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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 00–119–1]

Importation of Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products; Phytosanitary Certificates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Policy statement.

SUMMARY: This document gives notice that we intend to begin consistently and routinely enforcing an existing requirement that a phytosanitary certificate of inspection accompany restricted articles, other than certain greenhouse-grown plants from Canada, that are offered for importation into the United States under our foreign quarantine regulations for nursery stock, plants, roots, bulbs, seeds, and other plant products. While the regulations provide that a phytosanitary certificate must accompany such items, this provision has not been consistently enforced with regard to all shipments of restricted articles arriving at U.S. ports of entry. Therefore, we are providing this notification to alert affected importers and members of the public that we intend to enforce this provision on a consistent, uniform basis. This action is necessary in order to more effectively mitigate the risk of introduction of foreign plant pests associated with the importation of these commodities into the United States.

EFFECTIVE DATE: September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. James Petit de Mange, CITES and Plant Inspection Station Coordinator, Port Operations, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–8295.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation into the United States of certain plants and plant products to prevent the introduction of plant pests into the United States. The regulations contained in ''Subpart Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products,'' §§ 319.37 through 319.37–14 (referred to below as the regulations), prohibit or restrict, among other things, the importation of living plants, plant parts, and seeds for propagation.

Nursery stock, plants, and other propagative plant material that cannot be feasibly inspected, treated, or handled to prevent them from introducing plant pests new to or not known to be widely prevalent in or distributed within and throughout the United States are listed in the regulations as prohibited articles. Prohibited articles may not be imported into the United States, unless imported by the U.S. Department of Agriculture (USDA) for experimental or scientific purposes under specified safeguards.

Nursery stock, plants, and other propagative plant material that can be inspected, treated, or handled to prevent them from spreading plant pests are listed in the regulations as restricted articles. Restricted articles may be imported into the United States if they are imported in compliance with conditions that may include permit and phytosanitary certificate requirements, inspection, treatment, or postentry quarantine.

Paragraph (a) of § 319.37–4 of the regulations requires that any restricted article offered for importation into the United States, other than certain greenhouse-grown plants from Canada, be accompanied by a phytosanitary certificate of inspection (phytosanitary certificate). Section 319.37–1 of the regulations defines a phytosanitary certificate as a document relating to a restricted article, which is issued by a plant protection official of the country in which the restricted article was grown, which is issued not more than 15 days prior to shipment of the restricted article from the country in which grown, which is addressed to the plant protection service of the United States (Plant Protection and Quarantine Programs), which contains a description of the restricted article intended to be imported into the United States, which certifies that the article has been thoroughly inspected, is believed to be free from injurious plant diseases, injurious insect pests, and other plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States, and which contains any specific additional declarations required under the regulations.

A phytosanitary certificate documents the origin of the shipment and ensures inspection in the country of origin by a member of the national plant protection organization, thus helping to ensure the shipment of clean commodities. Phytosanitary certificates are governed under the International Plant Protection Convention (IPPC), a multilateral treaty which is acknowledged by the World Trade Organization in the Agreement on the Application of Sanitary and Phytosanitary Measures as the source for international standards for phytosanitary measures affecting trade.

Phytosanitary certificates are recognized as an internationally accepted form of pest risk mitigation. Pest risk mitigation at the place of origin is often viewed as the most viable means of preventing the introduction of plant pests. Signatories to the IPPC, which include the United States and over 100 other countries, agree that pest risk mitigation is a responsibility of the exporting country, and that they are willing and able to issue phytosanitary certificates.

To date, the Animal and Plant Health Inspection Service (APHIS) has not consistently and routinely enforced the phytosanitary certificate requirement in § 319.37–4 in all instances involving the importation of restricted articles under the regulations. Until now, our policy has been not to reject a shipment based solely on the lack of a phytosanitary certificate. We have enforced the requirement that a phytosanitary certificate accompany shipments of restricted articles in those situations where our regulations require that the phytosanitary certificate include an additional declaration, proof of treatment, or both. In other cases, our policy has provided APHIS inspectors the latitude to allow entry of the shipment, even though it is not

accompanied by a phytosanitary certificate.

Growth in Plant and Seed Trade

In recent years, the amount of nursery stock, plants, and other propagative plant material imported into the United States has grown dramatically. For example, based on APHIS records, over 694 million plants were imported into the United States in FY 1999, compared to 456 million plants in FY 1993. Seed imports into the United States have increased from 8.7 million kilograms in FY 1997 to 12 million kilograms in FY 1999. Based on Foreign Agricultural Trade of the United States (FATUS) data, the value of nursery stock, plants, and bulbs imported into the United States increased, in 1999 dollars, by 89 percent, from approximately $275 million in 1990 to $520 million in 1999. The above data for nursery stock, plants, and bulbs include certain greenhouse-grown plants from Canada, some of which are not subject to the phytosanitary requirement described in this notice. The value of seed imports over the same 1990 through 1993 period increased, in 1999 dollars, by 144 percent, from approximately $188 million to $459 million. The increased value of imports of these products coming from some of the United States' principal trading partners and regions is shown in Table 1.

TABLE 1.—VALUE OF U.S. IMPORTS OF NURSERY STOCK AND SEED FROM MAJOR TRADING PARTNERS AND REGIONS, IN 1990 AND 1999, EXPRESSED IN 1999 DOLLARS

Region	1990 million dollars	1999 million dollars	Percentage increase in imports, 1990–1999
Nursery Stock, Bulbs, etc.			
Asia	$17.19	31.14	81
Canada	94.17	234.35	149
European Union	128.03	187.30	46
Latin America	27.71	49.03	77
Mexico	7.41	13.65	84
Seeds—Field and Garden:			
Asia	57.59	100.09	74
Canada	49.01	94.29	92
European Union	29.29	65.95	125
Latin America	37.42	173.99	365
Mexico	6.36	14.23	124

Source: FATUS, USDA ERS. 1990 values are expressed in 1999 dollars, using a CPI inflation factor of 1.2821.

Just as important as the increased amounts of nursery stock, plants, and other propagative plant material being imported into the United States, more varieties and types of these commodities are being shipped here from a greater number of foreign regions as a result of improved transportation modes and technologies, as well as the general movement towards a more globalized marketplace.

The expanded trade in these commodities has placed a greater demand on APHIS' inspection services. It has also presented us with new challenges in better understanding the pest complexes and potential pest risks associated with the importation of these commodities from a wider variety of sources. Consequently, our need for verifiable information as to the place of origin, as provided in a phytosanitary certificate, has become vital with respect to each shipment of nursery stock, plants, and other propagative plant material offered for importation into the United States.

Safeguarding Report

In 1998, we asked the National Plant Board (NPB) to review our efforts to safeguard American agriculture and plant resources. The NPB assembled 43 stakeholders from States, industry, academe, and environmental groups to conduct extensive research, interviews, site visits, and other interactions with APHIS and its stakeholders, and to prepare a thorough analysis of the challenges facing the safeguarding system. The 1999 report, ''Safeguarding American Plant Resources, A Stakeholder Review of the APHIS–PPQ Safeguarding System,''[1] evaluates APHIS' pest exclusion measures, international pest information systems, use of permits, and detection and response efforts. The report also provides a number of recommendations and action plans for improving APHIS' safeguarding efforts. Among its recommendations, the report urges APHIS to more vigorously pursue offshore pest mitigation measures, including the use of phytosanitary certificates consistent with the IPPC, as a means of supplementing its existing inspection efforts at U.S. ports of entry.

Change in Policy

In light of the increased quantities, types of articles, and sources of nursery stock, plants, and other propagative plant material offered for importation into the United States, coupled with the findings of the Safeguarding Report, which advocates greater use of offshore mitigating measures such as phytosanitary certificates, we have reevaluated our current policy of selective enforcement of the phytosanitary certificate requirement in § 319.37–4(a). We have decided that it is necessary for us to enforce the phytosanitary certificate requirement provided in § 319.37–4(a) on a consistent, mandatory basis with respect to all restricted articles offered for importation into the United States in order to effectively mitigate the risk of those articles introducing foreign plant pests into the United States.

Analysis

This policy statement does not entail new regulatory requirements. Rather, its purpose is to inform importers and the general public that we will enforce an existing phytosanitary certificate requirement on a mandatory, consistent basis, which is a change from our previous policy. Importers and members of the general public will not be allowed to import restricted nursery stock, plants, or other propagative plant material into the United States without

[1] The Safeguarding Report is available upon written request from the person listed under **FOR FURTHER INFORMATION CONTACT**. It is also available on the Internet at http://www.aphis.usda.gov/ppq/safeguarding.

an accompanying phytosanitary certificate.

Phytosanitary certificates must be obtained from an official agency of the country where the goods originate. Typically, the commodity to be imported must be inspected by a plant protection official of the foreign country, who must certify where in the country of origin the restricted article was grown or acquired its phytosanitary status and state that the shipment is free of injurious plant diseases and plant pests. The certifying country usually charges a fee for these services. The actual fee varies from country to country and is based solely on the criteria that the issuing country deems appropriate. As points of reference, Canada charges C$17 Canadian dollars ($11.25US) and Mexico charges 244 Mexican new pesos ($24.86US). Costs associated with shipment certification that result from this notice are costs that may not have been borne previously, only because phytosanitary certificate requirements have not been regularly and uniformly enforced.

The percentage of restricted nursery stock, plants, and other propagative plant material that currently enters the United States without phytosanitary certification is not known. We do not maintain such data. However, based on our own informal observations at ports of entry, we believe that the vast majority of imported commercial plant and seed shipments are accompanied by a phytosanitary certificate. We have found that phytosanitary certificates are more likely to be absent in small shipments imported by tourists, hobbyists, homeowners, small businesses, or importers who are newcomers to the plant trade. Mandatory, consistent enforcement of the phytosanitary certification requirement for all restricted nursery stock, plants, and other propagative plant material imported into the United States will help minimize the plant pest risks associated with these imports without subjecting affected importers and members of the general public to any costs that they are not already expected to bear.

Therefore, we intend to begin consistently enforcing, in accordance with § 319.37–4(a), the requirement that a phytosanitary certificate must accompany all shipments of restricted articles imported into the United States, except for certain greenhouse-grown plants from Canada.

Authority: 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 17th day of July 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–18299 Filed 7–20–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–148–AD; Amendment 39–12308; AD 2001–13–26]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, –30, and –40 Series Airplanes, and Model MD–10–10F and –30F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, and –40 series airplanes, and Model MD–10–10F and –30F series airplanes, that requires a general visual inspection to detect chafing or damage of the feeder cables of the external ground power in the forward cargo compartment between certain fuselage stations; and repair, if necessary. This amendment also requires installation of spiral wrap on the feeder cables of the external ground power. This action is necessary to prevent chafing of the feeder cables during removal of the sump panels of the cargo floor, which could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the forward cargo compartment. This action is intended to address the identified unsafe condition.

DATES: Effective August 27, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 27, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5343; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10 series airplanes, was published in the **Federal Register** on November 29, 2000 (65 FR 71076). That action proposed to require a general visual inspection to detect chafing or damage of the feeder cables of the external ground power in the forward cargo compartment between certain fuselage stations; and repair, if necessary. The action also proposed to require installation of spiral wrap on the feeder cables of the external ground power.

Change to the Applicability of Notice of Proposed Rulemaking (NPRM)

On May 9, 2000, the FAA issued a Type Certificate (TC) for McDonnell Douglas Model MD–10–10F and MD–10–30F series airplanes. Model MD–10 series airplanes are Model DC–10 series airplanes that have been modified with an Advanced cockpit. The feeder cables of the external ground power in the forward cargo compartment installed on Model MD–10–10F and MD–10–30F series airplanes (before or after the modifications necessary to meet the type design of a Model MD–10 series airplane) are identical to those on the affected Model DC–10 series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition. In addition, the manufacturer's fuselage number and factory serial number are not changed during the conversion from a Model DC–10 to Model MD–10. We find that Model MD–10–10F and MD–10–30F series airplanes were not specifically identified by model in the applicability of the NPRM; however, they were identified by manufacturer's fuselage numbers in McDonnell Douglas Alert Service Bulletin DC10–24A147, Revision 02, dated March 6, 2000 (which was referenced in the applicability statement of the NPRM for determining the specific affected airplanes). Therefore, we have revised

the applicability throughout the final rule to include Model MD–10–10F and MD–10–30F series airplanes. We have also designated the specific affected Model DC–10 series airplanes.

Comments

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

Request To Delete A Certain Access Requirement

One commenter requests that the FAA not require removal of the cargo sump panels, which is done as part of accessing the inspection area per McDonnell Douglas Alert Service Bulletin DC10–24A147, Revision 02, dated March 6, 2000 (which was referenced in the NPRM as the appropriate source of service information). The commenter states that it has received confirmation from Boeing that removal of the cargo sump panels is not required to accomplish the intent of the service bulletin. The commenter also states that this task adds substantial unnecessary work hours and cost.

The FAA agrees. Since issuance of the NPRM, the FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC10–24A147, Revision 03, dated April 30, 2001. This revision deletes the reference to the sump panels as a requirement to gain access and revises the effectivity heading to reflect Model MD–10 series airplanes. No additional work is required by this revision for airplanes previously modified by Revision 02 of the service bulletin. Therefore, we have revised the final rule to reference Revision 03 of the subject service bulletin as the appropriate source of service information for accomplishing the required actions and for determining the specific affected airplanes. In addition, we have included a new note to give operators credit for previously accomplishing the requirements of this AD per Revision 02 of the subject service bulletin.

Conclusion

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

Cost Impact

There are approximately 260 Model DC–10 and MD–10–10F and –30F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 171 airplanes of U.S. registry will be affected by this AD.

For Groups 1, 2, and 3 airplanes, it will take approximately 5 work hours per airplane (including gaining and closing access) to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $300 per airplane.

For Group 1 airplanes, it will take approximately 2 work hours per airplane (including gaining and closing access) to accomplish the required installation, at an average labor rate of $60 per work hour. Required parts will cost approximately $140 per airplane. Based on these figures, the cost impact of the installation required by this AD on U.S. operators of Group 1 airplanes is estimated to be $260 per airplane.

For Group 2 airplanes, it will take approximately 3 work hours per airplane (including gaining and closing access) to accomplish the required installation, at an average labor rate of $60 per work hour. Required parts will cost approximately $140 per airplane. Based on these figures, the cost impact of the installation required by this AD on U.S. operators of Group 2 airplanes is estimated to be $320 per airplane.

For Group 3 airplanes, it will take approximately 4 work hours per airplane (including gaining and closing access) to accomplish the required installation, at an average labor rate of $60 per work hour. Required parts will cost approximately $140 per airplane. Based on these figures, the cost impact of the installation required by this AD on U.S. operators of Group 3 airplanes is estimated to be $380 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. 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 final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–13–26 McDonnell Douglas: Amendment 39–12308. Docket 2000-NM–148–AD.

Applicability: Model DC–10–10, –15, –30, and –40 series airplanes, and Model MD–10–10F and –30F series airplanes; as listed in McDonnell Douglas Alert Service Bulletin DC10–24A147, Revision 03, dated April 30, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the

requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the feeder cables during removal of the sump panels of the cargo floor, which could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the forward cargo compartment, accomplish the following:

Inspection, Installation of Spiral Wrap, and Repair, if Necessary

(a) Within 1 year after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD per McDonnell Douglas Alert Service Bulletin DC10–24A147, Revision 03, dated April 30, 2001.

(1) Do a general visual inspection to detect chafing or damage of the feeder cables of the external ground power in the forward cargo compartment between fuselage stations Y=879.000 and Y=1019.000 left of centerline. If any chafing or damage is detected, before further flight, repair the feeder cables of the external ground power and adjacent structure.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(2) Install spiral wrap on the feeder cables of the external ground power.

Note 3: Accomplishment of the inspection, repair, and installation per McDonnell Douglas Alert Service Bulletin DC10–24A147, Revision 02, dated March 6, 2000, before the effective date of this AD, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC10–24A147, Revision 03, dated April 30, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected 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; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on August 27, 2001.

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17591 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–102–AD; Amendment 39–12309; AD 2001–13–27]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10 and –30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10 and –30 series airplanes. This action requires replacement of a certain circuit breaker in the navigation transfer circuit located on the overhead circuit breaker panel with a certain new circuit breaker; and installation of a new nameplate. This action is necessary to prevent damage to wires or equipment and consequent smoke/fire in the cockpit from heat generated in the wires during an overload condition. This action is intended to address the identified unsafe condition.

DATES: Effective August 7, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 7, 2001.

Comments for inclusion in the Rules Docket must be received on or before September 21, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–102–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–102–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 Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). 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; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all

aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received the results of an investigation that indicate the existing 10-amp circuit breaker in the navigation transfer circuit on certain McDonnell Douglas Model DC–9–10 and –30 series airplanes will not adequately protect the 24-gage wire during an overload condition. This condition, if not corrected, could result in damage to wires or equipment and consequent smoke/fire in the cockpit from the heat generated in the wires during an overload condition.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC9–34A075, Revision 01, dated April 30, 2001. The service bulletin describes procedures for replacement of a certain circuit breaker in the navigation transfer circuit located on the overhead circuit breaker panel with a certain new circuit breaker; and installation of a new nameplate. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

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 that may be registered in the United States at some time in the future, this AD is being issued to prevent damage to wires or equipment and consequent smoke/fire in the cockpit from the heat generated in the wires during an overload condition. This AD requires procedures for replacement of a certain circuit breaker in the navigation transfer circuit located on the overhead circuit breaker panel with a certain new circuit breaker; and installation of a new nameplate. The actions are required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

None of the Model DC–9–10 and –30 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to accomplish the required actions, at an average labor rate of $60 per work hour. Required parts would cost $114 per airplane. Based on these figures, the cost impact of this AD would be $174 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register.**

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and 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 2001–NM–102–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.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–13–27 McDonnell Douglas: Amendment 39–12309. Docket 2001–NM–102–AD.

Applicability: Model DC–9–10 and –30 series airplanes, as listed in Boeing Alert Service Bulletin DC9–34A075, Revision 01, dated April 30, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to wires or equipment and consequent smoke/fire in the cockpit from the heat generated in the wires during an overload condition, accomplish the following:

Replacement of Circuit Breaker and Installation of Nameplate

(a) Within 18 months after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD per Boeing Alert Service Bulletin DC9–34A075, Revision 01, dated April 30, 2001.

(1) Replace the 10-amp MP703–DC8 circuit breaker (Item No. B10–162) in the navigation transfer circuit located on the overhead circuit breaker panel with a new 5-amp MP701–DC8 circuit breaker; and

(2) Install a new 7918246–502 nameplate (indicated ''5A'') over the existing 10-amp designation below the new circuit breaker.

Note 2: Accomplishment of the actions identified in paragraphs (a)(1) and (a)(2) of this AD per McDonnell Douglas DC9–34–75, dated January 21, 1969, before the effective date of this AD, is considered acceptable for the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin DC9–34A075, Revision 01, dated April 30, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected 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; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on August 7, 2001.

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17596 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–380–AD; Amendment 39–12339; AD 2001–15–05]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–200, –300, –320, –500, and ATR72 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Aerospatiale Model ATR42–200, –300, –320, –500, and ATR72 series airplanes, that requires a revision of the Airplane Flight Manual to add instructions that prohibit the flightcrew from selecting the reverse position on the engines in the event of propeller thrust dissymmetry. The actions specified by this AD are intended to ensure that the flightcrew is advised of the hazard associated with selecting reverse thrust during propeller thrust dissymmetry, which could result in reduced controllability of the airplane during landing. This action is intended to address the identified unsafe condition.

DATES: Effective August 27, 2001.

ADDRESSES: Information pertaining to this amendment may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Aerospatiale Model ATR42–200, –300, –320, –500, and ATR72 series airplanes was published in the **Federal Register** on May 1, 2001 (66 FR 21699). That action proposed to require a revision of the Airplane Flight Manual to add instructions that prohibit the flightcrew from selecting the reverse position on the engines in the event of propeller thrust dissymmetry.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 69 Model ATR42–200, –300, –320, –500, and ATR72 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $4,140, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. 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 final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

2001–15–05 Aerospatiale: Amendment 39–12339. Docket 2000–NM–380–AD.

Applicability: All Model ATR42–200, –300, –320, –500, and ATR72 series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flightcrew is advised of the hazard associated with selecting reverse thrust during propeller thrust dissymmetry, which could result in reduced controllability of the airplane during landing, accomplish the following:

Revision of Airplane Flight Manual (AFM)

(a) Within 5 days after the effective date of this AD, revise the Normal Procedures section of the FAA-approved AFM, under ''APPROACH AND LANDING,'' to include the following. This may be accomplished by inserting a copy of this AD into the AFM.

''NORMAL LANDING

- After nose wheel touchdown

Both PL: GI

Both LO PITCH lights: Check illuminated

CAUTION: If a thrust dissymmetry occurs or if one LO PITCH light is not illuminated, the use of any reverse is not allowed.''

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then

send it to the Manager, International Branch, ANM–116.

Note 1: 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

(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 2: The subject of this AD is addressed in French airworthiness directives 2000–436–080(B) and 2000–437–052(B), both dated October 18, 2000.

Effective Date

(d) This amendment becomes effective on August 27, 2001.

Issued in Renton, Washington, on July 16, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18256 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–415–AD; Amendment 39–12340; AD 2001–15–06]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Airbus Model A319, A320, and A321 series airplanes, that currently requires modification of the forward and aft evacuation slide systems by replacing the Velcro restraints for the support logs with frangible link restraints. This amendment reduces the time to accomplish the modification from 3 years to 9 months. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent the ingestion of sill support-log material into the aspirator of the evacuation slide, which could result in failure of the slide to inflate.

DATES: Effective August 27, 2001.

The incorporation by reference of Airbus Service bulletin A320–25–1215, dated April 29, 1999, as listed in the regulations was approved previously by the Director of the Federal Register as of March 30, 2000 (65 FR 9212, February 24, 2000).

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, ANM–116, FAA, International Branch, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–04–06, amendment 39–11588 (65 FR 9212, February 24, 2000), which is applicable to certain Airbus Model A319, A320, and A321 series airplanes, was published in the **Federal Register** on April 30, 2001 (66 FR 21291). The action proposed to continue to require modification of the forward and aft evacuation slide systems by replacing the Velcro restraints for the support logs with frangible link restraints. The action also proposed to reduce the time to accomplish the modification from 3 years to 9 months.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 202 Model A319, A320, and A321 series airplanes of U.S. registry that will be affected by this AD.

The modification that is currently required by AD 2000–04–06 and retained in this AD was previously reported to take approximately 1 work hour per airplane to accomplish. That modification, however, is now estimated to take approximately 5 work hours per airplane to accomplish. The average labor rate is $60 per work hour. There is no charge for required parts. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $60,600, or $300 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. 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 final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11588 (65 FR 9212, February 4, 2000), and by adding a new airworthiness directive (AD), amendment 39–12340, to read as follows:

2001–15–06 Airbus Industrie: Amendment 39–12340. Docket 2000–NM–415–AD. Supersedes AD 2000–04–06, Amendment 39–11588.

Applicability: Model A319, A320, and A321 series airplanes; certificated in any category; equipped with any emergency evacuation slide having a part number (P/N) listed as:

D31516–103
D31516–105
D31516–107
D31516–109
D31517–103
D31517–105
D31517–107
D31517–109

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the ingestion of sill support-log material into the aspirator of the escape slide which could result in failure of the escape slide to inflate, accomplish the following:

Modification

(a) Within 9 months after the effective date of this AD, modify the forward and aft emergency evacuation slides by replacing the Velcro restraints for the support logs with frangible link restraints, in accordance with Airbus Service Bulletin A320–25–1215, dated April 29, 1999.

Note 2: Airbus Service Bulletin A320–25–1215 refers to Air Cruisers Service Bulletin 004–25–51, dated February 26, 1999, as an additional source of service information for accomplishment of the modification.

Spares

(b) As of the effective date of this AD, no person shall install on any airplane an emergency evacuation slide having P/N D31516–103, D31516–105, D31516–107, D31516–109, D31517–103, D31517–105, D31517–107, or D31517–109.

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, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) The modification shall be done in accordance with Airbus Service Bulletin A320–25–1215, dated April 29, 1999. The incorporation by reference of that document was previously approved by the Director of the Federal Register as of March 30, 2000 (65 FR 9212, February 24, 2000). Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 2000–359–152(B) R1, dated December 29, 2000.

Effective Date

(f) This amendment becomes effective on August 27, 2001.

Issued in Renton, Washington, on July 16, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18257 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–7]

Amendment of Class D and Class E2 Airspace; Augusta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D and Class E2 airspace of Augusta, GA. As a result of a regional evaluation, it has been determined the Augusta Regional At Bush Field Airport Class D and Class E2 airspace areas should be increased to provide adequate controlled airspace for the Airport Surveillance Radar (ASR) Standard Instrument Approach Procedure (SIAP) Runway (RWY) 17. This action would amend the lateral limits of the existing Class D and E2 airspace from a 4.3-mile radius to a 5.3-mile radius of the Augusta Regional At Bush Field Airport.

EFFECTIVE DATE: 0901 UTC, November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

On May 29, 2001, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class D and Class E2 airspace at Augusta, GA (66 FR 29057). Class D and Class E airspace designations for airspace areas extending upward from the surface of the earth are published in Paragraphs 5000 and 6002 respectively, of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class D and Class E2 airspace at Augusta, GA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation, as the anticipated

impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, navigation (air).

Adoption of the Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO GA D Augusta, GA [Revised]

Augusta Regional At Bush Field Airport, GA
(Lat. 33°22′12″ N, long. 81°57′52″ W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5.3-mile radius of the Augusta Regional At Bush Field Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice of Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E2 Airspace Designated as Surface Areas.

* * * * *

ASO GA E2 Augusta, GA [Revised]

Augusta Regional At Bush Field, GA
(Lat. 33°22′12″ N, long. 81°57′52″ W)

Within a 5.3-mile radius of the Augusta Regional At Bush Field Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on July 10, 2001.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 01–18224 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–6]

Amendment of Class D and Class E2 and E4 Airspace; Gainesville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D and Class E2 and E4 airspace at Gainesville, FL. As a result of relocating and renaming the Gainesville VORTAC (Airspace Docket 00–ASO–35), the VORTAC's position has been recalculated and final approach courses for the VHR Omni-directional Range (VOR) Standard Instrument Approach Procedures (SIAP) have been changed for the Gainesville Regional Airport, Gainesville, FL. This action amends the lateral limits of the existing Class D and E2 airspace from a 4.3-mile radius to a 4.9-mile radius of the Gainesville Regional Airport. The Class E4 airspace, designated as an extension to a Class D airspace area, will rotate clockwise 12° and amend the extension from the 4.3-mile radius to 7 miles northeast of the VORTAC to an extension from the 4.9-mile radius to 7 miles northeast of the VORTAC

EFFECTIVE DATE: 0901 UTC, November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

On May 29, 2001, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending Class D and Class E2 and E4 airspace at Gainesville, FL (66 FR 29056). Class D and Class E airspace designations for airspace areas extending upward from the surface of the earth and Class E airspace designations for airspace areas designated as an extension to a Class D airspace area are published in Paragraphs 5000, 6002 and 6004 respectively, of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends Class D and Class E2 and E4 airspace at Gainesville, FL.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation, as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 700.9H, Airspace Designations and Reporting Points,

dated September 1, 2000, and effective September 16, 2000, is amended as follows:

* * * * *

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Gainesville, FL [REVISED]

Gainesville Regional Airport, FL
(Lat. 29°41′24″ N, long. 82°16′18″ W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 4.9-mile radius of the Gainesville Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E2 Airspace Designated as Surface Areas.

