthorized Payment

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the form ''Authorization Agreement for Preauthorized Payment.''

DATES: Written comment should be received on or before April 16, 2001.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Programs Branch, Room 144, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Joann Franklin, Product Promotion Division, 401–14th Street, S.W., Washington, DC 20227, (202) 874–7018.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Authorization Agreement for Preauthorized Payment.

OMB Number: 1510–0059.

Form Number: SF 5510.

Abstract: This form is used to collect information from remitters (individuals and corporations) to authorize electronic fund transfers from accounts maintained at financial institutions to collect monies for government agencies.

Current Actions. Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 100,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual burden Hours: 25,000.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: February 8, 2001.

Bettsy H. Lane,

Assistant Commissioner, Federal Finance.

[FR Doc. 01–3669 Filed 2–13–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Name Change—Signet Star Reinsurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 10 to the Treasury Department Circular 570; 2000 Revision, published June 30, 2000, at 40868.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6905.

SUPPLEMENTARY INFORMATION: Signet Star Reinsurance Company, has formally changed its name to Berkley Insurance Company, effective December 31, 2000. The Company was last listed as an acceptable surety on Federal bonds at 65 FR 40899, June 30, 2000.

A Certificate of Authority as an acceptable surety on Federal bonds, dated today, is hereby issued under Sections 9304 to 9308 of Title 31 of the United States Code, to Berkley Insurance Company, Wilmington, Delaware. The new Certificate replaces the Certificate of Authority issued to the Company under its former name. The underwriting limitation of $22,118,000 established for the Company as of July 1, 2000, remains unchanged until June 30, 2001.

Certificates of Authority expire on June 30, each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the Company remains qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1, in the Department Circular 570, which outlines details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 2000 Revision, at page 40874 to reflect this change.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570/index.html.* A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00536–5.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: January 26, 2001.

Wanda J. Rogers,

Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 01–3668 Filed 2–12–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8873

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed

and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8873, Extraterritorial Income Exclusion.

DATES: Written comments should be received on or before April 16, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Extraterritorial Income Exclusion.

OMB Number: 1545–1722.

Form Number: 8873.

Abstract: The FSC and Extraterritorial Income Exclusion Act of 2000 added section 114 to the Internal Revenue Code. Section 114 provides for an exclusion from gross income for certain transactions occurring after September 30, 2000, with respect to foreign trading gross receipts. Form 8873 is used to compute the amount of extraterritorial income excluded from gross income for the tax year.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 1,000,000.

Estimated Time Per Respondent: 25 hours, 58 minutes.

Estimated Total Annual Burden Hours: 25,970,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 9, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–3777 Filed 2–13–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR–200–76]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, LR–200–76 (TD 8069), Qualified Conservation Contributions (§ 1.170A–14).

DATES: Written comments should be received on or before April 16, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Qualified Conservation Contributions.

OMB Number: 1545–0763.

Regulation Project Number: LR–200–76.

Abstract: Internal Revenue Code section 170(h) describes situations in which a taxpayer is entitled to a deduction for a charitable contribution for conservation purposes of a partial interest in real property. This regulation requires a taxpayer claiming a deduction to maintain records of (1) the fair market value of the underlying property before and after the donation and (2) the conservation purpose of the donation.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 1 hour, 15 minutes.

Estimated Total Annual Burden Hours: 1,250.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital

or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–3778 Filed 2–13–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 98–23 and REG–251701–96

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–23, Qualified Subchapter S Trust Conversions to Electing Small Business Trusts, and notice of proposed rulemaking, REG–251701–96, Electing Small Business Trust (§ 1.1361–1(m)).

DATES: Written comments should be received on or before April 16, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure and/or regulations should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Revenue Procedure 98–23, Qualified Subchapter S Trust Conversions to Electing Small Business Trusts and REG–251701–96, Electing Small Business Trust.

OMB Number: 1545–1591.

Revenue Procedure Number: Revenue Procedure 98–23.

Regulation Project Number: REG–251701–96.

Abstract: The revenue procedure and regulation provide a method for taxpayers to obtain automatic consent to convert a Qualified Subchapter S Trust (QSST) to an Electing Small Business Trust (ESBT) as well as to convert an ESBT to a QSST.

Current Actions: There are no changes being made to the revenue procedure and regulation at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,500.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 2,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 7, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–3779 Filed 2–13–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 98–25

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–25, Automatic Data Processing.

DATES: Written comments should be received on or before April, 16, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Automatic Data Processing.

OMB Number: 1545–1595.

Revenue Procedure Number: Revenue Procedure 98–25.

Abstract: Revenue Procedure 98–25 provides taxpayers with comprehensive guidance on requirements for keeping and providing IRS access to electronic tax records. The revenue procedure requires taxpayers to retain electronic, or ''machine-sensible'' records, ''so long as their contents may become material to the administration of the internal revenue laws.'' Such materiality would continue, according to IRS, at least until the period of limitations, including extensions, expires for each tax year.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, Federal government, and state, local or tribal governments.

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 40 hours.