* * * * *

ASO FL E2 Gainesville, FL [REVISED]

Gainesville Regional Airport, FL
(Lat. 29°41′24″ N, long. 82°16′18″ W)

Within a 4.9-mile radius of the Gainesville Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E4 Airspace Areas Designated as an Extension to a Class D Airspace Area.

* * * * *

ASO FL E4 Gainesville, FL [REVISED]

Gainesville Regional Airport, FL
(Lat. 29°41′24″ N, long. 82°16′18″ W)
Gators VORTAC
(Lat. 29°41′32″ N, long. 82°16′23″ W)

That airspace extending upward from the surface within 2.4 miles each side of the Gators VORTAC 053° radial, extending from the 4.9-mile radius of Gainesville Regional Airport to 7 miles northeast of the VORTAC. This Class E4 airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on July 10, 2001.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 01–18238 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–09FR]

Modification of Class E Airspace; Jamestown, NY

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E2 airspace area at the Chautauqua County/Jamestown Airport (JHW), Jamestown, NY, by expanding the limits of the delegated airspace area. The intended affect of this action is to enhance safety for all potential users of this airspace operating under Instrument Flight Rules (IFR). The development of several Standard Instrument Approach Procedures (SIAP) for the Chautauqua County/Jamestown Airport, Jamestown, NY have made this action necessary. This action is intended to provide adequate Class E airspace for flights executing the revised Global Positioning System (GPS) Approaches. This area will be depicted on aeronautical charts for pilot reference.

EFFECTIVE DATE: 0901 UTC, September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On April 18, 2001, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify the Class E2 airspace at Chautauqua County/Jamestown Airport, NY (66 FR 19908).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as a surface area for an airport are published in paragraph 6002 of FAA Order 7400.9H, dated September 1, 2000 and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) modifies the Class E airspace area at Jamestown, NY by expanding the Class E2 airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Adoption of the Amendment

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6002 Class E airspace areas extending upward from the surface of the earth.

* * * * *

AEA NY E2, Jamestown, NY [Revised]

Chautauqua County/Jamestown Airport, Jamestown, NY
(Lat. 42°09′12″ N., long 79°15′29″ W.)

Within a 6 mile radius of the Chautauqua County/Jamestown Airport. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will

thereafter be published continuously in the Airport/Facility Directory.

* * * * *

Issued in Jamaica, New York on July 2, 2001.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–18231 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ANM–18]

Revision of Class E Airspace, Vernal, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace at Vernal, UT. Newly developed Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) at the Vernal Airport made this action necessary. Additional Class E 700-feet and 1200-feet controlled airspace, above the surface of the earth is required to contain aircraft executing the RNAV SIAP at Vernal Airport.

EFFECTIVE DATE: 0901 UTC, September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 00–ANM–18, 1601 Lind Avenue SW., Renton, Washington 98055–4056: telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On April 10, 2001, the FAA proposed to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E airspace at Vernal, UT, in order to accommodate new RNAV SIAP's at Vernal Airport, Vernal, UT (66 FR 18575). This amendment provides Class E5 airspace at Vernal, UT, to meet current criteria standards associated with the SIAP. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. A comment was received from the FAA, AVN–500, National Aeronautical Charting Office. A revision to the legal description as written in the Notice for Proposed Rule Making (NPRM) was required to amend a small discrepancy in the proposed action in order to make the airspace description easier to read and chart. The description is not referenced by Latitude and Longitude coordinates rather than as described by radials and DME.

The Rule

This amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) revises Class E airspace at Vernal, UT, in order to accommodate a new SIAP to the Vernal Airport, Vernal, UT. This amendment revises Class E5 airspace at Vernal, UT, to meet current criteria standards associated with the RNAV and SIAP. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. This rule is designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rules (IFR) at the Vernal Airport and between the terminal and en route transition stages.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700-feet or more above the surface of the earth, are published in Paragraph 6005, of FAA Order 7400.9H dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700-feet or More Above the Surface of the Earth

* * * * *

ANM UT E5 Vernal, UT [REVISED]

Vernal Airport, UT

(Lat. 40°26′28″ N., long. 109°30′35″ W.)

That airspace extending upward from 700-feet above the surface within a 8-mile radius of the Vernal Airport, and within 8 miles west and 4 miles east of the 167° bearing from the airport extending to 18.8 miles, and within 8 miles northeast and 5 miles southwest of the 120° bearing from the airport extending 20.3 miles; and that airspace extending upward to 1,200 feet above the surface bounded by a line beginning at lat. 40°30′00″ N., long. 109°46′00″ W.; thence to lat. 40°41′00″ N., long. 109°22′30″ W.; to lat. 40°11′00″ N., long 109°00′00″ W.; to 39°43′00″ N., long 109°00′00″ W.; to lat. 39°43′00″ N., long. 109°46′00″ W., to point of origin; excluding those portions within Federal Airways and Roosevelt, UT Class E airspace area.

* * * * *

Issued in Seattle, Washington, on July 19, 2001.

David B. Johnson,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 01–18236 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210 and 211

[Release Nos. 33–7993; 34–44557; IC–25066; FR–50A]

Commission Policy Statement on the Establishment and Improvement of Standards Related to Auditor Independence

AGENCY: Securities and Exchange Commission.

ACTION: Policy statement.

SUMMARY: The Securities and Exchange Commission (''SEC'' or ''Commission'') today amended Financial Reporting Release No. 50 (''FRR 50'') to state that it will no longer look to the Independence Standards Board (''ISB'' or ''Board'') for leadership in establishing and improving auditor independence standards applicable to auditors of the financial statements of Commission registrants. The deliberations and conclusions of the ISB contributed significantly to the development of the Commission's new auditor independence regulations and disclosure requirements, which were adopted in November 2000. In light of the Commission's new auditor independence rules, the Commission believes that many of the issues that led to the creation of the ISB have been resolved, and that going forward the best method to assure the independence of auditors is for the Commission and its staff to enforce and interpret its new rules. In addition, the Commission notes the recent increase in public participation on the American Institute of Certified Public Accountants' (''AICPA'') Professional Ethics Executive Committee (''PEEC'') and encourages greater public membership on PEEC. The Commission staff, when appropriate, may work with the PEEC on discrete auditor independence issues. Standards previously adopted by the ISB and interpretations previously issued by the ISB will continue to be authoritative to the extent they do not conflict with the Commission's rules and interpretations. In making this amendment to FRR 50, the Commission reaffirms that maintaining the independence of auditors is crucial to the credibility of financial reporting and, in turn, the capital formation process.

EFFECTIVE DATE: August 22, 2001.

FOR FURTHER INFORMATION CONTACT: John M. Morrissey, Deputy Chief Accountant, or Samuel L. Burke, Associate Chief Accountant, Office of the Chief Accountant, at (202) 942–4400, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1103.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal securities laws reflect the importance of independent audits in protecting investors by requiring, or permitting the Commission to require, that financial statements filed with the Commission by public companies, investment companies, broker/dealers, public utilities, investment advisers, and others, be certified (or audited) by independent public accountants,[1] and by granting the Commission the authority to define the term ''independent.'' [2]

Since the Commission's creation in 1934, it consistently has emphasized the need for auditors to remain independent. The Commission's requirements are set forth in Rule 2–01 of Regulation S–X [3] and in the interpretations, guidelines and examples that are collected in Section 600 of the Codification of Financial Reporting Policies (''Codification'') entitled ''Matters Relating to Independent Accountants.'' [4] The Commission also makes publicly available the staff's written responses to requests for informal advice on its independence requirements.[5]

For approximately 60 years, the Commission developed and maintained its own auditor independence requirements.[6] In 1997, after several months of discussions with representatives of the accounting profession, the Commission determined that it would look to the ISB, a private sector body composed equally of members from the accounting profession and from the public, to take a leadership role in establishing and maintaining auditor independence standards. In FRR 50,[7] issued February 18, 1998, the Commission announced its endorsement of the ISB. In doing so, however, the Commission stated that it was not abdicating its authority to modify or supplement ISB standards, to bring enforcement actions, or to take such other action as it may deem appropriate. In addition, FRR 50 noted that before any ISB standard or interpretation that conflicted with an SEC rule or interpretation could take effect, the SEC would have to amend its regulations to remove the conflict. Because of the experimental nature of the ISB, the Commission also stated in FRR 50 that it would review the operations of the ISB as necessary or appropriate and evaluate, within five years, whether the framework of the ISB was serving the public interest and protecting investors.[8]

During its tenure, the ISB deliberated and provided guidance on several important auditor independence issues, including the need for communications on auditor independence issues among auditors, management, and audit committees,[9] and the impact on an auditor's independence of investments in mutual funds [10] and the retention by an audit client of a professional who formerly worked for the accounting firm.[11] The ISB members brought extensive and diverse business and professional experiences to the Board, and their discussions of these and other issues contributed significantly to the formulation of the Commission's new rules.[12]

In late 1999, the ISB members faced significant issues regarding the evolving alternative business structures being used by accounting firms and the nature and scope of non-audit services that the firms could perform for an audit client before they would be deemed to lack auditor independence. The public members of the ISB recognized that these were significant public policy issues that required input from a wider

[1] For example, items 25 and 26 of Schedule A to the Securities Act of 1933 (the ''1933 Act''), 15 U.S.C. 77aa(25) and (26), and 17(e) of the Securities Exchange Act of 1934 (the ''Exchange Act''), 15 U.S.C. 78q, expressly require that financial statements be audited by independent public or certified accountants. Sections 12(b)(1)(J) and (K) and 13(a)(2) of the Exchange Act, 15 U.S.C. 78*l* and 78m, 5(b)(H) and (I), 10(a)(1)(G), and 14 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79e(b), 79j, and 79n, 8(b)(5) and 30(e) of the Investment Company Act of 1940, 15 U.S.C. 80a–8 and 80a–29, and 203(c)(1)(D) of the Investment Advisers Act of 1940, 15 U.S.C. 80b–3(c)(1), authorize the Commission to require the filing of financial statements that have been audited by independent accountants. In accordance with these provisions, the Commission has required that independent accountants audit certain financial statements. *See, e.g.,* Article 3 of Regulation S–X, 17 CFR 210.3–01 *et seq.*

[2] Section 19(a) of the 1933 Act, 15 U.S.C. 77s(a), 3(b) of the Exchange Act, 15 U.S.C. 78c(b), § 20(a) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79t(a), and 38(a) of the Investment Company Act of 1940, 15 U.S.C. 80a–37(a), grant the Commission the authority to define accounting, technical, and trade terms used in each Act.

[3] 17 CFR 210.2–01 (2000).

[4] Financial Reporting Codification, Section 600, ''Matters Relating to Independent Accountants,'' reprinted in SEC Accounting Rules (CCH) ¶ 3,851, at 3,781.

[5] *See* FRR 33 (November 25, 1988) and FRR 4 (October 14, 1982). *See also,* Office of the Chief Accountant, ''Application of Revised Rules on Auditor Independence—Frequently Asked Questions'' (January 16, 2001), which is available on the Commission's web site: www.sec.gov.

[6] *See generally,* Office of the Chief Accountant, ''Staff Report on Auditor Independence'' (March 1994).

[7] Release Nos. 33–7507, 34–39676, IC–23029, FR–50 (February 18, 1998).

[8] *Id.*

[9] Independence Standards Board, Independence Standard No. 1, ''Independence Discussions with Audit Committees'' (January 1999) (''ISB No. 1'').

[10] Independence Standards Board, Independence Standard No. 2, ''Certain Independence Implications of Audits of Mutual Funds and Related Entities'' (December 1999) (''ISB No. 2'').

[11] Independence Standards Board, Independence Standard No. 3, ''Employment with Audit Clients'' (July 2000) (''ISB No. 3'').

[12] *See generally* ''Revision of the Commission's Auditor Independence Requirements,'' Release Nos. 33–7919; 34–43602; 35–27279; IC–24744; IA–1911; FR–56 (Nov. 21, 2000).

and more diverse audience than the ISB had been able to attract. These members, therefore, asked the Commission to assume this project.

The public ISB members' vision of the public interest in these issues was indeed correct. The Commission's rulemaking project generated approximately 3,000 comment letters and four days of public hearings in which the Commission heard directly the testimony of about 100 investors, accountants, lawyers, audit committee members, regulators, professional associations, and other witnesses.[13]

Although the Commission's rulemaking completely revised the Commission's auditor independence regulation, significant portions of the rule were built upon the foundation of the ISB's deliberations, draft documents, and standards. Upon completion of the Commission's rulemaking, it had addressed the vast majority of issues that had led to the creation of the ISB.

Following the Commission's rulemaking, the AICPA has begun a project to amend the ethics and independence rules established by its PEEC [14] to conform in several respects to the Commission's new rules.[15] Reducing the discrepancies between the Commission's and the profession's auditor independence regulations should reduce the confusion associated with having diverse standards and encourage compliance.

The AICPA Board of Directors and membership also voted to have public members (as opposed to members from the profession) comprise twenty-five percent of the PEEC membership, and to study whether additional public membership would be appropriate. The Commission believes that increased public participation on PEEC is essential to the credibility of the AICPA's independence and disciplinary processes and is hopeful that the AICPA Board will decide to further increase public participation on PEEC to achieve equivalent public and private representation.[16]

II. Amendment of Financial Reporting Release No. 50

After careful consideration, the Commission amends section II of FRR 50 in that the Commission no longer will look to the ISB to provide leadership in establishing, improving, or maintaining auditor independence standards applicable to the auditors of Commission registrants, and will not consider ISB principles, standards, interpretations, and practices established or issued after the date of this amendment as having substantial authoritative support for the resolution of auditor independence issues.

The Commission's new rules address many of the issues that led to the creation of the ISB. The ISB's remaining agenda may not be sufficient either to attract to the ISB the same exceptionally high caliber of individuals as those who served on the Board for the past four years or to justify the cost to the profession of maintaining the ISB. In light of the AICPA's increase in public representation on the PEEC and the AICPA's continuing study of whether additional public membership on PEEC would be appropriate, the Commission believes that, going forward and where appropriate, working with the PEEC on discrete issues provides an appropriate means to include the private sector in the process of maintaining and improving auditor independence requirements.

III. Continuing Authority of ISB Standards and Interpretations

The Commission will continue to consider ISB Standard Nos. 1, 2, and 3, and ISB Interpretations 00–1, 00–2, and 99–1, to have substantial authoritative support for the resolution of auditor independence issues.[17] In FRR 50, the Commission encouraged registrants and auditors to ask the ISB staff for assistance in interpreting the existing auditor independence regulations. FRR 50 stated, however, that, unless or until ratified by the ISB, positions issued by the ISB staff would not be considered to be authoritative with respect to anyone other than the particular party requesting the interpretation.[18] Accordingly, the Commission will continue to view positions issued by the ISB staff to a particular party before the effective date of this amendment to be authoritative, but only as to the party that requested the interpretation. Of course, compliance with ISB pronouncements does not relieve registrants and accounting firms from also having to comply with the Commission's auditor independence requirements.

IV. Regulatory Requirements

This general policy statement is not an agency rule requiring notice of proposed rulemaking, opportunities for public participation, or prior publication under the provisions of the Administrative Procedure Act (''APA'').[19] Similarly, the provisions of the Regulatory Flexibility Act,[20] which apply only when notice and comment are required by the APA or another statute, are not applicable. For the reasons explained above the Commission believes that this statement of policy is in the public interest, considering the protection of investors and the promotion of efficiency, competition, and capital formation and provides a sound basis for the Commission to make significant contributions to meeting the needs of investors and capital markets.

V. Codification Update

The ''Codification of Financial Reporting Policies'' announced in Financial Reporting Release No. 1 (April 15, 1982) is amended as follows:

Delete the current text in Section 601.04, which appears under the caption ''Statement of Policy on the Establishment and Improvement of Standards Related to Auditor Independence,'' and replace it with the

[13] The Commission's proposing and adopting releases, comment letters submitted electronically, and copies of the testimony at the Commission's public hearings are available at the Commission's web site: *www.sec.gov.*

[14] Among other things, PEEC develops the AICPA's standards of ethics and independence, promotes understanding and voluntary compliance with such standards, establishes and presents charges of violations of the standards to the Joint Trial Board for disciplinary action, and works to improve the profession's enforcement procedures.

[15] *See* AICPA, ''Omnibus AICPA Proposal of Professional Ethics Division Interpretations and Rulings'' (April 16, 2001).

[16] Other countries have mandated public participation on such committees. For example, in the United Kingdom the Department of Trade and Industry, with the support of the accounting profession, has instituted a new regulatory framework for the accountancy profession that includes a new Ethics Standards Board. Under that framework, at least sixty percent of the Ethics Standards Board is to be independent from the profession—that is, not themselves subject to the disciplinary procedures of the accountancy bodies. Further, members of the profession have indicated their support for increased public participation on the PEEC. *See* Arthur Andersen press release dated November 15, 2000, ''* * * With respect to the profession's self-regulation, we believe that public participation is positive and beneficial. We support efforts to continue to expand such public participation. To that end, we will work hard to achieve equivalent public and profession participation on the AICPA's Profession Ethics Executive Committee.'' *See* Deloitte & Touche statement dated November 15, 2000, ''* * * We believe that the recent addition by the AICPA of public members to the PEEC is an appropriate and positive step toward enhancement of the profession's governance process. We support continued review of the benefits of further expanding public membership in the profession's Ethics Committee.'' *See* Joint statement issued by the AICPA, Arthur Andersen, LLP, Deloitte & Touche, LLP and KPMG, LLP, ''* * * We believe that substantially increased public participation on the PEEC would be both appropriate and beneficial * * *''.

[17] *See also* ''Revision of the Commission's Auditor Independence Requirements'' Release. Nos. 33–7919; 34–43602; 35–27279; IC–24744; IA–1911; FR–56 (Nov. 21, 2000) at n. 168 (discussing the Commission's interpretation of ISB Standard No. 1).

[18] FRR 50 at n.11.

[19] 5 U.S.C. 553.

[20] 5 U.S.C. 601–602.

text in sections I, II, and III of this release.

The Codification is a separate publication of the Commission. It will not be published in the **Federal Register**/Code of Federal Regulations.

Dated: July 17, 2001.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–18261 Filed 7–20–01; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 99F–2533]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Change in Specifications for Gum or Wood Rosin Derivatives in Chewing Gum Base

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for a change in the softening point specifications of currently listed gum or wood rosin derivatives and to provide for their safe use as plasticizing materials (softeners) in chewing gum base. This action is in response to a petition filed by Hercules, Inc.

DATES: This rule is effective July 23, 2001. Submit written objections and requests for a hearing by August 22, 2001.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mary E. LaVecchia, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3072.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** on August 5, 1999 (64 FR 42699), FDA announced that a food additive petition (FAP 9A4655) had been filed by Hercules, Inc., c/o 1001 G St. NW., Washington, DC 20001. The petition proposed to amend the food additive regulations in § 172.615 *Chewing gum base* (21 CFR 172.615) to permit a change in the softening point specifications of currently listed gum or wood rosin derivatives and provide for their safe use as plasticizing materials (softeners) in chewing gum base. More specifically, the petition proposed to eliminate the upper limits on the permissible softening point ranges for these gum or wood rosin derivatives.

The gum or wood rosin derivatives, which are the subject of this petition, include glycerol ester of partially dimerized rosin, glycerol ester of partially hydrogenated gum or wood rosin, glycerol ester of polymerized rosin, glycerol ester of gum rosin, pentaerythritol ester of partially hydrogenated gum or wood rosin, and pentaerythritol ester of gum or wood rosin. Specifications for rosin derivatives conforming to this regulation include a melting point range (for glycerol ester of polymerized rosin) or a drop softening point range for other derivatives. The petitioner is proposing to modify these specifications by listing only a minimum melting point or softening point.

II. Conclusion

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that the change in the melting point or softening point specifications for glycerol ester of partially dimerized rosin, glycerol ester of partially hydrogenated gum or wood rosin, glycerol ester of polymerized rosin, glycerol ester of gum rosin, pentaerythritol ester of partially hydrogenated gum or wood rosin, and pentaerythritol ester of gum or wood rosin is safe and that gum or wood rosin derivatives with the revised specifications will achieve their intended technical effect. Therefore, the agency concludes that the regulations in § 172.615 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

III. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

IV. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

V. Objections

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by August 22, 2001. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

2. Section 172.615 is amended in paragraph (a) by revising the following entries in the table under the subheading ''Plasticizing Materials (Softeners)'' to read as follows:

§ 172.615 Chewing gum base.

* * * * *

(a) * * *

Plasticizing Materials (Softeners)	
Glycerol ester of partially dimerized rosin	Having an acid number of 3–8, a minimum drop-softening point of 109 °C, and a color of M or paler.
Glycerol ester of partially hydrogenated gum or wood rosin	Having an acid number of 3–10, a minimum drop-softening point of 79 °C, and a color of N or paler.
Glycerol ester of polymerized rosin	Having an acid number of 3–12, a minimum melting-point of 80 °C, and a color of M or paler.
Glycerol ester of gum rosin	Having an acid number of 5–9, a minimum drop-softening point of 88 °C, and a color of N or paler. The ester is purified by steam striping.
* * * * * * *	
Pentaerythritol ester of partially hydrogenated gum or wood rosin	Having an acid number of 7–18, a minimum drop-softening point of 102 °C, and a color of K or paler.
Pentaerythritol ester of gum or wood rosin	Having an acid number of 6–16, a minimum drop-softening point of 109 °C, and a color of M or paler.
* * * * * * *	

* * * * *

Dated: July 9, 2001.

L. Robert Lake,

Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 01–18221 Filed 7–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Parts 41 and 42

[Public Notice 3719]

Visas—Visa Classification Symbols: Corrections

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Correcting amendments.

SUMMARY: The Department of State (the Department) is publishing this document to correct errors in two final rules published in the **Federal Register**. The final rules revised the ''SK'' immigrant category and added a new nonimmigrant ''V'' classification.

DATES: This rule takes effect on July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Chavez, Legislation and Regulations Division, Visa Office, (202) 663–1206.

SUPPLEMENTARY INFORMATION: On April 19, 2000, the Department amended section 42.11 of Part 22 of the Code of Federal Regulations by revising the ''SK'' immigrant category to include certain NATO employees, their spouses and unmarried children. [See 65 FR 20903.] These NATO aliens were added to the special immigrant category by section 421(a) of Public Law 105–277 and are properly classified as ''SN'' special immigrants. The Department added the new ''SN'' categories to the immigrant visa classification table in its rule published on June 18, 2001 [66 FR 32740], but failed to remove the NATO aliens from the SK category.

The Department's June 18, 2001 rule [66 FR 32740] also amended section 41.12 of Part 22 of the Code of Federal Regulations to add a new nonimmigrant ''U'' classification to implement section 107 of Pub. L. 106–386. The rule contained errors in the entries for the ''U'' visa classification symbols. The legal citations for these categories should have read 101(a)(15)(U)(i) for U1 and 101(a)(15)(U)(ii) for U2.

This rule corrects sections 41.12 and 42.11 to read as follows:

List of Subjects

22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas.

22 CFR Part 42

Aliens, Immigration, Passports and visas.

Accordingly, 22 CFR part 41 is corrected by making the following correcting amendments:

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

1. The authority citation for part 41 continues to read as follows:

Authority: 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681 *et seq.*

2. In the table in § 41.12, correct the entries for U1 and U2 to read as follows:

§ 41.12 Classification symbols.

* * * * *

NONIMMIGRANTS

Symbol and class		Section of law
*	*	*
U1	Victim of criminal activity	101(a)(15)(U)(i)
U2	Spouse, child or parent of a U1	101(a)(15)(U)(ii)
*	*	*

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

3. The authority citation for part 42 continues to read as follows:

Authority: 8 U.S.C. 1104.

4. In the table in § 42.11, correct the entries for SK1, SK2, SK3 and SK4 to read as follows:

§ 42.11 Classification symbols.

* * * * *

IMMIGRANTS

Symbol and class		Section of law
*	*	*
Employment 4th Preference (Certain Special Immigrants)		
*	*	*
SK1	Certain Retired International Organization employees	101a(27)(I)(iii)
SK2	Spouse of SK1	101(a)(27)(I)(iv)
SK3	Certain Unmarried Sons or Daughters of an International Organization employee	101(a)(27)(I)(i)
SK4	Certain Spouses of a deceased International Organization employee	101(a)(27)(I)(ii)
*	*	*

Dated: July 6, 2001.

Mary A. Ryan,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 01–18321 Filed 7–20–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 13–01–020]

RIN 2115–AE46

Special Local Regulations for Marine Events; Columbia River, Vicinity of Clover Island to Goat Island, Kennewick/Pasco, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.1303 during the annual Kennewick, Washington, Columbia Unlimited Hydroplane Races, over the waters of the Columbia River, adjacent to Columbia Park, Kennewick, Washington. These special local regulations are necessary to control vessel traffic due to the confined nature of the waterway, the high operating speeds of the hydroplanes, and expected vessel congestion during this annual event. The effect will be to restrict general navigation and anchoring throughout the regulated area for the safety of spectators, racers and vessels transiting the event area.

EFFECTIVE DATES: 33 CFR 100.1303 is effective on July 24, 2001 from 8:30 a.m. local time through July 29, 2001, 7:30 p.m. local time.

FOR FURTHER INFORMATION CONTACT: CWO Bob Coster, Marine Events Coordinator, Commander, Coast Guard Group/MSO Portland, 6767 N. Basin Avenue, Portland, OR, 97217–9399, (503) 240–9324/27.

SUPPLEMENTARY INFORMATION: The Tri-City Water Follies will sponsor the Columbia Cup Unlimited Hydroplane races from July 24, 2001 through July 29, 2001 over the waters of the Columbia River between a line bounded by position 46–14′–07″ north latitude, 119–10′–42″ west longitude and 46–13′–42″ north latitude, 119–10′–51″ west longitude, near Goat Island, and a second line bounded by position 46–13′–35″ north latitude, 119–07′–34″ west longitude and 46–13′10″ north latitude, 119–07′–47″ west longitude near Clover Island [Datum: NAD 83]. The special local regulation found at 33 CFR 100.1303 will be enforced from July 24, 2001, through July 29, 2001, between the hours of 8:30 a.m. local time until the last race is completed each day at approximately 7:30 p.m. local time. Under provisions of 33 CFR 100.1303, a vessel may not enter, transit or anchor in the regulated area unless it receives permission from the Coast Guard Patrol Commander. Vessels entering the regulated area under the control of the Patrol Commander shall do so only at speeds which will create minimum wake consistent with maintaining steerageway, and not to exceed seven (7) miles an hour. This speed may be adjusted at the discretion of the Patrol Commander to enhance the level of safety. Spectator vessels may anchor outside the regulated area but may not block a navigable channel.

In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, marine

information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Dated: July 12, 2001.

James D. Spitzer,

Captain, U.S. Coast Guard, Captain of the Port, Portland, OR.

[FR Doc. 01–18242 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–018]

Drawbridge Operating Regulation; Inner Harbor Navigation Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Florida Avenue bascule span drawbridge across the Inner Harbor Navigation Canal, mile 1.7 at New Orleans, Orleans Parish, Louisiana. This deviation allows the draw of the Florida Avenue bascule span drawbridge to remain closed to navigation daily from 6:45 a.m. until 12:15 p.m. and from 1:15 p.m. until 6:45 p.m. from October 15, 2001 through November 28, 2001. This temporary deviation will allow for replacement of the damaged fender system, an extensive but necessary maintenance operation. Presently, the draw opens on signal at all times.

DATES: This deviation is effective from 6:45 a.m. on Monday, October 15, 2001 until 6:45 p.m. on Wednesday, November 28, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obc), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The Florida Avenue bascule span drawbridge across the Inner Harbor Navigation Canal, mile 1.7, in New Orleans, Orleans Parish, Louisiana, has a vertical clearance of one foot above mean high water in the closed-to-navigation position and unlimited clearance in the open-to-navigation position. Navigation on the waterway consists of tugs with tows small ships, fishing vessels, sailing vessels, and other recreational craft. The Board of Commissioners of the Port of New Orleans requested a temporary deviation for the operation of the drawbridge to accommodate maintenance work, involving removing portions of the existing damaged fender system, driving new pilings and replacing the timbers. This work is essential for continued safe transit of vessels through the bridge.

This deviation allows the draw of the Florida Avenue bascule span drawbridge to remain closed to navigation daily from 6:45 a.m. until 12:15 p.m. and from 1:15 p.m. until 6:45 p.m. from October 15, 2001 through November 28, 2001. In the event of an approaching tropical storm or hurricane, the draw will return to normal operation within 12 hours notice from the Coast Guard.

Dated: July 10, 2001.

Roy J. Casto,

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

[FR Doc. 01–18245 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–087]

RIN 2115–AA97

Safety Zone; Lake Michigan, Pentwater, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Pentwater Homecoming fireworks in Pentwater, MI. This safety zone is necessary to protect vessels and spectators from potential airborne hazards during a planned fireworks display over Lake Michigan. The safety zone is intended to restrict vessels from a portion of Lake Michigan off Pentwater, Michigan.

DATES: This rule is effective from 9:15 p.m. to 10:45 p.m. (local), August 11, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–087] and are available for inspection or copying at Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois 60521, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST2 Mike Hogan, U.S. Coast Guard Marine Safety Office, 215 W. 83rd Street, Suite D, Burr Ridge, IL 60521. The telephone number is (630) 986–2175.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the necessary effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments with regard to this event.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. The safety zone consists of the waters of Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site with its center in the approximate position of 43°46′56.5″ N, 086°26′38″ W. Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Chicago or the designated Patrol Commander. The designated Patrol Commander on scene may be contacted on VHF Channel 16. All geographic coordinates are North American Datum of 1983 (NAD83).

Regulatory Evaluation

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

(44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

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

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

This rule will affect the following entities: the owners or operators of vessels intending to transit or anchor in a portion of Lake Michigan from 9:15 p.m. to 10:45 p.m., August 11, 2001. This regulation would not have a significant economic impact for the following reasons. The regulation is only in effect for only one and one-half hours on one day. The designated area is being established to allow for maximum use of the waterway for commercial vessels to enjoy the fireworks display in a safe manner. In addition, commercial vessels transiting the area can transit around the area. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

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

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T09–972 is added to read as follows:

§ 165.T09–972 Safety Zone; Lake Michigan, Pentwater, MI.

(a) *Location.* The following area is designated a safety zone: the waters of Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site with its center in the approximate position of 43°46′56.5″ N, 086°26′38″ W. (NAD 1983).

(b) *Effective time and date.* This section is effective from 9:15 p.m. until 10:45 p.m. (local), on August 11, 2001.

(c) *Regulations.* This safety zone is being established to protect the boating public during a planned fireworks display. In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Chicago, or the designated Patrol Commander.

Dated: July 5, 2001.

R.E. Seebald,

Captain, U.S. Coast Guard, Captain of the Port Chicago.

[FR Doc. 01–18243 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–118]

RIN 2115–AA97

Safety Zone: Fireworks Display, New Jersey Pierhead Channel and Kill Van Kull

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a fireworks display located in the New Jersey Pierhead Channel and Kill Van Kull. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the New Jersey Pierhead Channel and Kill Van Kull.

DATES: This rule is effective from 9:15 p.m. until 10:45 p.m. on July 25, 2001.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD01–01–118) and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(8), the Coast Guard finds that good cause exists for not publishing an NPRM. Good cause exists for not publishing an NPRM due to the date the Application for Approval of Marine Event was received, there was insufficient time to draft and publish an NPRM. Further, it is a local event with minimal impact on the waterway. Vessels may still transit through the eastern 260 yards of the 600-yard wide New Jersey Pierhead Channel, and the southern 360 yards of the 400-yard wide Kill Van Kull during the event. The zone is only in effect for one and one half hours and vessels can be given permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with this fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This is due to the following reasons: it is a local event with minimal impact on the waterway; vessels may still transit through the eastern 260 yards of the 600-yard wide New Jersey Pierhead Channel, and the southern 360 yards of the 400-yard wide Kill Van Kull during the event; the zone is only in effect for one and one half hours and vessels can be given permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

Background and Purpose

The Coast Guard has received an application to hold a fireworks program on the waters of the New Jersey Pierhead Channel and Kill Van Kull. This regulation establishes a safety zone in all waters of the New Jersey Pierhead Channel and Kill Van Kull within a 180-yard radius of the fireworks barge in approximate position 40°39′13.5″ N, 074°04′39.1″ W (NAD 1983), about 125 yards southeast of the New Jersey Pierhead South Entrance Lighted Gong Buoy 1 (LLNR 37010). The safety zone is in effect from 9:15 p.m. until 10:45 p.m. on Wednesday, July 25, 2001. The safety zone prevents vessels from transiting a portion of the New Jersey Pierhead Channel and Kill Van Kull and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through the eastern 260 yards of the 600-yard wide New Jersey Pierhead Channel and through the southern 360 yards of the 400-yard wide Kill Van Kull during this event. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Public notifications will be made prior to the event via the Local Notice to Mariners and Marine Information Broadcasts.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, that vessels may still transit through the eastern 260 yards of the 600-yard wide New Jersey Pierhead Channel and the southern 360 yards of the 400-yard wide Kill Van Kull during the event, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone, and advance notifications which will be made.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department standards for 6″ mortars fired from a barge combined with the Coast Guard's knowledge of tide and current conditions in the area.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit a portion of the New Jersey Pierhead Channel and Kill Van Kull during the times this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. It is a local event with minimal impact on the waterway. Vessels may still transit through the eastern 260 yards of the 600-yard wide New Jersey Pierhead Channel and the southern 360 yards of the 400-yard wide Kill Van Kull during the event. The zone is only in effect for one and one half hours and vessels can be given

permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Before the effective period, public notifications will be made via the Local Notice to Mariners and Marine Information Broadcasts, which are widely available to users of the New Jersey Pierhead Channel and Kill Van Kull.

Collection of Information

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

Federalism

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

Unfunded Mandates

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

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

Regulation

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–118 to read as follows:

§ 165.T01–118 Safety Zone: Fireworks Display, New Jersey Pierhead Channel and Kill Van Kull.

(a) *Location.* The following area is a safety zone: All waters of the New Jersey Pierhead Channel and Kill Van Kull within a 180-yard radius of the fireworks barge in approximate position 40°39′13.5″ N, 074°04′39.1″ W (NAD 1983), about 125 yards southeast of the New Jersey Pierhead South Entrance Lighted Gong Buoy 1 (LLNR 37010).

(b) *Effective period.* This section is effective from 9:15 p.m. until 10:45 p.m. on July 25, 2001.

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

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

Dated: July 12, 2001.

P.A. Harris,

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

[FR Doc. 01–18244 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AK52

Rules of Practice: Medical Opinions From the Veterans Health Administration

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule with request for comments.

SUMMARY: This document amends the Department of Veterans Affairs' (VA) Appeals Regulations to clarify that the Board of Veterans' Appeals (Board) may obtain medical opinions from health care professionals in VA's Veterans Health Administration.

DATES: *Effective Date:* This interim final rule is effective July 23, 2001.

Comment Date: Comments must be received on or before September 21, 2001.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154,

Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AK52.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Steven L. Keller (01C), Senior Deputy Vice Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: The Board of Veterans' Appeals (Board) is an administrative body that decides appeals from denials of claims for veterans' benefits. The Board's 59 Members decide about 35,000 to 40,000 cases per year.

For the purpose of deciding appeals, the Board sometimes obtains medical opinions from the Veterans Health Administration (VHA), the part of VA that provides medical treatment to veterans. The Board's current rules of practice at 38 CFR 20.901(a) state that ''[t]he Board may obtain a medical opinion from the Chief Medical Director of the Veterans Health Administration of the Department of Veterans Affairs on medical questions involved in the consideration of an appeal when, in its judgment, such medical expertise is needed for equitable disposition of an appeal.'' This provision has always been intended to reflect that the Board may obtain medical opinions from appropriate health care professionals in VHA. However, there has been some confusion as to whether this provision permitted the Board to obtain a medical opinion from an individual in VHA other than the Under Secretary for Health (the title of Chief Medical Director was changed to Under Secretary for Health). This document amends the rules of practice at § 20.901(a) by deleting the reference to ''Chief Medical Director'' and by clarifying that the Board may obtain medical opinions from appropriate health care professionals in VHA.

Under 38 U.S.C. 7109 and 38 CFR 20.901(d), the Board can request an expert medical opinion, in addition to that available within the Department. Under 38 CFR 20.901, the Board can also request opinions from the ''Chief Medical Director,'' *id.* 20.901(a); the Armed Forces Institute of Pathology, *id.* 20.901(b); and the Department's General Counsel, *id.* 20.901(c). The U.S. Court of Appeals for Veterans Claims has both recognized the Board's authority to seek a medical opinion under 38 CFR 20.901(a), *Perry* v. *Brown,* 9 Vet. App. 2, 6 (1996), and, in a 1998 case, noted that the Board's authority to obtain an expert medical opinion irrespective of 38 U.S.C. 7109 was ''uncontested,'' *Winsett* v. *West*, 11 Vet. App. 420, 426 (1998), *aff'd*, 217 F.3d 854 (Fed. Cir. 1999) (unpublished decision), *cert. denied,* 120 S.Ct. 1251 (2000).

The Board has been using VHA medical opinions under 38 CFR 20.901(a) for many years. For example, from Fiscal Year (FY) 1993 through FY 1999, Board Members requested 1,235 such opinions. Reports of the Chairman, Board of Veterans' Appeals, Fiscal Years 1993–1999. In FY 1999, the Board requested 482 advisory opinions from VHA physicians, compared with 100 requests from non-VA medical experts under 38 U.S.C. 7109. Report of the Chairman, Board of Veterans' Appeals, Fiscal Year 1999 at 23.

Advisory opinions requested from VHA physicians have typically been provided in a much more timely manner than those obtained from non-VA physicians and generally have been well-reasoned, succinctly stated, and fully responsive to the questions asked by the Board. Additionally, the thoroughness and specificity of many VHA advisory opinions have provided sufficient information to allow the Board Members to issue final decisions without the need to remand cases to the regional offices to obtain the same information. As a result, this process reduces the time a veteran must wait for a final resolution of the appeal.

Since 1995, this process has been memorialized in a VHA ''Directive,'' which allocates the responsibilities between VHA and the Board. VHA Directive 10–95–040 (Apr. 17, 1995); VHA Directive 2000–049 (Dec. 13, 2000). The latter directive, which replaces the former, may be found on VA's internet site at *http://www.va.gov/publ/direc/health/direct/12000049.pdf.*

This interim final rule concerns rules of agency procedure and practice. Accordingly, under the provisions of 5 U.S.C. 553, we are dispensing with prior notice and comment and a delayed effective date.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule will affect VA beneficiaries and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this interim final rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Veterans.

Approved: July 9, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 20 is amended as set forth below:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

2. Section 20.901(a) is revised to read as follows:

§ 20.901 Rule 901. Medical opinions and opinions of the General Counsel.

(a) *Opinion from the Veterans Health Administration.* The Board may obtain a medical opinion from an appropriate health care professional in the Veterans Health Administration of the Department of Veterans Affairs on medical questions involved in the consideration of an appeal when, in its judgment, such medical expertise is needed for equitable disposition of an appeal.

(Authority: 38 U.S.C. 5107(a))

* * * * *

[FR Doc. 01–18172 Filed 7–20–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 573

[Docket No. NHTSA–2001–10145]

RIN 2127–AI23

Motor Vehicle Safety; Reporting the Sale or Lease of Defective or Non-Compliant Tires

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

ACTION: Final rule.

SUMMARY: This final rule implements section 3(c) of the Transportation Recall Enhancement, Accountability, and Documentation Act (TREAD Act). Section 3(c) directed us to issue a final rule by January 30, 2001, implementing that Act's requirement of the submission of reports concerning sales and leases of defective or noncompliant tires by certain persons. Accordingly, we published an interim final rule and request for comments in the **Federal Register** on December 26, 2000 (65 FR 81409). We are now publishing a final rule requiring any person who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire not in compliance with applicable safety standards and has actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance to report that sale or lease to NHTSA. There have been no significant changes to the interim final rule.

DATES: *Effective date*: This rule is effective August 22, 2001.

Petitions for reconsideration: Any petition for reconsideration of this rule must be received by NHTSA no later than September 6, 2001.

ADDRESSES: Petitions for reconsideration may be submitted in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Petitions for reconsideration may also be submitted electronically by logging onto the Docket Management System website at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing your petition electronically.

Regardless of how a petition is submitted, the docket number of this document should be referenced in that petition.

You may call Docket Management at 202–366–9324. You may visit the Docket from 9 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Jonathan White, Office of Defects Investigation, NHTSA, telephone (202) 366–5226; for legal issues, contact Jennifer T. Timian, Office of Chief Counsel, NHTSA, telephone (202) 366–5263.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 2000, the TREAD Act, Pub. L. 106–414, was enacted. The statute was, in part, a response to congressional concerns related to manufacturers' inadequate reporting to NHTSA of information regarding possible defects in motor vehicles and motor vehicle equipment, with specific reference to tires. The TREAD Act directed the Secretary of Transportation (''the Secretary'') to issue various rules to improve reporting of information that is or could be related to defects and noncompliances with applicable Federal motor vehicle safety standards. The authority to carry out Chapter 301 of Title 49 of the United States Code, under which the rules directed by the TREAD Act are to be issued, has been delegated to NHTSA's Administrator pursuant to 49 CFR 1.50.

One of these congressionally mandated rules is found in section 3(c) of the TREAD Act, which added a new subsection (n) to 49 U.S.C. 30166. That subsection directs us to issue, within 90 days of enactment, a final rule requiring any person who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire which is not compliant with an applicable tire safety standard, with actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance as required under 49 U.S.C. 30118(c) or as required by an order under 49 U.S.C. 30118(b), to report that sale or lease to NHTSA. Under 30166(n)(2), reporting of such sales or leases is not required where: (A) prior to delivery of any such tire pursuant to a sale or lease, the defect or noncompliance is remedied as required under 49 U.S.C. 30120; or (B) notification of the defect or noncompliance is required pursuant to an order issued under section 30118(b), but enforcement of the order is restrained or the order is set aside in a civil action to which 49 U.S.C. 30121(d) applies.

In order to timely implement this statutorily-mandated final rule, we published in the **Federal Register** on December 26, 2000, an interim final rule implementing section 3(c) (65 FR 81409). That interim final rule amended 49 CFR Part 573 to add a new section 573.10, which specified who would be required to comply with this new reporting requirement, when such a report would be due to the Agency, and what information would be required within such a report.

With respect to who would be required to comply with this rule, we explained that because Congress chose to use the general terms ''any person'' to describe who would be expected to report sales or leases of defective or noncompliant tires, the rule would not be limited to particular classes or categories of persons such as manufacturers or dealers.[1] Rather, the rule would apply to the actions of all persons, to include individuals and corporate entities alike. We were careful to explain, however, that only those persons who sell or lease a defective or noncompliant tire *for use on a motor vehicle,* as opposed to persons who sell or lease a new or used vehicle equipped with a defective or noncompliant tire, are covered by the rule. Thus, we explained, motor vehicle dealers, lessors and rental companies would not be subject to the rule unless, of course, those persons were to sell or lease a defective or noncompliant tire separate from a motor vehicle.

Additionally, we explained that to be covered under section 573.10, the person must have actual knowledge that the manufacturer of the tire at issue had notified its dealers of the defect or noncompliance. We added, however, that a person need not have received notification directly from the manufacturer, but that a person's actual knowledge that the notification was made to dealers would be sufficient to invoke the reporting requirement under this section.

Lastly, we explained that the principle of *respondent superior* applied to this rule, such that employers, principals and other persons who are legally accountable for the actions of their employees or agents are required to report any covered sales or leases that their employees or agents cause while acting within the scope of their employment. We noted, however, that only one report per covered sale or lease is required, such that either an employee or his/her employer could file a report pursuant to section 573.10.

With regard to the timing of reports required under section 573.10, we provided that such reports would be due to NHTSA no more than five working days after the person to whom the tire was sold or leased took possession of the tire. We explained that a five-day rule was chosen because it would be consistent with 49 CFR 573.5, which requires defect and noncompliance information reports to be submitted within a five-day time frame.

In terms of what information will be required in a report submitted pursuant to section 573.10, we set forth seven categories of information: (1) A statement that the report was being provided pursuant to section 573.10 regarding the sale or lease of a defective or noncompliant tire; (2) the name, address and telephone number of the person who purchased or leased the tire; (3) the name of the manufacturer of the tire; (4) the tire's brand name, model name, and size; (5) the tire's DOT

[1] We also explained that the interim final rule would be applicable to both new and used tires.

identification number; (6) the date of sale or lease; and (7) the name, address and telephone number of the seller or lessor. We additionally noted that each report must be dated and signed with the name of the person printed or typed below the signature, together with the official position of the individual signing the report where such a report is filed on behalf of a corporation.

In our publication of the interim final rule we solicited the public's comments concerning this rule. We received three comments to our interim final rule. Those comments and our responses, organized by subject matter, follow.

Comments

Comments Relating to the Scope of Section 573.10

The National Automobile Dealers Association (NADA) commented that our rule should be amended to contain language specifying that it does not apply to the sale or lease of a new or used motor vehicle which is equipped with a tire that is defective or noncompliant. NADA suggested that such an amendment would clarify the rule's application to only those persons who sell or lease a defective or noncompliant tire ''for use on a motor vehicle,'' as specified in section 3(c) of the TREAD Act, and implemented in our interim final rule.

We believe the phrase ''for use on a motor vehicle'' in the statute is sufficient to explain that section 573.10 does not apply to sales or leases of motor vehicles that are equipped with one or more defective or noncompliant tires. Thus, we do not believe that a specific provision within section 573.10 to further clarify the rule's application is necessary. The rule will remain unchanged in this regard. However, in this context, we note that the sale of a new vehicle equipped with a defective or noncompliant tire new tire is prohibited by 49 U.S.C. 30120(i).

The Rubber Manufacturers Associations (RMA) asked that we consider requiring commercial entities to report sales or leases of used motor vehicles equipped with defective or noncompliant tires. We do not agree that such a requirement should be added to 49 CFR 573.10 for several reasons.

Section 3(c) does not apply to persons who sell or lease new or used motor vehicles that come equipped with defective or noncompliant tires. Rather, Congress specified in section 3(c) that it covers sales and leases of defective or noncompliant tires ''for use on a motor vehicle.'' An extension of our rule to sales and leases of vehicles by commercial entities would, therefore, be contrary to the terminology used within section 3(c).

Furthermore, extending the rule's application in this manner to only commercial entities would also be contradictory to the language and intent of section 3(c). As discussed in the preamble to the interim final rule, Congress chose to use the general terms ''any person,'' as opposed to the more restricted categories of ''manufacturer'' and ''dealer'' used elsewhere within 49 U.S.C. Chapter 301, in describing who was to be subject to the reporting requirement. Our application of this final rule to sales and leases by commercial entities alone and not to other groups, therefore, would be inconsistent with the statutory language.

We are, however, amending the applicability section of Part 573 (e.g., section 573.3(a)) to assure that there is no misunderstanding that section 573.10 applies to all persons and not simply to manufacturers. As published today, sections 573.3(a) and (g) make clear (although we do not believe that there was any doubt otherwise) that section 573.10 applies to all persons.

Comment Concerning Section 573.10's Relationship to Petitions for Inconsequentiality

The RMA asked that we clarify our rule with respect to tires for which a manufacturer has filed a petition for exemption from the recall requirements of 49 U.S.C. Chapter 301 on the basis that a defect or noncompliance is inconsequential to motor vehicle safety pursuant to 49 U.S.C. 30118(d) and 30120(h). In particular, RMA requested we consider tolling section 573.10's reporting requirement until such a petition is ruled upon, and consider an exemption of that reporting requirement where the agency makes a determination of inconsequentiality.

A reading of section 573.10 together with another of its counterpart regulations, section 573.5(c)(8)(iii), demonstrates that a distinct tolling provision or exemption to take into consideration petitions for determinations of inconsequentiality is not necessary. Accordingly, we have decided not to add the suggested provisions to section 573.10. Our explanation follows.

As set forth in section 573.10, one prerequisite to the application of this reporting requirement is that the person have actual knowledge that the manufacturer of the tire sold or leased has notified its dealers of the defect or noncompliance. Such a notification would not be issued during the pendency of the agency's consideration of a timely inconsequentiality petition. Under 49 CFR 573.5(c)(8)(iii), where a manufacturer has filed a timely[2] petition for a determination of inconsequential defect or noncompliance, that manufacturer's notification concerning the defect or noncompliance at issue is not required unless and until the agency denies that petition. Thus, where a manufacturer has not issued a notification to its dealers concerning a defect or noncompliance—such as in the circumstance where a tire manufacturer has petitioned for a finding of inconsequentiality and is awaiting a final determination from the agency—section 573.10's reporting requirement is not applicable.[3]

Comment Suggesting Educational Outreach to Small Businesses and Individual Retailers

The Specialty Equipment Market Association (SEMA) commented that because our rule extends to all persons, including individuals and small businesses, there may be hardships in informing the individual salesperson or small business as to our rule and its application to their conduct. SEMA suggested that comprehensive and ongoing efforts be made to notify and educate companies and individuals involved in the sale or lease of tires as to the rule's purpose, requirements, application and penalties for non-compliance. SEMA did not offer suggestions or descriptions as to what kinds of efforts it felt we should undertake that would be helpful in providing effective and comprehensive information to the individual salesperson or small retailer. SEMA stated it was taking steps to educate its members of their obligations under the TREAD Act, which would include 49 CFR 573.10.

We do not agree that a comprehensive and ongoing educational campaign directed at small businesses and individual tire retailers is necessary with respect to today's final rule. To begin, this is not a matter to be addressed in a rule. Even if it were, this rule is not complex and is consistent with ordinary judgment relating to the intentional sale of defective or noncompliant tires—conduct which is prohibited pursuant to 49 U.S.C. 30120(i) and (j). In addition, while this rule applies to all persons, its

[2] The deadlines for filing such petitions are discussed in 49 CFR 573.5(c)(8)(iv).

[3] The same would hold true if a petition were granted. This final rule's reporting requirements would be inapplicable in that situation because the tire manufacturer would not notify its dealers of an inconsequential defect or noncompliance.

application is limited to persons who both knowingly and willfully sell or lease a defective or noncompliant tire, and have actual knowledge that the manufacturer of that tire notified its dealers of the defect or noncompliance. Under this rule, a very limited number of individuals would be obligated to file reports. In the interim final rule we stated that we expect to receive fewer than ten reports of such incidents a year, and no one suggested that this estimate was erroneous. Under these limited circumstances, we do not believe a government-directed educational campaign directed at small businesses and individual tire retailers is appropriate.

Regulatory Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

We have considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This rulemaking is not considered ''significant'' under the Department of Transportation's regulatory policies and procedures. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this provision only involves reporting and the incidence of covered sales and leases of defective or noncompliant tires is expected to be small.

2. Regulatory Flexibility Act

We have also considered the impacts of this notice under the Regulatory Flexibility Act. I certify that this rule will have no significant economic impact on a substantial number of small entities. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this provision only involves reporting and the incidence of covered sales and leases of defective or noncompliant tires is expected to be small.

3. National Environmental Policy Act

We have analyzed this proposal under the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

4. Paperwork Reduction Act

NHTSA has determined that this final rule will impose new collection of information burdens within meaning of the Paperwork Reduction Act of 1995 (PRA). Pursuant to 5 CFR 1320.13 *Emergency processing,* NHTSA asked for, and received, approval from OMB for a temporary emergency clearance for this collection. In the interim final rule, NHTSA began the process of requesting a 3-year clearance for this collection. In that interim final rule we also requested comments from the public on this new collection of information burden. No comments were received. NHTSA has submitted its request for a 3-year clearance for this collection to OMB.

5. Executive Order 13132 (Federalism)

Executive Order 13132 on ''Federalism'' requires us to develop an accountable process to ensure ''meaningful and timely input'' by State and local officials in the development of ''regulatory policies that have federalism implications.'' The Executive Order defines this phrase to include regulations ''that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This rule, which requires the reporting of knowing and willful sales or leases of defective or noncompliant tires where the person selling or leasing the tire has actual knowledge that the manufacturer of such a tire has notified its dealers of that defect or noncompliance pursuant to either section 30118(c) or 30118(b) of the Safety Act, will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule making does not have those implications because it applies to those persons who sell or lease defective or noncompliant tires, and not to the States or local governments.

6. Civil Justice Reform

This rule does not have a retroactive or preemptive effect. Judicial review of the rule may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

7. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (P.L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribunal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule will not have a $100 million annual effect, no Unfunded Mandates assessment is necessary and one will not be prepared.

Final Rule

Accordingly, the interim final rule amending 49 CFR part 573 which was published at 65 FR 81409 on December 26, 2000, is adopted as final with the following changes:

1. The authority citation for part 573 continues to read as follows:

Authority: 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegation of authority at 49 CFR 1.50.

2. Section 573.3 is amended by revising paragraph (a) and adding paragraph (g) to read as follows:

§ 573.3 Application.

(a) Except as provided in paragraph (g) of this section, this part applies to manufacturers of complete motor vehicles, incomplete motor vehicles, and motor vehicle original and replacement equipment, with respect to all vehicles and equipment that have been transported beyond the direct control of the manufacturer.

* * * * *

(g) The provisions of § 573.10 apply to all persons.

* * * * *

Issued on: July 18, 2001.

L. Robert Shelton,

Executive Director.

[FR Doc. 01–18309 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–59–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 001226367–0367–01; I.D. 121500E]

Magnuson-Stevens Act Provisions; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Correction

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 and amended February 14, 2001, April 9, 2001, May 4, 2001, May 24, 2001, and July 5, 2001.

DATES: Effective July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Becky Renko at: phone, 206–526–6140; fax, 206–526–6736.

SUPPLEMENTARY INFORMATION: 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), and amended at 66 FR 10211 (February 14, 2001), at 66 FR 18409 (April 9, 2001), at 66 FR 22467 (May 4, 2001), at 66 FR 28676 (May 24, 2001), and at 66 FR 35388 (July 5, 2001). Table 3, 2001 Trip Limits for Limited Entry Trawl Gear, in the 2001 fishery specifications contained an error in the limit for petrale sole. This document corrects that error and republishes Table 3 in its entirety.