Estimated Total Annual Burden Hours: 120,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 7, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–3780 Filed 2–13–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 1023 and 872–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code and Form 872–C, Consent Fixing Period of Limitation Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code.

DATES: Written comments should be received on or before April 16, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code (Form 1023), and Consent Fixing Period of Limitation Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code (Form 872–C).

OMB Number: 1545–0056.

Form Numbers: 1023 and 872–C.

Abstract: Form 1023 is filed by applicants seeking Federal income tax exemption as organizations described in section 501(c)(3) of the Internal Revenue Code. IRS uses the information to determine if the appliant is exempt and whether the applicant is a private foundation. Form 872–C extends the statute of limitations for assessing tax under Code section 4940.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 29,409.

Estimated Time Per Respondent: 70 hours, 22 minutes.

Estimated Total Annual Burden Hours: 2,069,267.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–3781 Filed 2–13–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–260–82]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–260–82 (TD 8449), Election, Revocation, Termination, and Tax Effect of Subchapter S Status (§§ 1.1362–1 through 1.1362–7).

DATES: Written comments should be received on or before April 16, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Election, Revocation, Termination, and Tax Effect of Subchapter S Status.

OMB Number: 1545–1308.

Regulation Project Number: PS–260–82.

Abstract: Section 1362 of the Internal Revenue Code provides for the election, termination, and tax effect of subchapter S status. Sections 1.1362–1 through 1.1362–7 of this regulation provides the specific procedures and requirements necessary to implement Code section 1362, including the filing of various elections and statements with the Internal Revenue Service.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 133.

Estimated Time Per Respondent: 2 hours, 25 minutes.

Estimated Total Annual Burden Hours: 322.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–3782 Filed 2–13–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6497

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6497, Information Return of Nontaxable Energy Grants or Subsidized Energy Financing.

DATES: Written comments should be received on or before April 16, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Information Return of Nontaxable Energy Grants or Subsidized Energy Financing.

OMB Number: 1545–0232.

Form Number: Form 6497.

Abstract: Section 6050D of the Internal Code requires an information return to be made by any person who administers a Federal, state, or local program providing nontaxable grants or subsidized energy financing. Form 6497 is used for making the information return. The IRS uses the information from the form to ensure that recipients have not claimed tax credits or other benefits with respect to the grants or subsidized financing.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organzations and federal, state, local or tribal governments.

Estimated Number of Respondents: 250.

Estimated Time Per Respondent: 3 hours, 14 minutes.

Estimated Total Annual Burden Hours: 810.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–3783 Filed 2–13–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Modem Speeds for Electronic Filing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This announcement serves as a follow-up to the August 2000 notice (65 FR 49292, August 11, 2000) which stated that the Internal Revenue Service is exploring the feasibility of eliminating modem speeds under 28.8Kbps for Electronic Filing. An inquiry regarding modem speeds used by our trading partners was also published on the Digital Daily and Electronic Filing System Bulletin Board.

The feedback we received indicates that establishing higher file transfer speed requirements at this time would result in a negative impact on some of our trading partners. Therefore, for the 2001 filing season ETA has decided not to change the requirements for transmitting returns to the IRS e-file system.

ETA would like to thank everyone who responded to our request for modem speed information. We will continue to explore this issue in preparation for the 2002 filing season.

ADDRESSES: Questions or concerns should be directed to Dapheny McCray, Program Analyst, IRS, Electronic Tax Administration, W:E:IEF:IB, 5000 Ellin Road, Room C4–188, Lanham, MD 20706.

FOR FURTHER INFORMATION CONTACT: Questions or concerns will also be taken over the telephone. Call 202–283–0685 (not a toll-free number) or via email to: *Daphney.McCray@irs.gov*

Approved:

Kathleen Upton,

Acting Director, Individual Electronic Filing Division, Electronic Tax Administration.

[FR Doc. 01–3776 Filed 2–13–01; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 66, No. 31
Wednesday, February 14, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MTM 88993]

Public Land Order No. 7480; Withdrawal of National Forest System Lands in the Rocky Mountain Front; Montana

Correction

In the issue of Monday, February 12, 2001, on page 9903, in the second column, in the correction of notice document 01–1816, in the second paragraph, the ''page 1816'' should read ''page 6658'' as set forth below:

In notice document 01–1816 beginning on page 6657 in the issue of Monday, January 22, 2001, make the following correction:

On page 6658, in the second column:

''T. 29 N., R. 12 W., unsurveyed

Secs. 1 to 30, inclusive, and Secs. 32 to 36, inclusive; Sec. 31, excluding Flathead National Forest System lands.'' should read:

''T. 29 N., R. 12 W., unsurveyed

Secs. 1 to 30, inclusive, and Secs. 32 to 36, inclusive;

Sec. 31, excluding Flathead National Forest System lands.''