Correction

In the rule FR Doc.01–16801, in the issue of Thursday, July 5, 2001 (66 FR 35388), make the following correction:

1. On page 35391, Table 3 is corrected and republished in its entirety to read as follows:

IV. NMFS Actions

B. Limited Entry Fishery

* * * * *

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			2,000 lb/ 2 months		
3	South	14,000 lb/ 2 months			25,000 lb/ 2 months		
4	**Splitnose - South**	8,500 lb/ 2 months		14,000 lb/ 2 months	25,000 lb/ 2 months		
5	**Pacific ocean perch[6/]**	1,500 lb/ month		2,500 lb/ month	3,500 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	15,000 lb/ 2 months	7,500 lb/ month	
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			30,000 lb/ 2 months	15,000 lb/ month	
16	**Flatfish - North**						
17	Arrowtooth flounder	20,000 lb/ trip		Small footrope: 50,000 lb/month, of which no more than 15,000 lb may be petrale sole and 10,000 lb may be arrowtooth; Large footrope: arrowtooth, 15,000 lb/trip for May and 5,000 lb/trip for June; petrale sole, prohibited; all other flatfish, 1,000 lb/trip.	Small footrope: 45,000 lb/month, of which no more than 15,000 lb may be petrale sole; arrowtooth 7,500 lb/trip not to exceed 30,000 lb/month. Large footrope: arrowtooth, 5,000 lb/trip not to exceed 30,000 lb/month; petrale sole 100 lb/trip; 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		small footropoe, no limit; large footrope, included in "all other flatfish"			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	July thru September, In trips where 10,000 lb or more of whiting are landed, 2,000 lb/ month, with a combined widow/yellowtail limit of 500 lb per trip, otherwise 1,000 lb/month; October 10,000 lb/month		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	July thru September, In trips where 10,000 lb or more of whiting are landed, 3,000 lb/ month with a combined widow/yellowtail limit of 500 lb/trip, otherwise 1,500 lb/month; October 15,000 lb/month		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.

Dated: July 17, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–18323 Filed 7–20–01; 8:45 am]

BILLING CODE 3510–22–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010413094–1178–02; I.D. 060701A]

RIN 0648–AP10

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery

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

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS issues this interim final rule to amend regulations implemented through emergency interim rule for the Atlantic deep-sea red crab (*Chaceon quinquedens*) (red crab) fishery. This interim final rule revises the conversion factor for determining equivalent live weight of landings where red crab are landed in a butchered state. The intent of this interim final rule is to allow vessels that butcher at sea to land a true live weight equivalent trip limit, currently set at 65,000 pounds (29.5 metric tons (mt)).

DATES: Effective July 18, 2001, through November 14, 2001. Comments must be received no later than 5 p.m., local time on August 22, 2001.

ADDRESSES: Written comments should be sent to, and copies of the Environmental Assessment/Regulatory Impact Review supporting the original emergency interim action may be obtained from Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, phone: 978–281–9221, fax: 978–281–9135, e-mail: *regina.l.spallone@noaa.gov*.

SUPPLEMENTARY INFORMATION: The red crab fishery is a relatively small trap fishery off the northeast coast generally prosecuted in waters deeper than 200 fathoms (365.7 m). Until one year ago, there were an estimated 5 vessels in the directed red crab fishery, all of which are reportedly under 120 ft (36.6 m) in length with an average hold capacity of 60,000 to 65,000 lb (27.2 to 29.5 mt) of whole crab product. While none of these 5 vessels has the ability to process completely (picked, cleaned, cooked, and frozen) crabs on board, one reportedly butchers the crabs on board. The 4 remaining vessels land their crabs whole and alive. In the last year, additional vessels have entered this fishery. These vessels have significantly larger hold capacities than the original 5 vessels and can process completely crabs on board.

NMFS issued an emergency interim rule (rule) for the red crab fishery on May 8, 2001 (66 FR 23182). The rule was intended to prevent or eliminate overfishing and provide immediate protection of the red crab resource in what had previously been an unregulated fishery. The rule implemented, among other measures, a possession limit of 65,000 lb (29.5 mt) of whole red crab (or its equivalent in butchered product) for directed trips. For non-red crab directed trips, the rule implemented an incidental catch limit of 100 lb (45.4 kg) of whole red crab per fishing trip, or its equivalent. These limits are in line with recent historical catches and will likely constrain the larger vessels that entered the fishery in the last year. The rule is effective through November 14, 2001. The New England Fishery Management Council is currently developing a fishery management plan for this fishery that will implement management restrictions on a permanent basis.

While the rule did not specifically define ''butcher on board,'' it set the possession limit for crab parts (other than whole or meat-only) equivalent to the whole red crab when the weight of the red crab parts is multiplied by 1.72. This multiplier corresponds with a recovery rate of 58 percent noted in the environmental assessment (EA) drafted in support of the rule. The EA noted that butchered-at-sea red crab was about 58 percent (with a range of about 49 to 64 percent), by weight, of the whole red crab. The rule thus codified the conversion ratio that reflected a recovery rate of about 58 percent of whole to butchered red crab, or 1.72 to 1.

The EA noted in providing this estimate that when crabs are butchered at sea, unwanted parts of the crab are discarded, specifically, the carapace, gills, viscera. Since the publication of the rule, NMFS received information to clarify the process of butchering at sea and how that clarification affects the conversion ratio specified in the rule. By including the removal of the gills and viscera in addition to the carapace, the EA specified a slightly more thorough process in butchering red crab than is currently practiced. The process specified in the EA could be referred to as a ''fully cleaned'' butchered red crab section, which is typically not what is landed by those who butcher at sea.

According to industry, a less than fully cleaned butchered- at-sea red crab has not had the gills, mandibles, and a large percentage of the tail flaps removed. The additional weight remaining on the crab would shift the equivalent weight ratio towards the higher percentage in the range of multipliers identified in the EA. That is, more weight would remain on the product when it is landed versus what was considered in the rule. Based on information provided by industry and preliminarily corroborated by NMFS, a recovery rate of about 64 percent is more in line with the equivalent ratio of red crab landed as butchered than 58 percent. Therefore, the interim final rule revises the multiplier used to determine the equivalent possession limit for butchered red crab to 64 percent, or 1.56. Applying the revised multiplier to the current possession limit yields an equivalent possession limit of approximately 41,670 lb (18.9 mt), as compared to 37,791 lb (17.1 mt) using the current 1.72 multiplier.

The ratio of 4 to 1, or 25 percent, was used to convert the weight of whole crab to finished product weight for crabs that have been picked, cleaned, cooked, and frozen (that is, meat only). No similar information was received with respect to the processed equivalent conversion ratio.

Classification

This interim final rule amends an emergency rule by relieving a restriction on the possession limit for vessels that butcher at sea red crab. Immediate implementation will result in economic benefits to those vessels, while presenting no significant harm to the red crab resource or other vessels in the fishery. Because this interim final rule amends an action necessary to provide immediate protection to the Atlantic deep-sea red crab stock to protect it from overfishing, the Acting Assistant Administrator for Fisheries finds that there is good cause to waive the requirement to provide notice and the opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553 (b)(B), as such procedures would be contrary to the public interest. This rule allows an increase in the numbers of crabs that vessels that butcher crabs at sea may harvest. This change makes the trip limit for these vessels comparable to those vessels that land whole crab. Therefore, the rule relieves a restriction and is not subject to the 30–day delay in effective date otherwise required by 5 U.S.C. 553 (d).

Because prior notice and opportunity for public comment are not required for this interim final rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

An EA and Regulatory Impact Review (RIR) were drafted in support of the emergency rule. The RIR ensures that NMFS systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost effective way. This interim final rule adjusts a conversion ratio multiplier to reflect the upper limit of the range that was considered in the RIR analysis for the emergency rule. (See: Secretarial Emergency Action for the Deep-Sea Red Crab (*Chaceon quinquedens*) Fishery: Environmental Assessment/Regulatory Impact Review) This change is being made to respond to industry concerns that indicate their method of butchering at sea red crabs is different from that discussed in the EA, and results in a different recovery rate. Applying the revised multiplier to the current possession limit of 65,000 lbs (29.5 mt) could yield an equivalent possession limit of approximately 41,670 lb (18.9 mt), as compared to 37,791 lb (17.1 mt) with the 1.72 multiplier. This increase in landings will have a positive impact on those who butcher red crab at sea. The additional allowance of landings should have no impact on vessels that do not butcher at sea and on the overall total allowable catch level because the total weight of whole crabs harvested would remain the same. It is only the landings total that would change for the vessel(s) that butcher at sea. Thus, there should be no resulting loss in revenues for the rest of the fleet. No new information on landings is available since the preparation of the RIR. This interim final rule has been determined to be not significant for the purposes of E.O. 12866.

List of Subjects in 50 CFR Part 648

Fishing, Fisheries, Vessel permits, Reporting and recordkeeping requirements.

Dated: July 17, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648, subpart M, which is effective through November 14, 2001, is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.265, paragraph (a) is suspended and paragraph (d) is added to read as follows:

§ 648.265 Possession and landing limits.

* * * * *

(d) A vessel or operator of a vessel that has been issued a valid LOA under this subpart may fish for, catch, possess, transport, land, sell, trade, barter, or process at sea up to 65,000 lb (29.5 mt) of whole red crab (including culls) or its equivalent, per fishing trip. For red crab meat-only, the equivalent weight of whole red crab is the weight of red crab meat multiplied by 4. For red crab parts other than whole or meat-only, the equivalent weight of whole red crab is the weight of red crab parts multiplied by 1.56.

§§ 648.262, 648.263, 648.265, and 648.268 [Amended]

3. In addition to the amendments set forth above, in the following sections, remove the words ''§ 648.265(a)'', each time it appears, and add in its place the words ''648.265 (d)'':

Section	Paragraph
648.262	(a)
648.263	(a)
648.265	(c)
648.268	(a) (1)
648.268	(a) (5)

[FR Doc. 01–18313 Filed 7–18–01; 4:11 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 071801D]

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2001 total allowable catch (TAC) of northern rockfish in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 18, through 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2001 TAC of northern rockfish for the Western Regulatory Area was established as 600 metric tons (mt) by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2001 TAC for northern rockfish in the Western Regulatory Area will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 550 mt, and is setting aside the remaining 50 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to avoid exceeding the 2001 TAC of northern rockfish for the Western Regulatory Area of the GOA constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures

would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to avoid exceeding the 2001 TAC of northern rockfish for the Western Regulatory Area of the GOA constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 18, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–18314 Filed 7–18–01; 4:11 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 071801C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2001 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 18, 2001, through 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2001 TAC of Pacific ocean perch for the Central Aleutian District was established as 2,368 metric tons (mt) by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2001 TAC for Pacific ocean perch in the Central Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,068 mt, and is setting aside the remaining 300 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to avoid exceeding the 2001 TAC of Pacific ocean perch for the Central Aleutian District of the BSAI constitutes good cause to waive the requirement to provide prior notice opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to avoid exceeding the 2001 TAC of Pacific ocean perch for the Central Aleutian District of the BSAI constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 18, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–18315 Filed 7–18–01; 4:11 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 141
Monday, July 23, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–288–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, and –40 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, and –40 series airplanes. This proposal would require rework and reidentification of certain reflector assemblies of the passenger ceiling lights; and installation of a support channel above the reflector, as applicable. This proposal is prompted by reports of heat damaged lamp reflectors and scorched insulation blankets in the main cabin due to the lamps inside the reflectors creating high temperatures. The actions specified by the proposed AD are intended to prevent overheating of the lamp reflectors, which could result in smoke and fire in the main cabin.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–288–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 99–NM–288–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: Data and Service Management, Dept. C1–L5A (D800–0024). 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: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; 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 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 99–NM–288–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–288–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-

Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (*e.g.,* inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued airworthiness directives (AD) requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (*e.g.,* inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation. Such corrective action can be addressed in future ADs to provide an acceptable level of safety for the transport airplane fleet.

Identification of Unsafe Condition

The FAA has become aware of instances of heat damage to the reflector assemblies of the passenger compartment ceiling lights and scorching of the insulation blankets above the reflectors. These incidents occurred on McDonnell Douglas Model DC–9 series airplanes. Investigation revealed that the lamps inside the reflectors created high temperatures. The temperatures inside the reflector reached a point where the reflector material became soft enough to distort and come in contact with the lamps. The heat of the lamps melted holes through the reflectors and scorched the insulation blanket located directly above. Overheating of lamp reflectors, if not corrected, could result in smoke and fire in the main cabin.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–33A037, Revision 02, dated July 27, 1999, which describes procedures for rework and reidentification of the reflector assemblies of the passenger ceiling lights, and installation of a support channel above the reflector, as applicable. The rework involves replacing the resistor assemblies with new assemblies; and drilling a hole in the reflector parabola. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 273 Model DC–9–10, –20, –30, and –40 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 177 airplanes of U.S. registry would be affected by this proposed AD, that it would take between 8 and 12 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost between $1,607 and $6,463 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between $369,399 and $1,271,391, or between $2,087 and $7,183 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 99–NM–288–AD.

Applicability: Model DC–9–10, –20, –30, and –40 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin DC9–33A037, Revision 02, dated July 27, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 overheating of the lamp reflectors, which could result in smoke and fire in the main cabin, accomplish the following:

Modification

(a) Within 1 year after the effective date of this AD, rework and reidentify the reflector assemblies of the passenger ceiling lights and install a support channel above the reflector, as applicable, in accordance with McDonnell Douglas Alert Service Bulletin DC9–33A037, Revision 02, dated July 27, 1999.

Note 2: Rework and reidentification of reflector assemblies, and installation of support channels prior to the effective date of this AD in accordance with McDonnell Douglas Service Bulletin DC9–33–037, dated July 18, 1968, or Revision 1, dated May 6, 1971, is an acceptable method of compliance for the requirements of paragraph (a) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permit

(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.

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17584 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–291–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes; C–9 (Military) Airplanes; Model DC–9–81, –82, –83, and –87 Series Airplanes; and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 (military) airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; and Model MD–88 airplanes. This proposal would require an inspection of the power feeder bus cables of the auxiliary power unit (APU) for overheat damage between certain fuselage stations; and corrective action(s), if necessary. This action is necessary to prevent loose terminal stud connections and consequent damage to the small copper terminals, which could result in overheating of the wires at the terminal strip. Such overheating could result in electrical failure, which could result in smoke and fire in the electrical/electronic compartment. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–291–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–291–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: Data and Service Management, Dept. C1–L5A (D800–0024). 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: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; 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 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 99–NM–291–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–291–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued airworthiness directives (AD) requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation. Such corrective action can be addressed in future ADs to provide an acceptable level of safety for the transport airplane fleet.

Identification of Unsafe Condition

The FAA has become aware of incidents in which the electrical bus of the auxiliary power unit (APU) failed on McDonnell Douglas Model DC–9 series airplanes. Investigation revealed that these failures were due to overheated wires at a terminal strip as a result of loose terminal stud connections and consequent damaged copper terminals. A contributing factor to the loose terminal stud connections in this installation may be a ''cold flow'' phenomenon, which takes place when aluminum terminals expand during high electrical current flow and contract when current is reduced. Loose terminal stud connections require tightening, which can damage the copper terminals and cause overheating of the terminal strip wires. Such overheating could result in electrical failure, which could result in smoke and fire in the electrical/electronic (E/E) compartment.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–24A072, Revision 01, dated May 22, 2000. The service bulletin describes procedures for a general visual inspection of the power feeder bus cables of the APU for overheat damage between fuselage stations Y=160.000 (Item No. S3–287) and Y=148.000 (Item No. S3–23); and corrective action(s), if necessary. The corrective actions involve revising the wiring installation; repairing or replacing wiring with new wiring; and replacing the nameplate with a new nameplate; as applicable. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 550 Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 (military) airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 450 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $27,000, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 99–NM–291–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 (military) airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; and Model MD–88 airplanes; as listed in McDonnell Douglas Alert Service Bulletin DC9–24A072, Revision 01, dated May 22, 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 (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 electrical failure due to overheated wires at the terminal strip, which could result in smoke and fire in the electrical/electronic compartment, accomplish the following:

General Visual Inspection

(a) Within 1 year after the effective date of this AD, do a general visual inspection of the power feeder bus cables of the auxiliary power unit (APU) for overheat damage between fuselage stations Y=160.000 (Item No. S3–287) and Y=148.000 (Item No. S3–23), per McDonnell Douglas Alert Service Bulletin DC9–24A072, Revision 01, dated May 22, 2000.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Condition 1 (No Evidence of Damage)

(b) If no damage is detected during the inspection required by paragraph (a) of this AD, do the applicable action specified in paragraph (b)(1) or (b)(2) of Table 1 of this AD, per McDonnell Douglas Alert Service Bulletin DC9–24A072, Revision 01, dated May 22, 2000. Table 1 is as follows:

TABLE 1.—CONDITION 1.

For airplanes identified in the referenced service bulletin as . . .	Action	By
(1) Group 1	Revise the wiring installation and replace the nameplate with a new nameplate.	Before further flight.
(2) Group 2	Revise the wiring installation	Before further flight.
(3) Group 3	No further action is required by this AD	[Reserved]

Condition 2 (Evidence of Damage)

(c) If any damage is detected during the inspection required by paragraph (a) of this AD, do the applicable action(s) specified in paragraph (c)(1), (c)(2), or (c)(3) of Table 2 of this AD, per McDonnell Douglas Alert Service Bulletin DC9–24A072, Revision 01, dated May 22, 2000. Table 2 is as follows:

TABLE 2.—CONDITION 2.

For airplanes identified in the referenced service bulletin as . . .	Action	By
(1) Group 1	(i) Repair or replace wiring with new wiring; and	Before further flight.
	(ii) Revise wiring installation; and	Before further flight.
	(iii) Replace nameplate with a new nameplate	Before further flight.
(2) Group 2	(i) Repair or replace wiring with new wiring; and	Before further flight.
	(ii) Revise wiring installation	Before further flight.
(3) Group 3	(i) Repair wiring, or	Before further flight.
	(ii) Replace wiring with new wiring	Before further flight.

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

Special Flight Permit

(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 July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17585 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–292–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –30, and –40 Series Airplanes and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –30, and –40 series airplanes and C–9 (military) airplanes. This proposal would require an inspection to detect chafing of the wiring of the attendants' work light of the aft cabin, and repair of chafed wiring. This proposal also would require modification and reidentification of the attendants' work light assemblies of the aft cabin. This action is necessary to prevent chafing of the ground wire against the positive contact of the lamp of the attendants' work light of the aft cabin, and consequent arcing or arcing damage to the wiring of the attendants' work light and transformer of the aft cabin. Such arcing or arcing damage could result in short circuits and consequent smoke and fire in the aft cabin area. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–292–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–292–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: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; 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 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 99–NM–292–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–292–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation. Such corrective action can be addressed in future ADs to provide an acceptable level of safety for the transport airplane fleet.

Identification of Unsafe Condition

The FAA has become aware of incidents in which wiring of the attendants' work light of the aft cabin short circuited on McDonnell Douglas Model DC–9 series airplanes. The cause of such a short circuit has been attributed to chafing of the ground wire against the positive contact of the lamp of the attendants' work light. This condition, if not corrected, could result in arcing or arcing damage to the wiring of the attendants' work light and transformer of the aft cabin, which could result in short circuits and consequent smoke and fire in the aft cabin area.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–33A058, Revision 02, dated January 27, 2000, which describes procedures for a general visual inspection to detect chafing of the wiring of the attendants' work light of the aft cabin, and repair of chafed wiring. The service bulletin also describes procedures for modification and reidentification of the attendants' work light assemblies of the aft cabin. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions

specified in the service bulletin described previously.

Differences Between Service Bulletin and Proposed AD

The proposed AD would differ from the referenced service bulletin in that it would require accomplishment of the inspection, modification, and reidentification within 1 year after the effective date of this AD. The referenced service bulletin recommends accomplishment of those actions within 9 months (after the release of the service bulletin). Since the issuance of the referenced service bulletin, the FAA has consulted with Boeing and determined that extending the compliance time by 3 additional months will not adversely affect safety, and will allow the inspection, modification, and reidentification to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available if necessary. In light of these factors, we find that a 1-year compliance time for completing the proposed actions to be warranted.

Cost Impact

There are approximately 176 Model DC–9–10, –30, and –40 series airplanes and C–9 (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 111 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection and modification, 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 $6,660, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 99–NM–292–AD.

Applicability: Model DC–9–10, –30, and –40 series airplanes and C–9 (military) airplanes, as listed in McDonnell Douglas Alert Service Bulletin DC9–33A058, Revision 02, dated January 27, 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 (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 arcing or arcing damage to the wiring of the attendants' work light of the aft cabin due to chafing of the ground wire against the positive contact of the lamp of the attendants' work light and transformer of the aft cabin, which could result in short circuits and consequent smoke and fire in the aft cabin area, accomplish the following:

Inspection; Corrective Actions, If Necessary; Modification; and Reidentification

(a) Within 1 year after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD, per McDonnell Douglas Alert Service Bulletin DC9–33A058, Revision 02, dated January 27, 2000.

(1) Do a general visual inspection to detect chafing of the wiring of the attendants' work light of the aft cabin. If any chafing is detected, before further flight, repair chafed wiring per the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(2) Modify and reidentify the attendants' work light assemblies of the aft cabin.

Note 3: Inspections, repairs, modifications, and reidentifications done before the effective date of this AD per McDonnell Douglas Service Bulletin DC9–33–058, dated June 5, 1973, or Revision 1, dated November 26, 1975, are considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(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.

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17586 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–294–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 (military) airplanes. This proposal would require an inspection to detect chafing or damage at the conduit and support bracket interface in the forward electrical power center (EPC); and repair or replacement of wires with new wires, if necessary. For certain airplanes, this proposal also would require installation of grommets on the conduits of the forward EPC. This action is necessary to prevent chafing of electrical cables in the forward EPC and a possible short within a conduit, which could result in smoke and fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–294–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–294–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: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; 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 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 99–NM–294–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–294–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all

aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued airworthiness directives (AD) requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation. Such corrective action can be addressed in future ADs to provide an acceptable level of safety for the transport airplane fleet.

Identification of Unsafe Condition

The FAA has become aware that, during an electrical system test, smoke and a burning smell was detected in the cockpit on a McDonnell Douglas Model DC–9 series airplane. Investigation revealed that an electrical cable in the forward electrical power center (EPC) was chafed and shorted within a conduit. This condition, if not corrected, could result in smoke and fire in the cockpit.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–24A115, Revision 01, dated April 24, 2000, which describes procedures for a general visual inspection to detect chafing or damage at the conduit and support bracket interface in the forward EPC; and repair or replacement of wires with new wires, if necessary. The service bulletin also describes, for certain airplanes, procedures for installation of grommets on the conduits of the forward EPC.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 403 Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 380 airplanes of U.S. registry would be affected by this proposed AD.

For all airplanes, it would take approximately 1 work hour per airplane to accomplish the proposed inspection, 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 $22,800, or $60 per airplane.

For certain airplanes, it would take approximately 1 work hour per airplane to accomplish the proposed modification, 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 $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 99–NM–294–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 (military) airplanes, as listed in McDonnell Douglas Alert Service Bulletin DC9–24A115, Revision 01,

dated April 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 (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 chafing of the electrical cables in the forward electrical power center (EPC) and a possible short within a conduit, which could result in smoke and fire in the cockpit, accomplish the following:

Inspection; Corrective Action, If Necessary; and Installation of Grommets, If Applicable

(a) Within 1 year after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable, per McDonnell Douglas Alert Service Bulletin DC9–24A115, Revision 01, dated April 24, 2000.

(1) For Groups 1 and 2 airplanes identified in the service bulletin: Do a general visual inspection to detect chafing or damage at the conduit and support bracket interface in the forward EPC. If any chafing or damage is detected, before further flight, repair or replace wires with new wires, per the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(2) For Group 1 airplanes identified in the service bulletin: Install grommets on the conduits of the forward EPC.

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

Special Flight Permit

(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.

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17587 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–295–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes; C–9 Airplanes; and Model DC–9–81, –82, and –83 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; and Model DC–9–81, –82, and –83 series airplanes. This proposal would require modification of the light switch of the applicable cargo compartments. This action is necessary to prevent generation of smoke and fire in a cargo compartment due to an illuminated light with a missing cover contacting cargo contents for an extended period of time. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–295–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–295–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: Data and Service Management, Dept. C1–L5A (D800–0024). 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: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; 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 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 99–NM–295–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–295–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued airworthiness directives (AD) requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received reports of heat damage to the contents of the cargo compartment and/or fire in that area on McDonnell Douglas Model DC–9 series airplanes. Investigation revealed that a cover was missing from the cargo compartment light, and that the cargo contents were in contact with the exposed light bulb. It also revealed that the cargo compartment light did not automatically shut off when the cargo compartment door was closed. These conditions, if not corrected, could result in generation of smoke and fire in a cargo compartment if the cargo contents contact an illuminated light with a missing cover for an extended period of time.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–33A081, Revision 01, dated November 8, 1999, which describes procedures for modification of the light switch of the applicable cargo compartments. The modifiation involves replacing nameplates with new nameplates, replacing brackets with new brackets, and installing a guard to the light switch. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 1,068 Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; and Model DC–9–81, –82, and –83 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 525 airplanes of U.S. registry would be

affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately between $1,147 and $2,332 per airplane depending on the airplane configuration. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between $633,675 and $1,255,800, or $1,207 and $2,392 per airplane, depending on the airplane configuration.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 99–NM–295–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; and Model DC–9–81, –82, and –83 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin DC9–33A081, Revision 01, dated November 8, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 generation of smoke and fire in a cargo compartment due to an illuminated light with a missing cover contacting cargo contents for an extended period of time, accomplish the following:

Modification

(a) Within 1 year after the effective date of this AD, modify the light switch of the applicable cargo compartments per McDonnell Douglas Alert Service Bulletin DC9–33A081, Revision 01, dated November 8, 1999.

Note 2: Modification before the effective date of this AD per McDonnell Douglas DC–9 Service Bulletin 33–81, dated January 19, 1987, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(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.

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17588 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–296–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –30, and –40 Series Airplanes and C–9 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –30, and –40 series airplanes and C–9 airplanes. This proposal would require revising the wiring of the sidewall lights in the forward and aft passenger compartment. This action is necessary to prevent the control switch of the cabin sidewall lights on the forward attendant's panel from overheating, which could result in shorting of the dim, bright, and power terminals, and consequent smoke/fire in the passenger compartment. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–296–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be

submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–296–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: Data and Service Management, Dept. C1–L5A (D800–0024). 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: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; 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 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 99–NM–296–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–296–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received reports of smoke in the passenger cabin on McDonnell Douglas Model DC–9 series

airplanes. Investigation revealed that the control switch of the cabin sidewall lights on the forward attendant's panel overheated, which resulted in shorting the dim, bright, and power terminals. This condition, if not corrected, could result in smoke/fire in the passenger compartment.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–33A062, Revision 01, dated April 24, 2000, which describes procedures for revising the wiring of the sidewall lights in the forward and aft passenger compartment. This revision involves coiling and stowing certain wires; terminating two wires; and adding one jumper wire in the forward and aft attendant's panel; as applicable.

The FAA also has reviewed and approved McDonnell Douglas Service Bulletin 33–63, dated May 6, 1976, which describes procedures for revising the wiring of the sidewall lights in the forward and aft passenger compartments. This revision involves replacing the existing circuit breaker with lower-rated primary circuit breaker; installing two contactors and circuit breakers in the primary wiring between transformer(s) and contactors; and modifying existing nameplates and/or installing new circuit breaker nameplates located in the circuit breaker panel of the upper electrical power center (EPC) and in the light transformer panels of the forward and/or aft passenger cabin.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between McDonnell Douglas Alert Service Bulletin DC9–33A062 and Proposed AD

The proposed AD would differ from McDonnell Douglas Alert Service Bulletin DC9–33A062 in that it would require revision of the wiring of the sidewall lights in the forward and aft passenger compartments within 1 year after the effective date of this AD. That service bulletin recommends accomplishment of those actions within 6 months (after the release of the service bulletin). Since the issuance of that service bulletin, the FAA has consulted with Boeing and determined that extending the compliance time by 6 additional months will not adversely affect safety, and will allow the wiring revision to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available if necessary. In light of these factors, we find that a 1-year compliance time for completing the proposed actions to be warranted.

Cost Impact

There are approximately 588 Model DC–9–10, –30, and –40 series airplanes and C–9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 288 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 21 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $500 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $506,880, or $1,760 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 99–NM–296–AD.

Applicability: Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes, as listed in McDonnell Douglas Alert DC9–33A062, Revision 01, dated April 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 (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 the control switch of the cabin sidewall lights on the forward attendant's panel from overheating, which could result

in shorting of the dim, bright, and power terminals, and consequent smoke/fire in the passenger compartment, accomplish the following:

Revision of Wiring

(a) Within 1 year after the effective date of this AD, revise the wiring of the sidewall lights in the forward and aft passenger compartments, per McDonnell Douglas Alert Service Bulletin DC9–33A062, Revision 01, dated April 24, 2000, and McDonnell Douglas DC–9 Service Bulletin 33–63, dated May 6, 1976.

Note 2: Revising the wiring before the effective date of this AD per McDonnell Douglas DC–9 Service Bulletin 33–62, dated February 11, 1976, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(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.

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17589 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–297–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes; C–9 Airplanes; Model DC–9–81, –82, –83, and –87 Series Airplanes; and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; and Model MD–88 airplanes. This proposal would require an inspection to detect chafing or overheat damage of the electrical wires located at fuselage station Y=110.000 bulkhead of the lower nose left tunnel; and corrective actions, if necessary. This proposal also would require replacing the external power ground stud with a new ground stud using new attaching parts; torquing new attachments; and installing a nameplate. This action is necessary to prevent loose external power ground wires, which could cause arcing and overheated wire insulation and consequent smoke/fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–297–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–297–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: Data and Service Management, Dept. C1–L5A (D800–0024). 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: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; 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 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 99–NM–297–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–297–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of

ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued airworthiness directives (AD) requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received reports of loose external power ground wires at the ground stud located in the lower nose left tunnel at fuselage station Y=110.00 bulkhead on McDonnell Douglas Model DC–9–82 series airplanes. The cause of such loose wires has been attributed to ground stud buildup becoming loose due to normal airplane vibration. Loose external power ground wires, if not corrected, could cause arcing and overheated wire insulation, which could result in smoke/fire in cockpit.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000, which describes procedures for a visual inspection to detect chafing or overheat damage of the electrical wires located at fuselage station Y=110.000 bulkhead of the lower nose left tunnel; and corrective actions, if necessary. The corrective actions include repairing damage; performing a continuity test to check the integrity of the wiring, and repair, if necessary; and replacing any damaged wire with a new wire; as applicable. The service bulletin also describes procedures for replacing the external power ground stud with a new ground stud using new attaching parts; torquing new attachments; and installing nameplate (includes applying silicone primer and adhesive/sealant). Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 1,908 Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 (military) airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 967 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $35 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $149,885, or $155 per airplane.

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

Regulatory Impact

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 99–NM–297–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; C–9 airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; and Model MD–88 airplanes; as listed in McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 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 (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 loose external power ground wires, which could cause arcing and overheated wire insulation and consequent smoke/fire in the cockpit, accomplish the following:

Inspection

(a) Within 18 months after the effective date of this AD, do a general visual inspection to detect chafing or overheat damage of the electrical wires located at fuselage station Y=110.000 bulkhead of the lower nose left tunnel, per McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Condition 1 (No Chafing or Damage)

(b) If no chafing or overheat damage is detected during the inspection required by paragraph (a) of this AD, before further flight, do the actions specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD per McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000.

(1) Replace the external power ground stud with a new ground stud using new attaching parts.

(2) Torque the new attachments.

(3) Install nameplate (includes applying silicone primer and adhesive/sealant).

Note 3: Accomplishment of the actions identified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD per McDonnell Douglas DC–9 Service Bulletin 24–135, datedApril 14, 1993, before the effective date of this AD, is considered acceptable for compliance with the requirements of paragraph (b) of this AD.

Condition 2 (Chafing or Damage Within Limits)

(c) If any chafing or damage is detected within the limits, before further flight, repair damage; perform a continuity test to check the integrity of the wiring, and repair, if necessary; and do the actions specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD; per McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000.

Condition 3 (Chafing or Damage Beyond Limits)

(d) If any chafing or damage is detected beyond the limits, before further flight, replace any damaged wire with a new wire; perform a continuity test to check the integrity of the wiring, and repair, if necessary; and do the actions specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD; per McDonnell Douglas Alert Service Bulletin DC9–24A135, Revision 01, dated May 1, 2000.

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, 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 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(f) 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 July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17590 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–95–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10 Military), and –40 Series Airplanes; and Model MD–10–10F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10 military), and –40 series airplanes; and Model MD–10–10F series airplanes. This proposal would require an inspection to verify that the wire connections at circuit breakers are properly connected, and correction of any incorrect wire connection at the circuit breakers. This action is necessary to prevent loss of protection by the circuit breakers in the flight engineer's

equipment panel due to improperly wired connections at the circuit breakers, which could result in wire damage and could lead to smoke and/or fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–95–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–95–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: Data and Service Management, Dept. C1–L5A (D800–0024). 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: Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5343; 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 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 2001–NM–95–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. 2001–NM–95–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable

information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received a report indicating that two wire connections at the circuit breakers on the flight engineer's equipment panel were found to be improperly wired on a McDonnell Douglas Model DC–10 series airplane. A line check of five McDonnell Douglas Model DC–10–30F (KC–10A and KDC–10 military) series airplanes revealed four instances of the same problem. Improperly wired connections at the circuit breakers on the flight engineer's equipment panel, if not corrected, could result in loss of protection by the circuit breakers, which could result in wire damage and could lead to smoke and/or fire in the cockpit.

The wire connections at the circuit breakers on the flight engineer's equipment panel on certain Model MD–10–10F series airplanes are identical to those installed on the affected Model DC–10 series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC10–24A130, Revision 01, dated March 12, 2001, which describes procedures for a visual inspection to verify that the wire connections at circuit breakers are properly connected, and correction of any incorrect wire connection at the circuit breakers. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 352 Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10 military), and –40 series airplanes; and Model MD–10–10F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 259 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $15,540, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglass: Docket 2001–NM–95–AD.

Applicability: Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10 military), and –40 series airplanes; and Model MD–10–10F series airplanes, as listed in Boeing Alert Service Bulletin DC10–24A130, Revision 01, dated March 12, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of protection by the circuit breakers in the flight engineer's equipment panel due to improperly wired connections at the circuit breakers, which could result in wire damage and could lead to smoke and/or fire in the cockpit, accomplish the following:

Inspection, and Corrective Action, If Necessary

(a) Within 1 year after the effective date of this AD, do a general visual inspection to verify that the wire connections at circuit breakers are properly connected, per Boeing Alert Service Bulletin DC10–24A130, Revision 01, dated March 12, 2001. If any

wire connection at a circuit breaker is found improperly connected, before further flight, correct that wire connection at the circuit breaker per the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Note 3: Inspection and correction of improper wire connection done before the effective date of this AD per Boeing (McDonnell Douglas) Service Bulletin DC10–24–130, dated October 2, 1985, are considered acceptable for the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(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.

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17592 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–96–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes, and Model MD–10–10F and –30F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–10 series airplanes, that currently requires a one-time detailed visual inspection to determine if wire segments of the wire bundle routed through the feed through on the aft side of the flight engineer's station are damaged or chafed, and corrective actions, if necessary. This action also would require revising the wire bundle support clamp installation at the flight engineer's station. This action is necessary to prevent chafing of the wire bundle located behind the flight engineer's panel caused by the wire bundle coming in contact with the lower edge of the feed through and consequent electrical arcing, which could result in smoke and fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–96–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. 2001–NM–96–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: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5343; 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 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 2001–NM–96–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. 2001–NM–96–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of

ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Issuance of AD 2000–10–03

On May 8, 2000, the FAA issued AD 2000–10–03, amendment 39–11727 (65 FR 31253, May 17, 2000), applicable to all McDonnell Douglas Model DC–10 series airplanes, to require a one-time detailed visual inspection to determine if wire segments of the wire bundle routed through the feed through on the aft side of the flight engineer's station are damaged or chafed, and corrective actions, if necessary. That action was prompted by a report of smoke coming out of the flight engineer's upper right circuit breaker panel, which was followed by circuit breakers popping and the panel lights going out. The requirements of that AD are intended to prevent chafing of the wire bundle located behind the flight engineer's panel caused by the wire bundle coming in contact with the lower edge of the feed through and consequent electrical arcing, which could result in smoke and fire in the cockpit.

Actions Since Issuance of Previous AD

Since the issuance of AD 2000–10–03, the FAA has determined that the revision of the wire bundle support clamp installation required by that AD for certain airplanes does not adequately address the identified unsafe condition. The airplane manufacturer has developed, and we have approved, a new, improved support bracket that provides for a more reliable installation and minimizes the possibility of wire failure due to chafing. In addition, we have determined that all affected airplanes must incorporate this new, improved support bracket to adequately address the identified unsafe condition of this AD.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC10–24A149, Revision 02, dated April 5, 2001. The inspection and repair procedures described in this revision are identical to those described in Revision 01 of the service bulletin (which was referenced in AD 2000–10–03 as the appropriate source of service information). Revision 02 describes new procedures for revising the wire bundle support clamp installation at the flight engineer's station. The revision of this installation involves replacing the support bracket with a new bracket; filling two holes in partition; installing two inserts; installing a grommet; and installing a new support bracket; as applicable. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 2000–10–03 to continue to require a one-time detailed visual inspection to determine if wire segments of the wire bundle routed through the feed through on the aft side of the flight engineer's station are damaged or chafed, and repair, if necessary. This action also would require the revision of the wire bundle support clamp installation specified in the alert service bulletin described previously.

Explanation of Change to the Applicability of AD 2000–10–03

On May 9, 2000 (i.e., after issuance of AD 2000–10–03), the FAA issued a Type Certificate (TC) for McDonnell Douglas Model MD–10–10F and MD–10–30F series airplanes. Model MD–10 series airplanes are Model DC–10 series airplanes that have been modified with an Advanced cockpit. The wire bundle support clamp installation at the flight engineer's station installed on Model MD–10–10F and MD–10–30F series airplanes (before or after the modifications necessary to meet the type design of a Model MD–10 series

airplane) is identical to that on the affected Model DC–10 series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Cost Impact

There are approximately 412 Model DC–10 series airplanes and Model MD–10–10F and –30F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 300 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 2000–10–03, and retained in this proposed AD, take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $18,000, or $60 per airplane.

The new actions that are proposed in this AD action would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $36,000, or $120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or 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 39–11727 (65 FR 31253, May 17, 2000), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 2001–NM–96–AD. Supersedes AD 2000–10–03, Amendment 39–11727.

Applicability: Model DC–10 series airplanes, and Model MD–10–10F and –30F series airplanes; as listed in Boeing Alert Service Bulletin DC10–24A149, Revision 02, dated April 5, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the wire bundle located behind the flight engineer's panel caused by the wire bundle coming in contact with the lower edge of the feed through and consequent electrical arcing, which could result in smoke and fire in the cockpit, accomplish the following:

Restatement of Certain Requirements of AD 2000–10–03

Inspection and Repair, If Necessary

(a) Within 1 year after June 21, 2000 (the effective date of AD 2000–10–03, amendment 39–11727), perform a one-time detailed visual inspection to determine if the wire segments of the wire bundle routed through the feed through on the aft side of the flight engineer's station are damaged or chafed, in accordance with McDonnell Douglas Alert Service Bulletin DC10–24A149, Revision 01, dated July 28, 1999, or Boeing Alert Service Bulletin DC10–24A149, Revision 02, dated April 5, 2001. If any damaged or chafed wire is found, prior to further flight, repair in accordance with the alert service bulletin.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

New Actions Required by This AD

Revision of Wire Bundle Support Clamp Installation

(b) Within 1 year after the effective date of this AD, revise the wire bundle support clamp installation at the flight engineer's station, per Boeing Alert Service Bulletin DC10–24A149, Revision 02, dated April 5, 2001.

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

Special Flight Permits

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

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17593 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–97–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –30, –30F (KC–10A and KDC–10), and –40 Series Airplanes; and Model MD–10–10F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –30, –30F (KC–10A and KDC–10), and –40 series airplanes; and Model MD–10–10F series airplanes. This proposal would require an inspection of the power feeder cable assembly of the auxiliary power unit (APU) for chafing, correct type of clamps, and proper clamp installation; and corrective actions, if necessary. This action is necessary to prevent loss of the APU generator due to chafing of the generator power feeder cables and consequent electrical arcing and smoke/fire in the APU compartment. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–97–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–97–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: Data and Service Management, Dept. C1–L5A (D800–0024). 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: Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5343; 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 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 2001–NM–97–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. 2001–NM–97–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all

aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received a report of a generator power feeder cable of the auxiliary power unit (APU) chafing and shorting against adjacent structure on a McDonnell Douglas Model DC–10 series airplane. Investigation revealed the cause of such chafing and arcing to be installation of an incorrect cable clamp and improperly positioned clamp during manufacturing. These conditions, if not corrected, could result in loss of the APU generator due to chafing of the generator power feeder cables and consequent electrical arcing and smoke/fire in the APU compartment.

The generator power feeder cable installation on certain Model MD–10–10F series airplanes is identical to that installed on the affected Model DC–10 series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC10–24A137, Revision 01, dated May 31, 2001. The service bulletin describes procedures for a general visual inspection of the power feeder cable assembly of the APU for chafing, correct type of clamps, and proper clamp installation; and corrective actions, if necessary. The corrective actions include repairing any discrepant part; replacing certain damaged power feeder cable with a new cable; and repositioning/replacing any incorrect power feeder cable clamp with a new clamp; as applicable. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 372 Model DC–10–10, –30, –30F (KC–10A and KDC–10), and –40 series airplanes, and Model MD–10–10F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 282 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $16,920, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 2001–NM–97–AD.

Applicability: Model DC–10–10, –30, –30F (KC–10A and KDC–10), and –40 series airplanes; and Model MD–10–10F series airplanes; as listed in Boeing Alert Service Bulletin DC10–24A137, Revision 01, dated May 31, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the auxiliary power unit (APU) generator due to chafing of the generator power feeder cable and consequent electrical arcing and smoke/fire in the APU compartment, accomplish the following:

Inspection and Corrective Action(s), If Necessary

(a) Within 12 months after the effective date of this AD, do a general visual inspection of the power feeder cable assembly of the APU for chafing, correct type of clamps, and proper clamp installation, per Boeing Alert Service Bulletin DC10–24A137, Revision 01, dated May 31, 2001.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) Condition 1. If no wire chafing, correct type of clamps, and proper clamp installation are found, no further action is required by this AD.

(2) Condition 2. If any wire chafing, incorrect type of clamp, or improper clamp installation is found, before further flight, do applicable corrective action(s) (e.g., repair, replace, and modify discrepant part) per the Accomplishment Instructions of the service bulletin.

Note 3: Accomplishment of the inspection and any applicable corrective actions, per Boeing Service Bulletin DC10–24–137, dated September 15, 1987, before the effective date of this AD, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

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

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17594 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–98–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10), and –40 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10), and –40 series airplanes. This proposal would require modification of the battery ground cable installation in the center accessory compartment (CAC). This action is necessary to prevent a loose ground stud and/or cable attachments, and consequent chafing of adjacent structure and electrical arcing, which could result in smoke/fire in the CAC in the event of fuel leakage. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–98–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. 2001–NM–98–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: Data and Service Management, Dept. C1–L5A (D800–0024). 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: Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5343; 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 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 2001–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. 2001–NM–98–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received a report of electrical arcing at the battery 1 ground stud in the center accessory compartment (CAC) on a McDonnell Douglas Model DC–10 series airplane. Investigation revealed that a ground stud and cable attachments had become loose due to vibration, which chafed against adjacent structure and caused electrical arcing. A loose ground stud and/or cable attachments can cause an auxiliary power unit (APU) non-start and/or a potential ignition source in an area of possible fuel leakage. These conditions, if not corrected, could result in smoke/fire in the CAC in the event of fuel leakage.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC10–24A174, dated June 29, 2001, which describes procedures for modification of the battery ground cable installation in the CAC. The modification includes the following:

1. Installation of a lockbolt and collar at the existing support bracket, a new support bracket assembly, two standoffs, and a new wire assembly;
2. Reroute of existing wire assembly and connecting to new ground stud; and
3. Reidentification of existing support bracket assembly.

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 402 Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10), and –40 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 312 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $2,282 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $749,424, or $2,402 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 2001–NM–98–AD.

Applicability: Model DC–10–10, –15, –30, –30F (KC–10A and KDC–10), and –40 series airplanes; as listed in McDonnell Douglas Alert Service Bulletin DC10–24A174, dated June 29, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent a loose ground stud and/or cable attachments, and consequent chafing of adjacent structure and electrical arcing, which could result in smoke/fire in the center accessory compartment (CAC) in the event of fuel leakage, accomplish the following:

Modification

(a) Within 12 months after the effective date of this AD, modify the battery ground cable installation in the CAC per McDonnell Douglas Alert Service Bulletin DC10–24A174, dated June 29, 2001.

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, 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.

Special Flight Permit

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

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17595 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–103–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10 and –30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10 and –30 series airplanes. This proposal would require an inspection of the power feeder cable for evidence of chafing, and repair of any chafed power feeder cable. This proposal also would require replacement of the wiring support clip (standoff) of the power feeder cable with a new, improved wiring support clip. This action is necessary to prevent chafing and arcing of the power feeder cable and adjacent airplane structure and system components, and consequent smoke/fire in an engine nacelle. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–103–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted

via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–103–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: Data and Service Management, Dept. C1–L5A (D800–0024). 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: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; 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 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 2001–NM–103–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. 2001–NM–103–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received a report of chafing and arcing of the electrical power feeder cable on adjacent airplane

structure and system components on a McDonnell Douglas Model DC–9–30 series airplane. The chafing and arcing was the result of a failed wiring support clip (standoff), which allowed the power feeder cable to come in contact with a hydraulic line ''B'' nut. This condition, if not corrected, could result in chafing and arcing of the power feeder cable and adjacent airplane structure and system components, and consequent smoke/fire in an engine nacelle.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC9–24A160, Revision 02, dated March 14, 2001, which describes procedures for a general visual inspection of the power feeder cable for evidence of chafing, and repair of any chafed power feeder cable. The service bulletin also describes procedures for replacement of the wiring support clip (standoff) of the power feeder cable with a new, improved wiring support clip. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 162 Model DC–9–10 and –30 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 107 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $102 or $204 per airplane depending on the airplane configuration. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $17,334, or $28,248, or $162 or $264 per airplane depending on the airplane configuration.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 2001–NM–103–AD.

Applicability: Model DC–9–10 and –30 series airplanes, as listed in Boeing Alert Service Bulletin DC9–24A160, Revision 02, dated March 14, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing and arcing of the power feeder cable and adjacent airplane structure and system components, and consequent smoke/fire in an engine nacelle, accomplish the following:

Inspection; Repair, If Necessary; and Replacement

(a) Within 12 months after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD per Boeing Alert Service Bulletin DC9–24A160, Revision 02, dated March 14, 2001.

(1) Do a general visual inspection of the power feeder cable for evidence of chafing, and repair any chafed power feeder cable.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(2) Replace the wiring support clip (standoff) of the power feeder cable with a new, improved wiring support clip.

Note 3: Inspection, repair, and replacement per McDonnell Douglas Service Bulletin DC9–24–160, dated January 4, 1996, or Revision 01, dated March 7, 1996, before the effective date of this AD is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

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

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17597 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–104–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, and –40 Series Airplanes and C–9 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes. This proposal would require modification of the spoiler control system, and installation of protective interlock box assemblies in the spoiler circuit. This action is necessary to prevent smoke/fire in the flight compartment in the event that the automatic spoiler actuator overheats, and/or loss of the spoiler control system, which could significantly reduce the braking effectiveness of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–104–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. 2001–NM–104–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: Data and Service Management, Dept. C1–L5A (D800–0024). 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: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; 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 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 2001–NM–104–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. 2001–NM–104–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge

of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received reports of smoke in the flight compartment after takeoff on McDonnell Douglas Model DC–9 series airplanes. Investigation revealed that the automatic spoiler actuator had failed to shutoff, which resulted in overheating of the actuator. Failure of the automatic spoiler actuator, if not corrected, could result in smoke/fire in the flight compartment in the event that it overheats, and/or loss of the spoiler control system, which could significantly reduce the braking effectiveness of the airplane.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001, which describes procedures for modification of the spoiler control system. The modification involves modifying the spoiler interlock box assembly; installing a relay and terminal block; and revising the wiring of the spoiler interlock box assembly and spoiler control system. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The FAA also has reviewed and approved McDonnell Douglas DC–9 Service Bulletin 27–103, dated March 19, 1968, which describes procedures for installation of protective interlock box assemblies in the spoiler actuator circuit.

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously.

Cost Impact

There are approximately 504 Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 272 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 5 work hours per airplane to accomplish the proposed modification, and that the average labor rate is $60 per work hour. Required parts would cost approximately $937 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $336,464, or $1,237 per airplane.

It would take approximately 3 work hours per airplane to accomplish the proposed installation, and that the average labor rate is $60 per work hour. Required parts would cost approximately $20 per airplane. Based on these figures, the cost impact of the installation proposed by this AD on U.S. operators is estimated to be $54,400, or $200 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft

regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 2001–NM–104–AD.

Applicability: Model DC–10–10, –20, –30, and ''40 series airplanes, and C–9 airplanes, as listed in Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent smoke/fire in the flight compartment in the event that the automatic spoiler actuator overheats, and/or loss of the spoiler control system, which could significantly reduce the braking effectiveness of the airplane; accomplish the following:

Modification of the Spoiler Control System

(a) Within 12 months after the effective date of this AD, modify the spoiler control system by accomplishing all actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001, per the service bulletin.

Note 2: Modification per McDonnell Douglas Service Bulletin DC9–27–147, dated January 7, 1972; Revision 1, dated July 30, 1974; or Revision 2, dated May 9, 1975; before the effective date of this AD; is considered acceptable for compliance with paragraph (a) of this AD.

Installation of Protective Interlock Box Assemblies

(b) Prior to or in conjunction with the requirements of paragraph (a) of this AD, install protective interlock box assemblies in the spoiler circuit, per McDonnell Douglas DC–9 Service Bulletin 27–103, dated March 19, 1968.

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

Special Flight Permit

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

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17598 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–206–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes; Model DC–9–81, –82, –83, and –87 Series Airplanes; Model MD–88 Airplanes; and C–9 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; Model MD–88 airplanes; and C–9 airplanes; that currently requires repetitive inspections to detect cracking of the rudder pedal adjuster hub assembly, and replacement of the assembly, if necessary. That AD also provides for an optional terminating action for the repetitive inspections. This action would require accomplishment of a new terminating action for the repetitive inspections. This proposal is prompted by that FAA's determination that further rulemaking is necessary. The actions specified by the proposed AD are intended to prevent loss of rudder pedal control and reduction of braking capability.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–206–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. 2001–NM–206–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: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5324; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this 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 2001–NM–206–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. 2001–NM–206–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain flight control systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire and mechanical flight control systems degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Previously Issued AD 96–02–05

On January 17, 1996, the FAA issued AD 96–02–05, amendment 39–9493 (61 FR 6922, February 23, 1996), applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; Model MD–88 airplanes; and C–9 airplanes; to require repetitive inspections to detect cracking of the rudder pedals adjuster hub assembly, and replacement of the assembly, if necessary. That AD also provides for an optional terminating action for the repetitive inspections. That action was prompted by several occurrences of failure of the rudder pedals adjuster hub assembly due to broken detent lugs. The requirements of that AD are intended to prevent loss of rudder pedal control and reduction of braking capability.

Actions Since Issuance of AD 96–02–05

Since the issuance of AD 96–02–05, the FAA has determined that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led us to consider placing less emphasis on inspections and more emphasis on

design improvements. Therefore, we now have determined that further rulemaking action is necessary to require a terminating action for the repetitive inspection requirements of AD 96–02–05.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems and structural components related to the mechanical flight control systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC9–27–325, Revision 02, dated December 12, 1995. The service bulletin describes procedures for replacing a magnesium casting hub assembly of the rudder pedal adjuster and bearing in the rudder pedal mechanism between stations X=69.000 and X=120.000 in the flight compartment with a new aluminum assembly and bearing, and reidentifying the rudder pedal adjuster. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 96–02–05 to continue to require repetitive inspections to detect cracking of the rudder pedals adjuster hub assembly, and replacement of the assembly, if necessary. The proposed AD would require a new terminating action for the repetitive inspections. The terminating action would be required to be accomplished in accordance with the service bulletin described previously.

Explanation of Change to Applicability of AD 96–02–05

The applicability of this proposed AD would differ from AD 96–02–05 in that it references McDonnell Douglas Service Bulletin DC9–27–325, Revision 02, dated December 12, 1995 (most current revision of service bulletin), for determining what airplanes are affected by this proposed AD. The applicability of AD 96–02–05 referenced McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 2, dated January 27, 1995. McDonnell Douglas Service Bulletin DC9–27–325 removes six airplanes from the effectivity of McDonnell Douglas DC–9 Alert Service Bulletin A27–325.

Cost Impact

There are approximately 1,845 Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; Model MD–88 airplanes; and C–9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,086 airplanes of U.S. registry would be affected by this proposed AD.

The inspection that is currently required by AD 96–02–05 takes approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $195,480, or $180 per airplane, per inspection cycle.

The new actions that are proposed in this AD action would take approximately 9 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $4,314 per airplane. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $5,271,444, or $4,854 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or 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 39–9493 (61 FR 6922, February 23, 1992), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 2001–NM–206–AD. Supersedes AD 96–02–05, Amendment 39–9493.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; Model MD–88 airplanes; and C–9 series airplanes; as listed in McDonnell Douglas Service Bulletin DC9–27–325, Revision 02, dated December 12, 1995; 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 loss of rudder pedals control and reduction of braking capability, accomplish the following:

Restatment of Requirements of AD 97–02–05

Repetitive Inspections and Replacement, If Necessary

(a) For airplanes listed in McDonnell Douglas Alert Service Bulletin A27–325, Revision 1, dated February 3, 1992: Prior to the accumulation of 15,000 landings or within 270 days after January 22, 1993 (the effective date of AD 92–27–07, amendment 39–8441), whichever occurs later, conduct a visual and eddy current inspection to detect cracks of the rudder pedals adjuster hub assembly, part number 4616066, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 1, dated February 3, 1992, or Revision 2, dated January 27, 1995.