[FR Doc. C1–1816 Filed 2–13–01; 8:45 am]
BILLING CODE 1505–01–D

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT FEBRUARY 14, 2001

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Magnuson-Stevens Act provisions—

Pacific Coast groundfish; annual specifications and management measures; published 2-14-01

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Clomazone; published 2-14-01

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Digital television broadcasting—

740-806 MHz band; conversion to digital television; published 2-14-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

CFM International; published 1-30-01

Gulfstream; published 1-10-01

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes, etc.:

Electronic payee statements; published 2-14-01

COMMENTS DUE NEXT WEEK

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

Southern California steelhead; comments due by 2-20-01; published 12-19-00

Fishery conservation and management:

Northeastern United States fisheries—

Northeast Skate fishery; scoping process; comments due by 2-21-01; published 1-2-01

West Coast States and Western Pacific fisheries—

Coastal pelagic species; comments due by 2-20-01; published 12-21-00

Marine mammals:

Commercial fishing operations; incidental taking—

Atlantic Large Whale Take Reduction Plan; comments due by 2-20-01; published 12-21-00

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Federal Supply Schedule order disputes and incidental items; comments due by 2-20-01; published 12-19-00

ENERGY DEPARTMENT

Whistleblower protection:

Security requirements for protected disclosure under National Defense Authorization Act; comments due by 2-20-01; published 1-18-01

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Surface coating of large appliances; comments due by 2-20-01; published 12-22-00

Air quality implementation plans; approval and promulgation; various States:

Texas; comments due by 2-21-01; published 1-22-01

Toxic substances:

Lead—

Lead-based paint abatement activities and training; notification requirements; comments due by 2-21-01; published 1-22-01

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Consumers long distance carriers; unauthorized changes; 2000 biennial regulatory review; comments due by 2-20-01; published 1-29-01

Frequency allocations and radio treaty matters:

27 MHz of spectrum transferred from Federal government use to non-government services; reallocation; comments due by 2-22-01; published 1-23-01

New advanced wireless services; comments due by 2-22-01; published 1-23-01

FEDERAL TRADE COMMISSION

Trade regulation rules:

Amplifiers utilized in home entertainment products; power output claims; comments due by 2-23-01; published 12-22-00

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Federal Supply Schedule order disputes and incidental items; comments due by 2-20-01; published 12-19-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:

Digoxin products for oral use; marketing conditions; revocation; comments due by 2-22-01; published 11-24-00

Medical devices:

Reclassification of 38 preamendments Class III devices into Class II; comments due by 2-20-01; published 11-22-00

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Critical habitat designations—

White sturgeon; Kootenai River population; comments due by 2-20-01; published 12-21-00

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Abandoned mine land reclamation:

Fee collection and coal production reporting; OSM-1 Form; electronic filing; comments due by 2-21-01; published 1-22-01

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Nonimmigrant classes:

Actuaries and plant pathologists; addition to Appendix 1603.D.1 of North American Free Trade Agreement; comments due by 2-20-01; published 12-19-00

LABOR DEPARTMENT

Employment and Training Administration

Aliens:

Nonimmigrants on H-1B visas in specialty occupations and as fashion models, temporary employment; and permanent employment, labor certification process; comments due by 2-20-01; published 12-20-00

Correction; comments due by 2-20-01; published 1-8-01

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

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NATIONAL CREDIT UNION ADMINISTRATION

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Community Development Revolving Loan Program; comments due by 2-20-01; published 12-21-00

Corporate credit unions; comments due by 2-20-01; published 11-22-00

Insurance and group purchasing activities; Incidental powers activities; comments due by 2-22-01; published 11-24-00

TRANSPORTATION DEPARTMENT

Privacy Act; implementation; comments due by 2-20-01; published 1-8-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; comments due by 2-20-01; published 1-18-01

Bombardier; comments due by 2-21-01; published 1-22-01

Construcciones Aeronauticas, S.A.; comments due by 2-21-01; published 1-22-01

DG Flugzeugbau GmbH; comments due by 2-20-01; published 1-9-01

Eagle Aircraft Pty. Ltd.; comments due by 2-23-01; published 1-2-01
Rockwell Collins, Inc.; comments due by 2-20-01; published 1-5-01
Airworthiness standards:
Special conditions—
Ayres Corp. Model LM 200 Loadmaster airplane; comments due by 2-21-01; published 1-22-01
Class E airspace; comments due by 2-23-01; published 1-17-01
Commercial space transportation:
Licensing and safety requirements for launch; comments due by 2-22-01; published 10-25-00
Licensing and safety requirements for launch; correction; comments due by 2-22-01; published 2-8-01

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:
Stock transfer rules
Earnings and taxes carryover; comments due by 2-20-01; published 11-15-00

TREASURY DEPARTMENT

Balanced Budget Act of 1997; implementation:
District of Columbia retirement plans; Federal benefit payments; comments due by 2-20-01; published 12-22-00

LIST OF PUBLIC LAWS

Note: The List of Public Laws for the 106th Congress, Second Session has been completed and will resume when bills are enacted into public law during the next session of Congress.

A cumulative List of Public Laws was published in Part II of the **Federal Register** on January 16, 2001.

Public Laws Electronic Notification Service (PENS)

Note: PENS will resume service when bills are enacted into law during the next session of Congress.

This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.