(1) If no cracks are detected as a result of the inspections required by this paragraph, repeat the inspections at intervals not to exceed 3,500 landings.

(2) If cracks are detected as a result of the inspections required by this paragraph, prior to further flight, replace the rudder pedal adjuster hub assembly, part number 4616066, with a new assembly having the same part number, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 2, dated January 27, 1995. Thereafter, conduct visual and eddy current inspections of the replacement rudder pedals adjuster hub assembly in accordance with this paragraph.

(b) For airplanes listed in McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 2, dated January 27, 1995, and not subject to paragraph (a) of this AD: Prior to the accumulation of 15,000 landings or within 270 days after March 25, 1996 (the effective date of AD 96–02–05, amendment 39–9493), whichever occurs later, conduct a visual and eddy current inspection to detect cracks of the rudder pedals adjuster hub assembly, part number 4616066, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 1, dated February 3, 1992, or Revision 2, dated January 27, 1995.

(1) If no cracks are detected as a result of the inspections required by this paragraph, repeat the inspections at intervals not to exceed 3,500 landings.

(2) If cracks are detected as a result of the inspections required by this paragraph, prior to further flight, replace the rudder pedals adjuster hub assembly, part number 4616066, with a new assembly having the same part number, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 2, dated January 27, 1995. Thereafter, conduct visual and eddy current inspections of the replacement rudder pedals adjuster hub assembly in accordance with this paragraph.

New Actions Required By This Proposed AD

Replacement and Reidentification

(c) Prior to the accumulation of 15,000 total landings, or within 18 months after the effective date of this AD, whichever occurs later, do the actions specified in paragraphs (c)(1) and (c)(2) of this AD in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–27–325, Revision 02, dated December 12, 1995. Accomplishment of the these actions constitutes terminating action for the requirements of this AD.

(1) Replace the existing magnesium casting hub assembly of the rudder pedal adjuster, part number (P/N) 4616066–3, and bearing, P/N AN201KP4A, in the rudder pedal mechanism between stations X=69.000 and X=120.000 in the flight compartment with a new aluminum assembly, part number (P/N) 5965435–3, and new bearing, P/N MS27641–4; and

(2) Reidentify rudder pedal adjuster, P/N 5641294–501 or –503, as P/N 5641294–507.

Note 2: Installation of the aluminum rudder pedal adjuster hub assembly per McDonnell Douglas Service Bulletin DC9–27–325, Revision 1, dated November 30, 1994, before the effective date of this AD, is considered acceptable for the requirements of paragraph (c) 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, 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17599 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–210–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–8 series airplanes, that currently requires repetitive visual and eddy current inspections to detect cracking of the rudder pedals adjuster hub assembly, and replacement of the assembly with a new assembly, if necessary. This action would require accomplishment of a terminating action for the repetitive inspections. This action also adds airplanes to the applicability of the existing AD. This proposal is prompted by the FAA's determination that further rulemaking is necessary. The actions specified by the proposed AD are intended to prevent loss of rudder pedals control and reduction of braking capability.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–210–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. 2001–NM–210–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: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Greg Diliberio, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5231; 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 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 2001–NM–210–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. 2001–NM–210–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain flight control systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire and mechanical flight control systems degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Previously Issued AD 92–27–06

On December 9, 1992, the FAA issued AD 92–27–06, amendment 39–8440 (57 FR 60115, December 18, 1992), applicable to certain McDonnell Douglas Model DC–8 series airplanes, to require repetitive visual and eddy current inspections to detect cracking of the rudder pedals adjuster hub assembly, and replacement of the assembly with a new assembly, if necessary. That action was prompted by several occurrences of failure of the rudder pedals adjuster hub assembly due to broken detent lugs. The requirements of that AD are intended to prevent loss of rudder pedals control and reduction of braking capability.

Actions Since Issuance of AD 92–27–06

Since the issuance of AD 92–27–06, the FAA has determined that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led us to consider placing less emphasis on inspections and more emphasis on design improvements. Therefore, we now have determined that further rulemaking action is necessary to require a terminating action for the

repetitive inspection requirements of AD 96–02–05.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems and structural components related to the mechanical flight control systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC8–27A275, Revision 03, dated April 5, 1996, which describes procedures for repetitive visual and eddy current inspections to detect cracks of the rudder pedals adjuster hub assembly, and replacement of the rudder pedals adjuster hub assembly with a new assembly having the same part number (P/N), if necessary. The service bulletin also describes procedures for eventual replacement of the adjuster hub assembly with a new adjuster hub assembly, P/N 5965435–1, which eliminates the need for the repetitive inspections. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 92–27–06 to continue to require repetitive visual and eddy current inspections to detect cracking of the rudder pedals adjuster hub assembly. The proposed AD would require eventual and on-condition (i.e., any crack finding) replacement of the adjuster hub assembly with a new assembly, P/N 5965435–1, which would constitute terminating action for the repetitive inspections. The proposed AD also adds airplanes to the applicability of the existing AD. The actions would be required to be accomplished in accordance with the service bulletin described previously, except as described below.

Differences Between the Service Bulletin and the Proposed AD

The referenced service bulletin allows replacement of the rudder pedals adjuster hub assembly with a new assembly having the same P/N, if any crack is detected, and follow-on repetitive inspections for an interim period. As discussed previously, the FAA has determined that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Therefore, this proposed AD requires replacement of the adjuster hub assembly with a new assembly, P/N 5965435–1.

Explanation of Change to Applicability of AD 92–27–06

The effectivity listing of McDonnell Douglas Alert Service Bulletin DC8–27A275, Revision 03, dated April 5, 1996, has been revised to include two additional serial numbers (i.e., 45646 and 45928) of the affected airplanes. The FAA finds that these airplanes also are subject to the identified unsafe condition of this proposed AD. Therefore, the applicability of this proposed AD includes serial numbers 45646 and 45928.

Cost Impact

There are approximately 264 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 245 airplanes of U.S. registry would be affected by this proposed AD.

The inspection that is currently required by AD 92–27–06 takes approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $44,100, or $180 per airplane, per inspection cycle.

The new actions that are proposed in this AD action would take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $4,296 per airplane. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $1,170,120, or $4,776 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or 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 39–8440 (57 FR 60115, December 18, 1992), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 2001–NM–210–AD. Supersedes AD 92–27–06, Amendment 39–8440.

Applicability: Model DC–8 series airplanes, serial numbers 45646 and 45928, and as listed in McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992; 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 (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of rudder pedals control and reduction of braking capability, accomplish the following:

Inspection

(a) For airplanes listed in McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992: Prior to the accumulation of 15,000 landings or within 270 days after January 22, 1993 (the effective date of AD 92–27–06, amendment 39–8440), whichever occurs later, conduct a visual and eddy current inspection to detect cracks of the rudder pedals adjuster hub assembly, part number (P/N) 4616066, in accordance with McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992, or Revision 2, dated August 5, 1992; or McDonnell Douglas Alert Service Bulletin DC8–27A275, Revision 03, dated April 5, 1996. As of the effective date of this AD only McDonnell Douglas Alert Service Bulletin DC8–27A275, Revision 03, dated April 5, 1996, shall be used.

(b) For airplanes having serial numbers 45646 and 45928: Prior to the accumulation of 15,000 total landings, or within 270 days after the effective date of this AD, whichever occurs later, conduct a visual and eddy current inspection to detect cracks of the rudder pedals adjuster hub assembly, P/N 4616066, in accordance with McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992, or Revision 2, dated August 5, 1992; or McDonnell Douglas Alert Service Bulletin DC8–27A275, Revision 03, dated April 5, 1996. As of the effective date of this AD, only McDonnell Douglas Alert Service Bulletin DC8–27A275, Revision 03, dated April 5, 1996, shall be used.

No Crack Found During Inspection Required By Paragraph (a) of This AD: Repetitive Inspections

(c) If no crack is detected as a result of the inspections required by paragraph (a) of this AD, repeat the inspections at intervals not to exceed 3,500 landings.

Any Crack Found: Replacement and Repetitive Inspections

(d) If any crack is detected as a result of the inspections required by paragraph (a), (b), or (c) of this AD, prior to further flight, replace the rudder pedals adjuster hub assembly, P/N 4616066, with a new assembly, P/N 5965435–1, in accordance with McDonnell Douglas Alert Service Bulletin DC8–27A275, Revision 03, dated April 5, 1996. Accomplishment of the replacement constitutes terminating action for the repetitive inspection requirements of this AD.

Terminating Action

(e) Prior to the accumulation of 15,000 total landings, or within 3,500 landings after the effective date of this AD, whichever occurs later, replace the existing adjuster hub assembly with a new assembly, P/N 5965435–1, per McDonnell Douglas Alert Service Bulletin DC8–27A275, Revision 03, dated April 5, 1996. Accomplishment of the replacement constitutes terminating action for the requirements of this AD.

Spares

(f) As of the effective date of this AD, no person shall install an adjuster hub assembly, P/N 4616066, on any airplane.

Alternative Methods of Compliance

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

Special Flight Permits

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

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17600 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–217–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require a one-time inspection for chafing between the hose for the passenger oxygen system (hereinafter called the ''oxygen hose'') and adjacent electrical wire bundles at certain passenger service units, and corrective actions, if necessary. This proposal also would require rerouting or reorienting the oxygen hose to ensure sufficient clearance between the hose and electrical wire bundles. This action is necessary to prevent chafing between the oxygen hose and adjacent electrical wire bundles, which could result in arcing of a chafed electrical wire bundle and consequent burn-through of the oxygen hose. If this occurs when the oxygen system is pressurized, such arcing could represent a potential ignition source in an oxygen-enriched environment. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–217–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. 2001–NM–217–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the

proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this 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 2001–NM–217–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. 2001–NM–217–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received a report of damage to a hose for the passenger oxygen system (hereinafter called the ''oxygen hose'') on a Boeing Model 747 series airplane. The damage resulted from arcing of chafed electrical wiring adjacent to the oxygen hose located above a lavatory. Subsequent inspections of the oxygen hose on passenger service units (PSU) on other airplanes revealed insufficient clearance between the oxygen hose and electrical wire bundles at PSUs in the main deck passenger compartment, upper deck sculpted ceiling, personnel accommodation (crew rest) area, lower lobe forward galley, and aft galley. This condition, if not corrected, could result in chafing between the oxygen hose and adjacent electrical wire bundles, which could result in arcing of a chafed electrical wire bundle and consequent burn-through of the oxygen hose. If this occurs when the oxygen system is pressurized, such arcing could represent a potential ignition source in an oxygen-enriched environment.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–35A2035, Revision 1, dated July 22, 1999, as revised by Boeing Service Bulletin Information Notice 747–35A2035 IN 01, dated September 23, 1999. That service bulletin describes procedures for performing a one-time inspection for chafing between the oxygen hose and electrical wire bundles at the PSUs in the main deck passenger compartment, upper deck sculpted ceiling, personnel accommodation (crew rest) area, lower lobe forward galley, and aft galley; as applicable; and corrective actions, if necessary. Corrective actions involve replacing any chafed oxygen hose with a new oxygen hose and wrapping the new hose with protective sleeving, and repairing any chafed wire bundles. The service bulletin also provides instructions for rerouting the oxygen hose or installing an elbow at the oxygen mask inlet connector to reorient the oxygen hose away from the electrical wiring, to ensure a minimum of 2 inches clearance between the oxygen hose and electrical wire bundle. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed AD and Service Bulletin

This proposed AD differs from the service bulletin in the following ways:

- The service bulletin recommends that the actions be accomplished ''at the next suitable planned maintenance period.'' The FAA finds that such a compliance time would not ensure that the identified unsafe condition is addressed in a timely manner. In developing an appropriate compliance time for this proposed AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition. In light of all relevant factors, we find a compliance time of 12 months after the effective date of the AD for completing the proposed actions is warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.
- The service bulletin does not specify what method to use for the inspection described in the Accomplishment Instructions. We find that the procedures in the service bulletin describe a detailed visual inspection. A note has been included in this proposed AD to define such an inspection.

Cost Impact

There are approximately 469 airplanes of the affected design in the worldwide fleet. The FAA estimates that 166 airplanes of U.S. registry would be affected by this proposed AD, and that the average airplane has approximately 150 PSUs installed (though the actual number varies considerably between airplane configurations). It would take approximately 38 work hours per airplane (0.25 work hours per PSU) to accomplish the proposed actions, at the average labor rate of $60 per work hour. Required parts would cost approximately $5,250 per airplane ($35 per PSU). Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,249,980, or $7,530 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2001–NM–217–AD.

Applicability: Model 747 series airplanes, as listed in Boeing Alert Service Bulletin 747–35A2035, Revision 1, dated July 22, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 chafing between the oxygen hose and electrical wire bundles at certain passenger service units (PSUs), which could result in arcing of a chafed wire bundle and consequent burn-through of the oxygen hose, with the arcing potentially representing an ignition source in an oxygen-enriched environment, accomplish the following:

Inspection and Follow-On Actions

(a) Within 12 months after the effective date of this AD, do a detailed visual inspection for chafing between oxygen hoses and electrical wire bundles at the passenger

service units (PSU) in the main deck passenger compartment, upper deck sculpted ceiling, personnel accommodation (crew rest) area, lower lobe forward galley, and aft galley; as applicable. Do the inspection according to Boeing Alert Service Bulletin 747–35A2035, Revision 1, dated July 22, 1999, as revised by Boeing Service Bulletin Information Notice 747–35A2035 IN 01, dated September 23, 1999. Before further flight following this inspection, do the corrective actions in paragraphs (a)(1) and (a)(2) of this AD, as applicable, and reroute the oxygen hose or install an elbow at the oxygen mask inlet connector to reorient the oxygen hose away from the electrical wiring, as applicable, to ensure a minimum of 2 inches clearance between the oxygen hose and electrical wire bundle, according to the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If any chafing of an oxygen hose is found: Replace the chafed oxygen hose with a new oxygen hose, and install protective sleeving over the new oxygen hose, according to the service bulletin.

(2) If any chafing of a wire bundle is found, repair the wire bundle according to the service bulletin.

Note 3: Inspections and follow-on actions done prior to the effective date of this AD according to Boeing Service Bulletin 747–35–2035, dated January 7, 1983, are acceptable for compliance with corresponding actions in paragraph (a) of this AD.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17601 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–218–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–200C and –200F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–200C and –200F series airplanes. This proposal would require installation of drip shields over certain shelves in the main equipment bay. This action is necessary to prevent water from dripping through floor panels in the cargo bay onto wire bundles and electronic components, which could lead to the loss of function of multiple electronic components and, consequently, could reduce the flight crew's ability to operate in adverse conditions. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–218–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. 2001–NM–218–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this 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 2001–NM–218–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. 2001–NM–218–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received numerous reports of water infiltrating various electronic components on Boeing Model 747–200C and ''200F series airplanes. When wet or snow-covered cargo is loaded into the forward sections of the main deck, the water runs through the floor sealing in floor panel numbers 56 and 58 and drips onto wiring bundles and electronic components located in the main equipment bay under those floor panels. This condition, if not corrected, could lead to the loss of function of multiple electronic components and, consequently, could reduce the flight crew's ability to operate in adverse conditions.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–38A2073, Revision 2, dated April 26, 2001, which describes procedures for installation of drip shields over the forward, outboard halves of the E1–1 and E3–1 shelves in the main equipment bay. The procedures involve installing a drip pan assembly, drain tubing, and attaching hardware. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Difference Between Proposed AD and Service Bulletin

The service bulletin recommends that the actions be accomplished during the next scheduled maintenance visit or when manpower is available. The FAA finds that such a compliance time would not ensure that the identified unsafe condition is addressed in a timely manner. In developing an appropriate compliance time for this proposed AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition. In light of all relevant factors, we find a compliance time of 18 months after the effective date of the AD for completing the required actions is warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 59 airplanes of the affected design in the worldwide fleet. The FAA estimates that 21 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 32 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour.

Required parts would cost approximately $4,497 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $134,757, or $6,417 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2001–NM–218–AD.

Applicability: Model 747–200C and –200F series airplanes, as listed in Boeing Alert Service Bulletin 747–38A2073, Revision 2, dated April 26, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent water from dripping through certain floor panels in the cargo bay onto wire bundles and electronic components, which could lead to the loss of function of multiple electronic components and, consequently, could reduce the flight crew's ability to operate in adverse conditions, accomplish the following:

Installation of Drip Shields

(a) Within 18 months after the effective date of this AD, install drip shields (including drip pan assembly, drain tubing, and attaching hardware) over the forward, outboard halves of the E1–1 and E3–1 shelves in the main equipment bay, according to Boeing Alert Service Bulletin 747–38A2073, Revision 2, dated April 26, 2001.

Note 2: Installation done prior to the effective date of this AD according to Boeing Service Bulletin 747–38A2073, dated November 30, 1989, or Revision 1, dated June 21, 1990, are acceptable for compliance with corresponding actions in paragraph (a) of this AD.

Alternative Methods of Compliance

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

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

Special Flight 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.

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17602 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–219–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require performing a one-time inspection for chafing of certain electrical wire bundles behind the flight engineer's panel in the cockpit; repairing any chafed wire bundles, if necessary; and installing Teflon sleeving over the inspected wire bundles and rerouting them. This action is necessary to prevent burning of electrical wires, which could result in smoke in the cockpit and loss of function of several airplane systems. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–219–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. 2001–NM–219–AD'' in the subject line and need not be submitted

in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:

Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this 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 2001–NM–219–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. 2001–NM–219–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel proceeding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received reports of incidents in which several circuit breakers tripped and smoke emanated from the back of the flight engineer's panel in the cockpit on certain Model 747 series airplanes. Investigation revealed that several wires behind the flight engineer's panel were severely burned and fused together. These wires had chafed against the connector back shell. This condition, if not corrected, could result in smoke in the cockpit and loss of function of several airplane systems.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the

ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–24A2118, Revision 3, dated June 24, 1999, which describes procedures for a one-time inspection for chafing of certain wire bundles against the connector back shell behind the P4 flight engineer's panel aft of Station 340. The service bulletin also describes procedures for repairing any chafed wire bundles, installing Teflon sleeving over the wire bundles to protect the wire bundles, and rerouting them. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed AD and Service Bulletin

This proposed AD differs from the service bulletin in the following ways:

- The service bulletin recommends that the actions therein be accomplished ''at the earliest opportunity.'' The FAA finds that such a compliance time would not ensure that the identified unsafe condition is addressed in a timely manner. In developing an appropriate compliance time for this proposed AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition. In light of all relevant factors, we find a compliance time of 12 months after the effective date of the AD for completing the proposed actions is warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.
- The service bulletin specifies that certain procedures that would be required by this proposed AD may be accomplished according to specified chapters of the Boeing 747 Airplane Maintenance Manual (AMM) or ''operator's comparable procedure.'' However, this proposed AD would require that the actions be accomplished per the procedures specified in the referenced chapter of the AMM. An ''operator's comparable procedure'' may be used only if approved as an alternative method of compliance under paragraph (c) of this proposed AD.
- The service bulletin does not specify what method to use for the inspection described in the Accomplishment Instructions. We find that the procedures in the service bulletin describe a detailed visual inspection. A note has been included in this proposed AD to define such an inspection.

Cost Impact

There are approximately 443 airplanes of the affected design in the worldwide fleet. The FAA estimates that 164 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The cost of required parts per airplane would be negligible. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $29,520, or $180 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2001–NM–219–AD.

Applicability: Model 747 series airplanes, as listed in Boeing Alert Service Bulletin 747–24A2118, Revision 3, dated June 24, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 chafing and burning of electrical wires, which could result in smoke in the cockpit and loss of function of several airplane systems, accomplish the following:

One-Time Inspection and Follow-On Actions

(a) Within 12 months after the effective date of this AD, do a one-time detailed visual inspection for chafing of certain electrical wire bundles behind the P4 flight engineer's panel in the cockpit, according to Boeing Alert Service Bulletin 747–24A2118,

Revision 3, dated June 24, 1999. If any chafing is found, before further flight, repair the chafed wire bundles according to the service bulletin. Before further flight following the inspection and repair, as applicable, wrap the electrical wire bundles with Teflon sleeving and reroute them, according to the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Operator's Comparable Procedure

(b) Where Boeing Alert Service Bulletin 747–24A2118, Revision 3, dated June 24, 1999, specifies that certain procedures may be accomplished per an ''operator's comparable procedure,'' the procedures must be accomplished per the applicable chapter of the Boeing 747 Airplane Maintenance Manual (AMM) specified in the service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17603 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–220–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–200B, 747–200C, 747–200F, 747SP, and 747SR Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, 747–200B, 747–200C, 747–200F, 747SP, and 747SR series airplanes. This proposal would require a one-time inspection for chafing of certain wire bundles behind the flight engineer's panel; repairs, if necessary; and a modification to reroute a certain electrical wire bundle to ensure sufficient clearance between that wire bundle and an adjacent flood light support bracket. This action is necessary to prevent chafing of certain electrical wire bundles, which could result in smoke in the cockpit, and uncommanded discharge of fire extinguishing bottles for the No. 4 engine and consequent reduction of the ability to fight a fire in the No. 4 engine. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–220–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–220–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this 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 2001–NM–220–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.

2001–NM–220–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received a report that, during landing of a certain Model 747 series airplane, smoke emanated from the forward edge of the flight engineer's panel in the cockpit. The flight crew responded to the situation by immediately switching off galley power and undertaking smoke evacuation procedures. Investigation following landing revealed that a small section of electrical wire bundle W530, which was routed behind the flight engineer's panel, had chafed against a flood light support bracket and burned. The consequent short circuit caused several circuit breakers to open and both fire extinguisher bottles for No. 4 engine to discharge. This condition, if not corrected, could result in smoke in the cockpit. Also, if the fire extinguisher bottles for the No. 4 engine are inadvertently discharged, it could result in reduced ability to fight a fire in that engine.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–25A2407, Revision 1, dated September 23, 1999, which describes procedures for a modification to reroute electrical wire bundle W530 to ensure sufficient clearance between that wire bundle and an adjacent flood light support bracket. The modification relocates one existing wire bundle clamp farther away from the flood light support bracket and installs a caterpillar grommet on the flood light supports. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time detailed visual inspection for chafing of certain wire bundles behind the flight engineer's panel, and repair, if necessary. The proposed AD also would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed AD and Service Bulletin

This proposed AD differs from the service bulletin in the following ways:

- The service bulletin does not contain procedures for the detailed visual inspection for chafing of certain wire bundles or for repair if any chafing is found, which would be required by the proposed AD. However, in view of the unsafe condition (chafing of electrical wire bundles, which could result in smoke in the cockpit), the FAA finds it necessary to propose to require such an inspection, and repairs, if necessary, to ensure that any chafed wire bundle is found and fixed in a timely manner. Therefore, this action proposes to require these actions before accomplishment of the modification described in the service bulletin. Also, Note 2 of this proposed rule defines what we mean by ''detailed visual inspection.'' We find that this proposed

inspection requirement would not substantially increase the number of work hours necessary to accomplish this proposed AD over the time necessary for the modification described in the service bulletin. No additional access over that necessary for the modification is involved, the inspection area is small, and the number of wire bundles is few. Thus, the FAA has used the figure of 12 work hours provided in the service bulletin for the cost impact estimate in this proposed AD.

• The service bulletin recommends that the actions be accomplished ''at the earliest opportunity when manpower and facilities are available.'' The FAA finds that such a compliance time would not ensure that the identified unsafe condition is addressed in a timely manner. In developing an appropriate compliance time for this proposed AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition. In light of all relevant factors, we find a compliance time of 12 months after the effective date of the AD for completing the proposed actions is warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

• The service bulletin specifies that installation of the caterpillar grommet on the flood light supports may be done according to a certain chapter of the Boeing 747 Overhaul Manual (OHM) or ''your equivalent procedure.'' However, this proposed AD would require that the installation of the caterpillar grommet be accomplished per the referenced chapter of the OHM. An ''equivalent procedure'' may be used only if approved as an alternative method of compliance under paragraph (c) of this proposed AD.

Cost Impact

There are approximately 217 airplanes of the affected design in the worldwide fleet. The FAA estimates that 108 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The cost of required parts per airplane would be negligible. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $77,760, or $720 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2001–NM–220–AD.

Applicability: Model 747–100, 747–200B, 747–200C, 747–200F, 747SP, and 747SR series airplanes; as listed in Boeing Alert Service Bulletin 747–25A2407, Revision 1, dated September 23, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 chafing of certain electrical wire bundles located behind the flight engineer's panel, which could result in smoke in the cockpit, and uncommanded discharge of fire extinguishing bottles for the No. 4 engine and consequent reduction of the ability to fight a fire in the No. 4 engine, accomplish the following:

One-Time Inspection and Modification

(a) Within 12 months after the effective date of this AD, perform a one-time detailed visual inspection for chafing of wire bundles in the area of the forward upper corner of the P4 flight engineer's panel, outboard of the drip shield. Pay particular attention to wire bundles W528 and W530.

(1) If any chafing is found, before further flight, repair the chafed wire bundles according to Section 20–10–13 of the Boeing Standard Wiring Practices Manual, and do paragraph (a)(2) of this AD.

(2) If no chafing is found, or after chafing has been repaired, before further flight, modify the airplane by rerouting electrical wire bundle W530 to ensure sufficient clearance between that wire bundle and an adjacent flood light support bracket and installing a caterpillar grommet on the flood light supports, according to Boeing Alert Service Bulletin 747–25A2407, Revision 1, dated September 23, 1999.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Operator's Equivalent Procedure

(b) Where Boeing Alert Service Bulletin 747–25A2407, Revision 1, dated September 23, 1999, specifies that installation of a caterpillar grommet may be accomplished per ''your equivalent procedure,'' the procedures must be accomplished per the applicable chapter of the Boeing 747

Overhaul Manual specified in the service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17604 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–221–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, and –200C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–100, –200, and –200C series airplanes. This proposal would require a one-time inspection for damage (i.e., chafing) of the power feeder wire bundle for the auxiliary power unit (APU) generator and the first officer's elevator down control cable and for proper separation between that wire bundle and control cable, and corrective action, if necessary. For certain airplanes, this proposal also would require attaching the power feeder wire bundle to adjacent wire bundles. This action is necessary to prevent a short circuit and resultant arcing between the wire bundle and control cable, which could sever the control cable. Failure of the first officer's elevator down control cable, if combined with a subsequent failure of the captain's elevator down control cable, could result in loss of elevator control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–221–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. 2001–NM–221–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this 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 2001–NM–221–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. 2001–NM–221–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed

that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Identification of Unsafe Condition

The FAA has received reports of chafing between the power feeder wire bundle for the auxiliary power unit (APU) generator and the first officer's elevator down control cable beneath the right side cockpit floor on certain Boeing Model 737–100, –200, and –200C series airplanes. Investigation has revealed that this problem originates when the power feeder wire bundle for the APU generator is not properly repositioned during replacement of the circuit breaker for the APU generator. If certain clamps on the APU generator's power feeder wire bundle are not loosened, the wire bundle may be pulled up or pushed down and may start to form a loop. If this loop chafes against the first officer's elevator down control cable, a short circuit and resultant arcing between the wire bundle and control cable could occur, which could sever the control cable. The resultant failure of the control cable may not be evident because both the captain's and first officer's positions have elevator control cables and both positions can control the elevator using either cable. However, failure of the first officer's elevator down control cable, if combined with a subsequent failure of the captain's elevator down control cable for another (unrelated) reason, could result in loss of elevator control of the airplane.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Special Attention Service Bulletin 737–24–1144, Revision 1, dated June 21, 2001, which describes procedures for a one-time inspection for damage (i.e., chafing) of the power feeder wire bundle for the APU generator (wire bundle W146) and the first officer's elevator down control cable and for proper separation between that wire bundle and control cable. If necessary, corrective actions include the following:

- Replacing the first officer's elevator down control cable with a new cable if any damage is found.
- Repairing wire bundle W146 if any damage is found.
- Rerouting the wire bundle by turning wire bundle clamps to a position that provides minimum separation between the wire bundle and control cable, if the wire bundle and control cable are not separated by the minimum distance specified in the service bulletin.

For certain airplanes, the service bulletin also describes procedures to attach wire bundle W146 to adjacent wire bundles.

Accomplishment of the actions specified in the service bulletin is intended to address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed AD and Service Bulletin

This proposed AD differs from the service bulletin in the following ways:

- The service bulletin recommends that the actions be accomplished ''at the next normally scheduled maintenance period when manpower, materials, and facilities are available.'' The FAA finds that such a compliance time would not ensure that the identified unsafe condition is addressed in a timely manner. In developing an appropriate compliance time for this proposed AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition. In light of all relevant factors, we find a compliance time of 18 months after the effective date of the AD for completing the proposed actions is warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.
- The service bulletin does not specify what method to use for the inspection described in the Accomplishment Instructions. We find

that the procedures in the service bulletin describe a detailed visual inspection. A note has been included in this proposed AD to define such an inspection.

Cost Impact

There are approximately 136 airplanes of the affected design in the worldwide fleet. The FAA estimates that 47 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $2,820, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2001–NM–221–AD.

Applicability: Model 737–100, –200, and –200C series airplanes; as listed in Boeing Special Attention Service Bulletin 737–24–1144, Revision 1, dated June 21, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent a short circuit and resultant arcing between the power feeder wire bundle for the auxiliary power unit (APU) generator and the first officer's elevator down control cable, which could sever the control cable, and, if combined with a subsequent failure of the captain's elevator down control cable, result in loss of elevator control of the airplane, accomplish the following:

Inspection and Corrective Actions

(a) Within 18 months after the effective date of this AD, perform a one-time detailed visual inspection for damage (i.e., chafing) of the power feeder wire bundle for the APU generator (wire bundle W146) and the first officer's elevator down control cable and for proper separation between that control cable and wire bundle, and attach wire bundle W146 to adjacent wire bundles, as applicable. Do these actions according to Boeing Special Attention Service Bulletin 737–24–1144, Revision 1, dated June 21, 2001.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If no damage to the control cable or wire bundle is found, and if the distance between the control cable and wire bundle is equal to or greater than the minimum separation distance specified in the service bulletin: No further action is required.

(2) If any damage to the first officer's elevator down cable is found: Before further flight, replace the elevator down control cable with a new cable according to the service bulletin, and do paragraph (a)(4) of this AD.

(3) If any damage to the power feeder wire bundle for the APU generator (wire bundle W146) is found: Before further flight, repair the wire bundle according to the service bulletin, and do paragraph (a)(4) of this AD.

(4) If the distance between the control cable and wire bundle is less than the minimum separation distance specified in the service bulletin: Before further flight, reroute the wire bundle by turning wire bundle clamps to a position that provides minimum separation between the wire bundle and control cable, according to the service bulletin.

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, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

Special Flight Permits

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

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17605 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–222–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8–70 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–8–70 series airplanes, that currently requires repetitive inspections and repair or replacement, if necessary, of the generator power feeder cables, supporting brackets, and clamps at all the engine pylons. This action would require accomplishment of a terminating action for the repetitive inspections. This action also would require replacement of the support clamps of the generator power feeder cable on engine nacelles/pylons 1, 2, 3, and 4 with new support clamps. This proposal is prompted by the FAA's determination that further rulemaking is necessary. The actions specified by the proposed AD are intended to prevent a fire on the ground if a fuel leak exists in an engine pylon.

DATES: Comments must be received by September 6, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–222–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. 2001–NM–222–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: Data and Service Management, Dept. C1–L5A (D800–0024). 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: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; 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 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 2001–NM–222–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. 2001–NM–222–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Background

In July 1996, a Boeing Model 747 series airplane was involved in an accident. As part of re-examining all aspects of the service experience of the airplane involved in the accident, the FAA participated in design review and testing to determine possible sources of ignition in center fuel tanks. As part of the review, we examined fuel system wiring with regard to the possible effects that wire degradation may have on arc propagation.

In 1997 in a parallel preceding, at the recommendation of the White House Commission on Aviation Safety and Security, the FAA expanded its Aging Transport Program to include non-structural systems and assembled a team for evaluating these systems. This team performed visual inspections of certain transport category airplanes for which 20 years or more had passed since date of manufacture. In addition, the team gathered information from interviews with FAA Principal Maintenance Inspectors and meetings with representatives of airplane manufacturers. This evaluation revealed that the length of time in service is not the only cause of wire degradation; inadequate maintenance, contamination, improper repair, and mechanical damage are all contributing factors. From the compilation of this comprehensive information, we developed the Aging Transport Non-Structural Systems Plan to increase airplane safety by increasing knowledge of how non-structural systems degrade and how causes of degradation can be reduced.

In 1998, an accident occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. Investigation indicates that a fire broke out in the cockpit and first class overhead area. Although the ignition source of the fire has not been determined, the FAA, in conjunction with Boeing and operators of Model MD–11, DC–8, DC–9, DC–10, and DC–9–80 series airplanes, is reviewing all aspects of the service history of those airplanes to identify potential unsafe conditions associated with wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage) and to take

appropriate corrective actions. We have issued a series of airworthiness directives (AD) that address unsafe conditions identified during that process. This process is continuing and we may consider additional rulemaking actions as further results of the review become available. The cause of the Nova Scotia MD–11 accident has not yet been determined.

In 1999, the FAA Administrator established a formal advisory committee to facilitate the implementation of the Aging Transport Non-Structural Systems Plan. This committee, the Aging Transport Systems Rulemaking Advisory Committee (ATSRAC), is made up of representatives of airplane manufacturers, operators, user groups, aerospace and industry associations, and government agencies. As part of its mandate, ATSRAC will recommend rulemaking to increase transport category airplane safety in cases where solutions to safety problems connected to aging systems have been found and must be applied. Detailed analyses of certain transport category airplanes that have been removed from service, studies of service bulletins pertaining to certain wiring systems, and reviews of previously issued ADs requiring repetitive inspections of certain wiring systems, have resulted in valuable information on the cause and prevention of wire degradation due to various contributing factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

In summary, as a result of the investigations described above, the FAA has determined that corrective action may be necessary to minimize the potential hazards associated with wire degradation and related causal factors (e.g., inadequate maintenance, contamination, improper repair, and mechanical damage).

Previously Issued AD 88–11–03

On May 3, 1988, the FAA issued AD 88–11–03, amendment 39–5922 (53 FR 17018, May 13, 1988), applicable to all McDonnell Douglas Model DC–8–70 series airplanes, to require repetitive inspections and repair or replacement, if necessary, of the generator power feeder cables, supporting brackets, and clamps at the engine pylons. That action was prompted by reports indicating that the generator power feeder cable was chafing against the clamp and support bracket, resulting in shorting to the clamp, bracket, and structure in an engine pylon area. The requirements of that AD are intended to prevent a fire on the ground if a fuel leak exists in an engine pylon.

Actions Since Issuance of AD 88–11–03

Since the issuance of AD 88–11–03, the FAA has determined that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led us to consider placing less emphasis on inspections and more emphasis on design improvements. Therefore, we now have determined that further rulemaking action is necessary to require a terminating action for the repetitive inspection and verification requirements of AD 88–11–03.

In addition, the airplane manufacturer has informed the FAA of the possibility that support clamps of the generator power feeder cable in the forward pylon and engine nacelle areas could fail on airplanes subject to the requirements of AD 88–11–03. The cause has been attributed to the generator power feeder cable chafing against the support clamps and bracket. Such chafing, if not corrected, could result in electrical arcing and damage to the primary structure in the engine pylon area, which could result in a fire on the ground if a fuel leak exists in the engine pylon area.

Other Related Rulemaking

This proposed AD is one of a series of actions identified as part of the ATSRAC program initiative to maintain continued operational safety of aging non-structural systems in transport category airplanes. The program is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas DC–8–70 Service Bulletin 24–72, dated January 14, 1992, which describes procedures for replacement of the support clamps of the generator power feeder cable on engine pylons 1, 2, 3, and 4 with new support clamps.

The FAA also has reviewed and approved McDonnell Douglas DC–8–70 Service Bulletin 24–71, Revision 1, dated February 25, 1991. The service bulletin describes procedures for performing an inspection of the terminal connections of the generator power feeder cable for general condition and to verify that the ground studs are tight and that the nuts securing the cable terminals to the terminal strip are tightened to a torque of 120 to 130 inch-pound; tightening terminal connections, if necessary; and applying a coat of certain sealants.

Accomplishment of the actions specified in McDonnell Douglas DC–8–70 Service Bulletin 24–72 and McDonnell Douglas DC–8–70 Service Bulletin 24–71 would eliminate the need for the repetitive inspection requirements of AD 88–11–03.

In addition, the FAA has reviewed and approved McDonnell Douglas DC–8–70 Service Bulletin 24–73, dated May 30, 1990, which describes procedures for replacement of the support clamps of the generator power feeder cable in the forward pylon on engine nacelles 1, 2, 3, and 4 with new support clamps.

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 88–11–03 to continue to require repetitive inspections and repair or replacement, if necessary, of the generator power feeder cables, supporting brackets, and clamps at the engine pylons. The proposed AD also would require accomplishment of the actions specified in the service bulletins described previously, some of which would terminate the repetitive inspections.

Cost Impact

There are approximately 108 Model DC–8–70 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 98 airplanes of U.S. registry would be affected by this proposed AD.

The inspection that is currently required by AD 88–11–03, and retained in this proposed AD, takes approximately 12 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $70,560, or $720 per airplane, per inspection cycle.

The new replacement specified in McDonnell Douglas DC–8–70 Service Bulletin 24–72, dated January 14, 1992, that is proposed in this AD action would take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost

approximately $675 per airplane. Based on these figures, the cost impact of this replacement proposed by this AD on U.S. operators is estimated to be $83,790, or $855 per airplane.

The new inspection and application of sealants specified in McDonnell Douglas DC–8–70 Service Bulletin 24–71, Revision 1, dated February 25, 1991, that are proposed in this AD action would take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection and application of sealants proposed by this AD on U.S. operators is estimated to be $29,400, or $300 per airplane.

The new replacement specified in McDonnell Douglas DC–8–70 Service Bulletin 24–73, dated May 30, 1990, that is proposed in this AD action would take approximately 16 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $715 per airplane. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $164,150, or $1,675 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or 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 39–5922 (53 FR 17018, May 13, 1988), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 2001–NM–222–AD. Supersedes AD 88–11–03, Amendment 39–5922.

Applicability: All Model DC–8–70 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 (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a fire on the ground if a fuel leak exists in an engine pylon, accomplish the following:

Restatement of Requirements of AD 88–11–03

Repetitive Inspections, Verification, and Corrective Actions, If Necessary

(a) Within 30 days after June 3, 1988 (the effective date of AD 88–11–03, amendment 39–5922), unless previously accomplished within the last 3,500 flight hours, inspect the generator power feeder cables, support brackets, and clamps between bulkhead feed-through at station YN=278.500 and terminal strip S3–7000 at engine pylons 1, 2, 3, and 4, for evidence of arcing, burning, chafing, damage, or cable droop, in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin A24–72, dated April 6, 1988.

(1) If no evidence of arcing, burning, chafing, damage, or drooping exists, proceed to paragraph (a)(3) of this AD.

(2) If any evidence of arcing, burning, chafing, damage, or drooping exists, prior to further flight, repair or replace parts, as required, in accordance with the service bulletin.

(3) Verify that the nuts securing cable terminals to terminal strip S3–7000 are tightened to a torque of 120 to 130 inch-pounds.

Repetitive Inspection Interval

(b) Repeat the procedures specified in paragraph (a) of this AD at intervals not to exceed 3,500 flight hours.

New Actions Required by This AD

Terminating Actions for Repetitive Inspections and Verification

(c) Within 1 year after the effective date of this AD, replace the support clamps of the generator power feeder cable on engine pylons 1, 2, 3, and 4 with new support clamps, in accordance with McDonnell Douglas DC–8–70 Service Bulletin 24–72, dated January 14, 1992. The requirements of paragraphs (a)(1) and (a)(2) of this AD must be done prior to or in conjunction with the requirements of this paragraph.

(d) Within 1 year after the effective date of this AD, do the actions specified in paragraphs (d)(1) and (d)(2) of this AD in accordance with McDonnell Douglas DC–8–70 Service Bulletin 24–71, Revision 1, dated February 25, 1991. The requirements of paragraph (a)(3) of this AD must be done prior to or in conjunction with the requirements of this paragraph.

(1) Do a general visual inspection of the terminal strip of the terminal connections of the generator power feeder cable for general condition (i.e., loose connections) and to verify that the ground studs are tight and that the nuts securing the cable terminals to the terminal strip are tightened to a torque of 120 to 130 inch-pound, in accordance with the service bulletin. If any terminal connection is loose, not tight, or torqued improperly, prior to further flight, tighten terminal connection in accordance with the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(2) Apply a coat of certain sealants per Figure 1 of the service bulletin.

(e) Accomplishment of the actions required by paragraphs (c) and (d) of this AD

constitute terminating action for the requirements of paragraphs (a) and (b) of this AD.

Replacement of Certain Support Clamps

(f) Within 1 year after the effective date of this AD, replace the support clamps of the generator power feeder cable in the forward pylon on engine nacelles 1, 2, 3, and 4 with new support clamps, in accordance with McDonnell Douglas DC–8–70 Service Bulletin 24–73, dated May 30, 1990.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Issued in Renton, Washington, on July 9, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17606 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ANM–15]

Proposed Establishment of Class E Airspace, Scobey, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Scobey, MT. Newly developed Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to the Scobey Airport has made this proposal necessary. Class E 700-feet and 1,200-feet controlled airspace, above the surface of the earth is required to contain aircraft executing procedures in the Instrument Flight Rules (IFR). The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Scobey Airport, Scobey, MT.

DATES: Comments must be received on or before September 6, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 00–ANM–15, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 00–ANM–15, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit, with those comments, a self-addressed stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ANM–15.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by establishing Class E airspace at Scobey, MT. Newly developed RNAV (GPS) SIAP to Runway 12 has made this proposal necessary. Class E 700-feet and 1,200-feet controlled airspace, above the surface of the earth is required to contain aircraft executing IFR procedures at Scobey Airport. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. The intended effect of this proposal is designed to provide for the safe and efficient use of the navigable airspace. This proposal would promote safe flight operations under IFR at the Scobey Airport and between the terminal and en route transition stages.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700-feet or more above the surface of the earth, are published in Paragraph 6005, of FAA Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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 11013; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

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

* * * * *

ANM MT E5 Scobey, MT [NEW]

Scobey Airport, MT

(Lat. 48°48′28″ N., long, 105°26′22″ W.)

That airspace extending upward from 700-feet above the surface within the 5.5-mile radius of the Scobey Airport; and that airspace extending upward from 1200-feet above the surface bounded by a line beginning at lat. 49°00′00″ N., long. 105°36′30″ W.; to lat. 49°00′00″ N., long. 105°00′00″ W.; to lat. 48°40′27″ N., long. 105°00′00″ W.; to lat. 48°25′00″ N., long. 104°00′00″ W.; to lat. 48°14′18″ N., long. 104°00′00″ W.; to lat. 48°36′40″ N., long. 105°30′00″ W.; to lat. 48°30′00″ N., long. 105°41′00″ W.; to lat. 48°30′00″ N., long. 106°00′00″ W.; to lat. 48°36′30″ N., long. 106°11′55″ W.; to the point of origin; excluding that airspace within the Glasgow, MT, and Williston, ND, Class E airspace and Federal Airways areas.

* * * * *

Issued in Seattle, Washington, on July 9, 2001.

Dan A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 01–18234 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ANM–32]

Proposed Revision of Class E Airspace, Holyoke, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revise the Class E airspace at Holyoke, CO. A newly constructed runway at the Holyoke Airport resulted in a change to the Airport Reference Point (ARP) coordinates. The change of the ARP coordinates requires an amendment of the legal description of Holyoke Airport Class E airspace to reflect the new coordinates.

DATES: Comments must be received on or before September 6, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 00–ANM–32, 1601 Lind Avenue SW, Renton, Washington 98055–4056.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 00–ANM–32, 1601 Lind Avenue SW, Renton, Washington 98055–4056: telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit, with those comments, a self-addressed stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ANM–32.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW, Renton, Washington 98055–4056. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by modifying Class E airspace at Yakima, WA. Additional Class E 700-feet and 1,200-feet controlled airspace, above the surface of the earth is required to contain aircraft conducting IRF operations at Yakima Air Terminal, Yakima, WA. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. The intended effect of this proposal is designed to provide for the safe and efficient use of the navigable airspace. This proposal would promote safe flight operations under IFR at the Yakima Air Terminal and between the terminal and en route transition stages.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700-feet or more above the surface of the earth, are published in Paragraph 6005, of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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 11013; February 26, 1979); and (3) doe not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9465, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

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

* * * * *

ANM WA E5 Yakima, WA [Revised]

Yakima Air Terminal,
(Lat. 46°34′05″ N., long 120°32′38″ W.)
Yakima VORTAC
(Lat. 46°34′13″ N., long 120°26′41″ W.)

That airspace extending upward from 700 feet above the surface within the 7.5-mile radius of the Yakima Air Terminal, and within 4.3 miles northeast and 8.7 miles southwest of the Yakima VORTAC 115° and 295° radials extending from .9 miles northwest to 20.1 miles southeast of the VORTAC, and within 4.1 miles north and 5 miles south of the 287° bearing from the Yakima Air Terminal extending from the 7.5-mile radius to 19.5 miles northwest of the airport; that airspace extending upward from 1,200-feet above the surface within a 21.8-mile radius of the Yakima VORTAC, and bounded by a line beginning at lat. 46°10′00″ N., long. 119°45′00″ W.; thence to lat. 46°10′00″ N., long. 121°00′00″ W.; to lat. 46°50′00″ N., long. 121°00′00″ W.; to lat. 46°50′00″ N., long. 119°45′00″ W.; thence to the point of origin, excluding that and that airspace within Federal Airways, Restricted Area 6714 and its sub-areas during effective times, and the Ellensburg, WA Class E airspace area.

* * * * *

Issued in Seattle, Washington, on July 9, 2001.

Dan A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 01–18235 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ANM–07]

Proposed Modification of Class E airspace, Kemmerer, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This action proposes to modify the Class E airspace at Kemmerer, WY. Newly developed Area Navigation (RNAV) approaches at the Kemmerer Municipal Airport has made this proposal necessary. Additional Class E 1,200-feet controlled airspace, above the surface of the earth is required to contain aircraft executing the RNAV (Global Positioning System (GPS)) RWY 16 and RNAV (GPS) RWY 34 at Kemmerer Municipal Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Kemmerer Municipal Airport, Kemmerer, WY.

DATES: Comments must be received on or before September 6, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 01–ANM–07, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 01–ANM–07, 1601 Lind Avenue SW., Renton, Washington 98055–4056: telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit, with those comments, a self-addressed stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–ANM–07.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW., Renton, Washington, 98044–4056. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by modifying Class E airspace at Kemmerer, WY. Newly developed Area Navigation (RNAV) approaches at the Kemmerer Municipal Airport has made this proposal necessary. Additional Class E 1,200-feet controlled airspace, above the surface of the earth is required to contain aircraft executing the RNSAV (GPS) RWY 16 and RNAV (GPS) RWY 34, at Kemmerer Municipal Airport, has made this proposal necessary. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. The intended effect of this proposal is designed to provide for the safe and efficient use of the navigable airspace. This proposal would promote safe flight operations under IFR at the Kemmerer Municipal Airport and between the terminal and en route transition stages.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700-feet or more above the surface of the earth, are published in Paragraph 6005, of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA had determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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 11013; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

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

* * * * *

ANM WY Kemmerer, WY [Revised]

Kemmerer Municipal Airport, WY
(lat. 41°49′30″N., long. 110°33′32PrimeW.)

That airspace extending upward from 700-feet above the surface within the 8-mile radius of the Kemmerer Municipal Airport, and within 4 miles each side of the 174° bearing from the Kemmerer Airport extending from the airport 11 miles south of the airport, and within 3.6 miles each side of the 354° bearing from the Kemmerer Airport extending from the airport to 16.1 miles northwest of the airport; and that airspace extending upward from 1,200-feet above the surface bounded by a line beginning at lat. 41°30′00″N., long. 111°00′00″W; to lat. 42°10′00″N., long. 111°00′00″W.; to lat. 42°10′00″N., long 110°00′00″W.; to lat. 41°30′00″N., long. 110°00′00″W.; to lat. 41°15′00″N., long 110°23′00″W.; to lat. 47°53′30″N., long. 104°29′40″W.; to lat. 48°10′00″N., long. 104°12′00″W.; to point of origin; and excluding that airspace within Federal airways; and the Fort Bridger, WY, Class E airspace areas.

* * * * *

Issued in Seattle, Washington, on July 3, 2001.

Dan A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 01–18237 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR 864

[Docket No. 95P–0315]

Hematology and Pathology Devices; Reclassification of Automated Differential Cell Counters; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the **Federal Register** of May 9, 2001 (66 FR 23634). The document proposes to reclassify from class III (premarket approval) to class II (special controls) the automated differential cell counter (ADCC). The document published inadvertently with the incorrect docket number. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Joyce Strong, Office of Policy, Planning, and Legislation (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: In FR Doc. 01–11580, appearing in the **Federal Register** of Wednesday, May 9, 2001, the following correction is made: On page 23634, in the second column, ''[Docket No. 95P–0351]'' is corrected to read ''[Docket No. 95P–0315].''

Dated: July 17, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–18343 Filed 7–20–01; 8:45 am]

BILLING CODE 4160–01–S

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 260

[Docket No. 96–5 CARP DSTRA]

Determination of Reasonable Rates and Terms for the Digital Performance of Sound Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office is requesting comment on proposed regulations that will govern the RIAA collective when it functions as the designated agent receiving royalty payments and statements of accounts

from nonexempt, subscription digital transmission services which make digital transmissions of sound recordings under the provisions of section 114 of the Copyright Act.

DATES: Comments are due no later than August 22, 2001.

ADDRESSES: An original and five copies of any comment shall be delivered to: Office of the General Counsel, Copyright Office, James Madison Building, Room LM–403, First and Independence Avenue, SE., Washington, DC; or mailed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024–0977.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

Background

Section 106(6) of the Copyright Act, title 17 of the United States Code, gives copyright owners of sound recordings an exclusive right to perform the copyrighted work publicly by means of a digital audio transmission. This right is limited by section 114(d), which allows certain non-interactive digital audio services to transmit sound recordings under a compulsory license, provided that the services pay a reasonable royalty fee and comply with the terms of the license.

Section 114(f)(1)(A) outlines the procedural steps for setting these rates and terms for subscription transmissions by preexisting subscription services. The first step requires the Librarian of Congress to initiate a voluntary negotiation period to give the interested parties the initial opportunity of establishing the applicable rates and terms. If the parties are unable to reach an agreement, then section 114(f)(1)(B) directs the Librarian of Congress to convene a three-person Copyright Arbitration Royalty Panel (''CARP'') for the purpose of determining the rates and terms for the compulsory license upon receipt of a petition filed in accordance with 17 U.S.C. 803(a)(1).

The first proceeding to set rates and terms for the section 114 license for preexisting subscription services began in 1995 and concluded with the issuance of a final rule and order by the Librarian of Congress on May 8, 1998. *See* 63 FR 25394 (May 8, 1998). The parties in this proceeding numbered four: The Recording Industry Association of America (''RIAA''); Digital Cable Radio Associates, now known as Music Choice; DMX Music, Inc. (''DMX''); and Muzak, L.P. (''Muzak'') (collectively, ''the parties''). In this proceeding, the parties proposed, and the CARP adopted, a term which gave the RIAA the responsibility for collecting and distributing the royalty fees to all copyright owners. *Id.* at 25397. The Librarian adopted this term, then crafted additional regulations that afforded copyright owners a means to verify the accuracy of the royalty payments made by the RIAA collective,[1] established the value of each performance, specified the nature of the costs that RIAA may deduct from the royalty fees prior to distribution, and set forth a procedure for handling royalty fees in the case where the collective is unable to identify or locate a copyright owner who is entitled to receive royalties collected under the statutory license.

RIAA appealed both the rate set by the Librarian and the additional conditions imposed on the RIAA collective in its capacity as the collection agent for copyright owners. *See, Recording Industry Ass'n* v. *Librarian of Congress,* 176 F.3d 528 (D.C. Cir. 1999). The United States Court of Appeals for the District of Columbia Circuit upheld the rate set by the Librarian and found that the Librarian has the authority to impose terms on copyright owners or their agents. However, it remanded for further consideration certain terms imposed on RIAA under 37 CFR 260.2(d), 260.3(d), 260.6(b), and 260.7, because the CARP had not considered these issues, leaving the record devoid of any evidence upon which to fashion any terms concerning the collection and distribution of the royalty fees. *Id.* at 536.

On February 13, 2001, the Copyright Office issued a scheduling order, directing the parties to this proceeding to file their direct cases with the Office on April 17, 2001. *See,* Order in Docket No. 96–5 CARP DSTRA (February 13, 2001). On that date, RIAA filed a petition to establish terms governing the RIAA collective and to suspend the scheduled proceeding.[2] DMX and Muzak, two of the three other parties to the original proceeding, authorized RIAA to inform the Office that they consent to the proposed terms offered by RIAA in its petition. The third party, Music Choice, had already informed the Office by letter dated February 26, 2001, of its intent not to participate further in this proceeding and that it did not object to the terms proposed by RIAA.

On June 22, 2001, RIAA requested a revision to the terms offered in its petition to remove a reference to the section 112 statutory license for the making of ephemeral copies and to make clear that membership in the collective is open only to those copyright owners whose works are subject to statutory licensing and thus generate the funds to be distributed by the collective. Neither DMX nor Muzak had any objections to the proposed changes. Music Choice, having previously withdrawn from the proceeding, took no position on the proposed changes. There being no objection from any party with a direct interest in this proceeding, the Copyright Office has incorporated the revision into the terms set forth in the petition.

Pursuant to § 251.63(b) of title 37 of the Code of Federal Regulations, the Librarian can adopt the parties' proposed terms without convening a CARP, provided that the proposed terms are published in the **Federal Register** and no party with an intent to participate in the proceeding files a comment objecting to the proposed terms. In other words, unless there is an objection from a party with an interest in the proceeding who is prepared to participate in a CARP proceeding, the purpose of which is to adopt terms governing the RIAA collective in its handling of royalty fees collected from the three subscription services, these terms will be adopted. This procedure to adopt negotiated rates and terms in the case where an agreement has been reached has been specifically endorsed by Congress.

If an agreement as to rates and terms is reached and there is no controversy as to these matters, it would make no sense to subject the interested parties to the needless expense of an arbitration proceeding conducted under [section 114(f)(2) (1995)]. Thus, it is the Committee's intention that in such a case, as under the Copyright Office's current regulations concerning rate adjustment proceedings, the Librarian of Congress should notify the public of the proposed agreement in a notice-and-comment proceeding and, if no opposing comment is received from a party with a substantial interest and an intent to participate in an arbitration proceeding, the Librarian of Congress should adopt the rates

[1] In November 2000, RIAA formed ''Sound Exchange,'' an unincorporated division of RIAA, to administer statutory licenses, including the section 114 statutory license. *See,* Memorandum in Support of RIAA Petition to Establish Terms Governing the RIAA Collective at 2.

[2] A copy of the RIAA Petition to Establish Terms Governing the RIAA Collective and To Suspend CARP Proceedings, its memorandum in support of its petition, and its letter requesting a revision of the terms proposed in its petition may be found on the Copyright Office website at: *http://www.loc.gov/copyright/carp#114remand.*

embodied in the agreement without convening an arbitration panel.

S. Rep. No. 104–128, at 29 (1995)(citations omitted).

The proposed terms shall govern the RIAA collective solely in its capacity as the agent designated to receive royalty payments from the three subscription services that were parties to this proceeding and operate under the section 114 statutory license. These terms have been developed to protect the interest of those copyright owners who are not members of the RIAA collective and who did not participate in this proceeding. Thus, due to the circumstances under which these terms are being promulgated, if they are adopted, they shall have no precedential value in any future CARP. Terms governing the administrative functions of any future collective shall be decided in future rate adjustment proceedings either through negotiations or after a hearing before a CARP based upon a fully developed written record. For this reason, parties must limit their comments to the terms offered in the context of the proceeding to set rates and terms for the three subscription services—Music Choice, DMX, and Muzak—for the period from the effective date of the Digital Performance Act through December 31, 2001.

Accordingly, the Copyright Office is granting RIAA's request to suspend further CARP proceedings and is publishing for public comment RIAA's proposed terms concerning the operations of the collective. Any party who objects to the proposed terms must file a written objection with the Copyright Office and an accompanying Notice of Intent to Participate, if the party has not already done so. However, it is unclear whether any party who did not participate in the early stages of the rate adjustment proceeding the purpose of which was to set rates and terms applicable to the three subscription services can join the proceedings at this stage. Any proceeding convened to consider these terms would be a continuation of the prior CARP proceeding, Docket No. 96–5 CARP DSTRA, on remand from the United States Court of Appeals for the District of Columbia Circuit. *See,* 17 U.S.C. 802(g). If a party does file an objection to the proposed terms, it must state why it believes the law permits a new party to commence participation at this stage. The content of the written challenge must also describe the party's interest in the proceeding, the proposed rule the party finds objectionable, and the reasons for the challenge. If no comments are received, the regulations shall become final upon publication of a final rule.

List of Subjects in 37 CFR Part 260

Copyright, Digital Audio Transmissions, Performance Right, Recordings.

Proposed Regulation

In consideration of the foregoing, the Copyright Office proposes amending part 260 of 37 CFR as follows:

PART 260—USE OF SOUND RECORDINGS IN A DIGITAL PERFORMANCE

1. The authority citation for part 260 continues to read as follows:

Authority: 17 U.S.C. 114, 801(b)(1).

§ 260.2 [Amended]

2. In § 260.2, remove paragraph (d).

3. Section 260.3 is amended as follows:

a. By revising paragraphs (c), (d), and (e); and

b. By adding new paragraph (f).

The revisions to § 260.3 read as follows:

§ 260.3 Terms for making payments of royalty fees.

* * * * *

(c) The collective designated to receive the royalty payments and the statements of account shall have the responsibility of making further distribution of these payments to copyright owners of the exclusive right under 17 U.S.C. 106(6) whose sound recordings were performed by the services making the payments. Such copyright owners shall allocate their receipts according to the provisions set forth at 17 U.S.C. 114(g)(2).

(d) Before making the distributions specified in paragraph (c) of this section, the designated collective may deduct reasonable costs incurred in the administration of the collection and distribution of the royalty payments, so long as the reasonable costs do not exceed the actual costs incurred by the collective.

(e) In determining the share of each service's royalty payments to be distributed to copyright owners who are nonmembers of the designated collective, the collective shall attach the same weight to each performance of a sound recording made by that service; provided, however, that the collective may adopt a distribution methodology that weights each such performance according to its relative value. In determining relative value, the collective may consider factors such as the actual or estimated number of persons who listened to each performance by the service. The collective shall inform the Register of Copyrights of:

(1) The methodology for distributing royalty payments to nonmembers, and any amendment thereto, within 60 days after its adoption;

(2) Any written complaint that the collective receives from a nonmember concerning the distribution of royalty payments, within 60 days of receiving such written complaint; and

(3) The final disposition by the collective of any complaint specified by paragraph (e)(2) of this section, within 60 days of such disposition.

Nothing in these rules shall deprive any person from pursuing any remedies they may have under law against the collective.

(f) Commencing June 1, 1998, and until such time as a new designation is made, the collective established by the Recording Industry Association of America, Inc., known as ''Sound Exchange,'' shall receive the royalty payments and statements of account under this part 260. Membership in the collective shall be open on a nondiscriminatory basis to all copyright owners of the rights subject to statutory licensing under 17 U.S.C. 114. In determining whether to make a new designation, the Register of Copyrights may consider any written complaints concerning the collective; provided, however, that the collective shall receive timely notice of, and an opportunity to respond to, any such complaints.

4. Section 260.6 is revised to read as follows:

§ 260.6 Verification of royalty payments.

(a) *General.* This section prescribes procedures by which interested parties, as defined in paragraph (g) of this section, may verify the royalty payments made by the designated collective pursuant to § 260.3(c).

(b) *Frequency of verification.* Interested parties may conduct a single audit of the collective making the royalty payment during any given calendar year.

(c) *Notice of intent to audit.* Interested parties must file with the Copyright Office a notice of intent to audit the collective making the royalty payments. Such notice of intent shall be served at the same time on the collective to be audited. Within 30 days of the filing of the notice of intent, the Copyright Office shall publish in the **Federal Register** a notice announcing such filing.

(d) *Retention of records.* The interested party requesting the

verification procedure shall retain the report of the verification for a period of three years.

(e) *Acceptable verification procedure.* An audit, including underlying paperwork, which was performed in the ordinary course of business according to generally accepted auditing standards by an independent auditor, shall serve as an acceptable verification procedure for all interested parties.

(f) *Costs of the verification procedure.* The interested parties requesting the verification procedure shall pay for the cost of the verification procedure, unless an independent auditor concludes that there was an underpayment of five (5) percent or more, in which case, the collective which made the underpayment shall bear the costs of the verification procedure.

(g) *Interested parties.* For purposes of this section, interested parties are:

(1) Those copyright owners who are nonmembers of the collective entitled to receive royalty payments pursuant to § 260.3(c); and

(2) Those persons who are entitled to receive a share of the copyright owners' receipts pursuant to 17 U.S.C. 114(g)(2), or their designated agents.

5. Section 260.7 is amended by removing the phrase ''collecting agent'' each place it appears and adding the word ''entity'' in its place; and in the last sentence, by removing the word ''fees'' and adding the word ''payments'' in its place.

Dated: July 18, 2001.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 01–18339 Filed 7–20–01; 8:45 am]

BILLING CODE 1410–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–127–200114, KY–128–200115; FRL–7016–6]

Approval and Promulgation of Implementation Plans; Kentucky State Implementation Plan Revision, Source Specific Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to parallel process approval of revisions to the Kentucky State Implementation Plan (SIP) which concern the control of emissions of volatile organic compounds (VOC) at a specific source in Bullitt County, Kentucky, and a specific category of sources in Jefferson County, Kentucky. At the time of final EPA action, the completed SIP revisions must have been submitted to EPA.

In addition, EPA is proposing to approve negative declarations from Kentucky and from the Air Pollution Control District of Jefferson County (APCDJC) for certain categories of sources subject to Control Techniques Guidelines (CTGs).

DATES: Comments on the EPA's proposed action must be received by August 22, 2001.

ADDRESSES: Written comments should be addressed to: Raymond S. Gregory, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of Kentucky's submittals, as well as other information, are available for inspection during normal business hours at the following locations. People who are interested and want to examine these documents should make an appointment at least 24 hours in advance of the day they want to visit and they should reference files KY–127 and KY–128; U.S. Environmental Protection Agency, Region 4, Air Planning Branch, Regulatory Planning Section, 61 Forsyth Street, SW, Atlanta, Georgia 30303; Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403; Air Pollution Control District of Jefferson County, 850 Barret Avenue, Louisville, Kentucky 40204.

FOR FURTHER INFORMATION CONTACT: Raymond S. Gregory, Environmental Engineer, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303, (404) 562–9116,(*Gregory.Ray@epa.gov*).

SUPPLEMENTARY INFORMATION:

I. Applicability

EPA is proposing to approve into the Kentucky SIP two submittals. The first one which was adopted by the APCDJC (Regulation 6.49), specifies VOC reasonably available control technology (RACT) requirements for Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry (SOCMI). This rule was submitted by Kentucky to EPA on May 10, 2001, for parallel processing. The second submittal concerns source-specific VOC RACT requirements for an offset lithographic paper printing plant, Publisher's Printing, Inc., located in Bullitt County. The VOC RACT requirements for Publisher's Printing, Inc., were submitted by Kentucky on April 16, 2001, and supplemented with a request for parallel processing on May 4, 2001.

EPA received a negative declaration from Kentucky for the CTG categories of aerospace, SOCMI, shipbuilding, and wood furniture, and a negative declaration from the APCDJC for the CTG categories of aerospace, shipbuilding, and wood furniture. A negative declaration is a certification by an organization responsible for air pollution abatement in a state or local area that there are no facilities (a particular category, type, or size) under their jurisdiction in the planning area that meet the definition of an affected facility (i.e., for which specific control requirements would be applicable).

II. Background

Under the Clean Air Act (CAA) section 107(d)(4)(A), on November 6, 1991 (56 FR 56694), all of Jefferson County, portions of Bullitt and Oldham Counties in Kentucky, and the Indiana Counties of Clark and Floyd were designated as the Louisville moderate ozone nonattainment area, as a result of monitored violations of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) during the 1987–1989 time frame. Since that time, Kentucky, Indiana and the APCDJC have adopted and implemented programs required under the CAA for a moderate 1-hour ozone nonattainment area to reduce emissions of the precursors of ozone (VOCs and nitrogen oxides). As a result of these programs, air quality monitors in the Louisville area have recorded three years of complete, quality-assured, ambient air quality monitoring data for the 1998, 1999, and 2000 ozone seasons, thereby demonstrating that the area has attained the 1-hour ozone NAAQS. On May 17, 2001, (66 FR 27483) the EPA proposed to determine that the Louisville moderate ozone nonattainment area has attained the 1-hour ozone NAAQS. A complete discussion of the data and background that provides the basis for that proposed action can be found in the above-cited May 17, 2001, **Federal Register** action.

Kentucky on March 30, 2001, and Indiana on April 11, 2001, submitted requests to redesignate the Louisville area to attainment for the 1-hour ozone NAAQS. As further indicated in the May 17, 2001 **Federal Register**, the ''determination of attainment'' is not equivalent to redesignation of the area to attainment. Attainment of the ozone 1-hour ozone NAAQS is only one of the criteria set forth in section 107(d)(3)(E)

that must be satisfied for an area to be redesignated to attainment. Section 107(d)(3)(E) allows for redesignation providing among other things that the state containing such area has met all requirements applicable to the area under section 110 and Part D. EPA published on June 22, 2001, (66 FR 33505) proposed approval of the requests by Kentucky and Indiana for redesignation of the Louisville 1-hour ozone nonattainment area.

Subpart 1 of Part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 2 of Part D establishes additional requirements for ozone nonattainment areas classified under Table 1 of section 181(a). Since the Louisville area was classified as moderate ozone nonattainment, in order to be redesignated, the Louisville area is required to meet the applicable CAA requirements of subpart 2 of Part D including RACT requirements for three classes of VOC sources (section 182(b)(2)). The categories are: (A) all sources covered by a CTG document issued between November 15, 1990, and the date of attainment; (B) all sources covered by a CTG issued prior to November 15, 1990; and (C) all other major non-CTG stationary sources. The non-CTG rules were due by November 15, 1992, and apply to the Louisville area.

The EPA, in this action, is proposing to approve a source-specific non-CTG VOC RACT determination for Publisher's Printing, Inc., submitted by Kentucky on April 16, 2001. Final approval of this action for Publisher's Printing, Inc., is a requisite (182(b)(2)(C)) for redesignation of the Kentucky portion of the Louisville 1-hour ozone nonattainment area.

Kentucky submitted a negative declaration on December 14, 1999, for the CTG categories of aerospace, SOCMI, shipbuilding, and wood furniture which would apply to the nonattainment portions of Oldham and Bullitt Counties. The APCDJC submitted a negative declaration for Jefferson County for the same four CTG categories on February 26, 2001. The APCDJC withdrew the negative declaration for the SOCMI category on May 1, 2001. EPA is proposing to approve the negative declaration from Kentucky (CTG categories of aerospace, SOCMI, shipbuilding, and wood furniture), and the negative declaration from the APCDJC (CTG categories of aerospace, shipbuilding, and wood furniture). These negative declarations fulfill the CAA requirements under 182(b)(2)(A) in the Kentucky portion of the Louisville 1-hour ozone nonattainment area.

APCDJC adopted Regulation 6.49 for control of VOCs from SOCMI sources and Kentucky submitted APCDJC's Regulation 6.49 for parallel processing on May 10, 2001. Final approval of this action for Regulation 6.49 is a CAA requirement relative to the Kentucky portion of the Louisville 1-hour ozone nonattainment area and is a requisite to redesignation of the Louisville area (182(b)(2)(A)).

III. EPA Evaluation and Proposed Action

In today's action, the EPA is proposing to take action on SIP revisions submitted by Kentucky to address outstanding VOC RACT requirements of subpart 2 of part D, in particular section 182(b)(2), of the CAA. The SIP revisions EPA is proposing to approve will establish VOC RACT requirements for sources subject to the SOCMI CTG for Jefferson County (Regulation 6.49), and source specific VOC RACT requirements for Publisher's Printing, Inc., in Bullitt County. These SIP revisions were submitted by Kentucky to meet the requirements of section 182(b)(2) of the CAA relating to VOC RACT for sources in ozone nonattainment areas. EPA must take final action on these required SIP revisions before action on the redesignation for the Louisville 1-hour ozone area can be finalized.

One of the revisions being proposed for approval into the Kentucky SIP is APCDJC's Regulation 6.49 which specifies VOC RACT requirements for sources subject to the SOCMI CTG. The APCDJC has indicated that there is one company (E. I. Dupont De Nemours & Co.) with two process streams which will be covered by Regulation 6.49. Since the process streams at the subject company are below the applicability limit which requires controls, the company will be required to keep records of the VOC concentrations for the two process streams to show that the VOC concentrations stay below the applicability limit. The company must retain these records for five years and make them available for inspection. This rule was submitted by Kentucky to EPA on April 16, 2001. Kentucky submitted a request for parallel processing of Regulation 6.49 on May 4, 2001. Following review of Regulation 6.49, EPA concluded that it follows the model rule in the CTG and can be approved into the Jefferson County portion of the Kentucky SIP.

The other SIP revision being proposed for approval in this action concerns source-specific VOC RACT requirements for a lithographic printing operation, Publisher's Printing, Inc., in Bullitt County, Kentucky. Publisher's Printing is an offset lithographic paper printing plant which prints magazines on ten offset lithographic presses, each equipped with a natural gas fired dryer. The present control system is to be replaced with a thermal oxidizer which is required to be in operation and having demonstrated compliance by June 1, 2002, in accordance with the draft compliance schedule. VOC RACT specified by Kentucky consists of: (1) a requirement for 90 percent VOC destruction efficiency for the regenerative thermal oxidizer controlling each press's dryer exhaust; (2) a requirement that the fountain solution as applied, should contain no alcohol and contain less than three percent by weight of alcohol substitutes; and (3) a requirement that the blanket wash have a vapor pressure of less than ten millimeters mercury at 20 degrees Celsius. These requirements follow the requirements in EPA's September 1993 draft, ''Guideline Series—Control of Volatile Organic Compound Emissions from Offset Lithographic Printing'' and EPA's June 1994, ''Alternative Control Techniques Document: Offset Lithographic Printing'' and are approvable as meeting section 182(b)(2)(C) requirements for Publisher's Printing, Inc. Kentucky is including these VOC RACT requirements along with applicable monitoring and reporting requirements as conditions in the source's title V permit, and intends to submit the permit as a source-specific SIP revision. The facility has provided documentation indicating that they are now complying with requirements (2) and (3) above.

EPA is proposing approval of Regulation 6.49 and the source specific VOC RACT requirements for Publisher's Printing, Inc., as part of the Kentucky SIP under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with Kentucky's procedures for amending its SIP. See 40 CFR part 51, appendix V. If the proposed revisions are substantially changed in areas other than those identified in the proposed rulemaking, EPA will evaluate those changes and may publish another proposed rule. If no substantial changes are made other than those areas cited in the proposal, EPA will publish a final rulemaking on the revisions. The final rulemaking action by EPA will occur only after the Regulation 6.49 and revisions related to Publisher's Printing, Inc., are submitted formally to EPA for incorporation into the SIP. EPA has reviewed Regulation 6.49 and the source-specific

requirements for Publisher's Printing, Inc., for completeness and found that both conform to the completeness criteria in 40 CFR part 51, appendix V (criteria for plans submitted explicitly for parallel processing). EPA issued a letter regarding completeness to Kentucky on June 18, 2001.

With the negative declaration, Kentucky is asserting that an evaluation has found that there are no sources within the Bullitt and Oldham Counties' portion of the Louisville 1-hour ozone nonattainment area that would be subject to a CTG rule for aerospace, SOCMI, shipbuilding, or wood furniture. Through its negative declaration, the APCDJC is asserting that an evaluation has found that there are no sources within the Jefferson County portion of the Louisville 1-hour ozone nonattainment area that would be subject to a CTG rule for aerospace, shipbuilding, or wood furniture. Therefore, EPA is proposing to approve the negative declaration from Kentucky for the CTG categories of aerospace, SOCMI, shipbuilding, and wood furniture, and the negative declaration from the APCDJC for the CTG categories of aerospace, shipbuilding, and wood furniture as meeting the section 184(b) VOC RACT requirement for these source categories in the Kentucky portion of the Louisville 1-hour ozone nonattainment area.

The EPA has reviewed Kentucky's requested revisions of the federally-approved SIP for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to the relevant statutory and regulatory requirements.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

List of Subjects 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: July 12, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–18319 Filed 7–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–133–1–7499; FRL–7016–9]

Approval and Promulgation of Implementation Plans; Texas; Emissions Banking and Trading Revisions for the Mass Emissions Cap and Trade Program for the Houston/Galveston Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Through parallel processing, the EPA is proposing to approve a revision to the Texas State Implementation Plan (SIP). We are proposing approval of the NO_X Mass Cap and Trade program for the Houston/Galveston (HGA), one-hour ozone nonattainment area. If the State makes significant changes between the versions being parallel reviewed and the final adopted versions, other than those changes resulting from issues discussed in this proposed rulemaking, EPA will issue an additional proposed rulemaking prior to taking final action. If there are no significant changes (other than changes resulting from issues discussed in this proposed rulemaking) to the parallel-processed versions and Texas submits the final versions by October 1, 2001, the EPA will proceed with final rulemaking. The MECT program will contribute to attainment of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) in the HGA ozone nonattainment area.

DATES: Written comments must be received on or before August 22, 2001.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs,

Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action including the Technical Support Document (TSD) are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733. Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Merrit Nicewander, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214)665–7519.

SUPPLEMENTARY INFORMATION:

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Throughout this document ''we,'' ''us,'' and ''our'' means EPA.

I. Mass Emissions Cap and Trade Program

A. Proposed Action

What Action Are We Taking?

The EPA is proposing to approve the NO_X Mass Cap and Trade program for the Houston/Galveston one-hour ozone nonattainment area. The HGA ozone nonattainment area is required to attain the one-hour ozone standard of 0.12 parts per million (ppm) by November 15, 2007.

The rule adopted and submitted as this SIP revision by letter of the Governor dated December 22, 2000 is one element of the control strategy for the HGA nonattainment area to comply with the requirements of the Clean Air Act (CAA) and achieve attainment for ozone. The HGA ozone nonattainment area will need to reduce nitrogen oxides (NO_X) to reach attainment with the one-hour standard. The MECT emissions banking rule was evaluated as an integral component of the HGA control strategy to reduce NO_X emissions.

B. MECT EIP Contents

What Is the TNRCC MECT Program That Has Been Submitted for Approval as Part of the Texas SIP?

The proposed SIP revision submitted by the TNRCC is the Mass Emission Cap & Trade Program (30 Texas Administrative Code (TAC) Chapter 101, Subchapter H, Division 3). The MECT regulation is found at sections 101.350 through 101.363. The MECT program is mandatory for stationary facilities that emit NO_X in the HGA ozone nonattainment area (at sites that have a collective design capacity of 10 tons per year or more) and which are subject to the TNRCC NO_X rules as found at 30 TAC Chapter 117. NO_X is a precursor gas that reacts with volatile organic compounds (VOCs) in the presence of sunlight to form ground-level ozone. The program sets a cap on NO_X emissions beginning on January 1, 2002 with a final reduction to the cap occurring in 2007.

Facilities are required to meet NO_X allowances on an annual basis. Facilities may purchase, bank or sell their allowances. The program has a provision to allow a facility to use discrete emission reduction credits (DERCs) and mobile discrete emission reduction credits (MDERCs) in lieu of allowances if they are generated in the HGA area. Although EPA is today proposing to approve the MECT rules, EPA notes that the MECT rules were submitted along with rules authorizing the generation and use of DERCs and MDERCs. These rules are found in 30 TAC Chapter 101, Subchapter H, Division 4. The MECT rules authorize use of DERCs and MDERCs generated pursuant to the rules in Division 4 to meet the cap. EPA is not today proposing action on the rules in Division 4, but intends to act on them in a separate rulemaking at a later date. This schedule of action on the submitted Emissions Banking and Trading rules has been discussed with and is acceptable to the State.

The MECT EIP is mandatory for facilities in that if they meet the above conditions they must participate in the cap. However, the MECT program is a discretionary EIP since it is not a requirement of the Clean Air Act that it be adopted by the State.

TNRCC proposed revisions to the MECT rule on May 30, 2001. The EPA is proposing through parallel processing to approve the State's proposed revisions to the MECT rule submitted by the Governor on June 15, 2001. The proposed rule revision contains the inclusion of emission quantification protocols, the inclusion of an annual compliance summary report to EPA and the public, and a revised schedule of emission reduction factors. The proposed changes strengthen certain elements of the MECT SIP submittal.

What Is Parallel Processing?

Parallel processing means that EPA proposes action on a state rule before it becomes final under state law. Under parallel processing, EPA takes final action on its proposal if the final, adopted state submission is substantially unchanged from the submission on which the proposed rulemaking was based, or if significant changes in the final submission are anticipated and adequately described in EPA's proposed rulemaking or result from needed corrections determined by the State to be necessary through review of issues described in EPA's proposed rulemaking.

We cannot finalize action on the MECT EIP program unless and until the Governor submits the finally adopted regulation. The State has begun its rulemaking process and submission of the final rule is anticipated in September 2001. Significant changes between the versions being parallel reviewed and the final adopted versions, other than those changes resulting from issues discussed in this proposed rulemaking, will result in a new EPA proposed rulemaking. If there are no significant changes to the parallel-processed versions and they are submitted by October 1, 2001, the EPA will proceed with final rulemaking.

Has the MECT Rule Been Revised by TNRCC Since It Was Submitted To EPA as a SIP Revision?

Yes, the MECT rule was revised by TNRCC after it had been submitted to EPA as part of the Texas SIP on December 22, 2000. Rule Log # 2001–015–101–AI which clarified the applicability requirements of the rule at § 101.351 was adopted on May 23, 2001. This rule revision was effective on June 13, 2001. A SIP revision incorporating this clarification was submitted by the Governor on July 2, 2001. The TNRCC clarified section 101.351 to specify that the requirement to operate under the cap and trade program applied to all NO_X emitting facilities in the HGA area with emission standards under Chapter 117, Control of Air Pollution from Nitrogen Compounds, and which are located at a site where their collective design capacity to emit NO_X is ten tons or more per year. We are also proposing to approve this minor revision in this action.

What Areas of Texas Will Be Affected by the MECT Program?

The HGA ozone nonattainment area contains Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties in Texas.

What Is an Economic Incentive Program?

An economic incentive program is a regulatory program that achieves an air quality objective by providing market-based incentives or information to emission sources. A uniform emission reduction requirement, based for instance on installation of a required emission control technology, does not take account of variations in processes, operations, and control costs across sources even of the same type, such as electric utilities, or petroleum refiners. By providing flexibility in how sources meet an emission reduction target, an EIP empowers sources to find the means that are most suitable and most cost-effective for their particular circumstances.

What Is a CAP?

A cap is the total emission limitation for all participating sources in the EIP. The NO_X cap will be established at levels demonstrated as necessary and feasible to allow HGA to attain the NAAQS for ozone. The cap will consist of the summation of individual allowances allocated to each facility in the MECT EIP. The cap will be enforced by the allocation, trading, and banking of allowances. Each facility will be required to hold allowances in its compliance account on March 1 of each year equal to or greater than the total emissions of NO_X emitted during the previous control period.

What Sources Are Subject to the MECT Program?

The MECT program is mandatory for stationary facilities that emit NO_X in the HGA ozone nonattainment area and which are subject to the emission specifications under sections 117.106, 117.206 and 117.475 and which are located at a site where they collectively have a design capacity to emit of 10 tons per year or more of NO_X. If an individual stack is not subject to or is exempt from the requirements of 30 TAC Chapter 117, that stack is not subject to the MECT program regardless of its design NO_X capacity. Other stacks at the same facility may be subject to the MECT program if they are subject to Chapter 117.

It should be noted that section 117.203(a)(1)historically provided exemptions for any new units that were placed in service after November 15, 1992, since these sources would have been subject to Best Available Control Technology (BACT) and /or Lowest Achievable Emission Reduction (LAER) new source review (NSR) requirements. These NSR requirements are typically more restrictive than the section 117 requirements. However, new section 117.203(b) revokes the exemption and the sources are subject to the MECT program. EPA approved 117.203(b) on September 1, 2000.

What Is the Definition of the Term, Facility?

The MECT regulation states that it applies to stationary facilities. The term, facility, however, is not defined in the rule. Facility is defined in at least two different places in the permitting regulations. TNRCC defines facility at 30 TAC 116.10(4) as ''a discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment. A mine, quarry, well test, or road is not a facility.'' TNRCC further defines ''building, structure, facility, or installation'' at 30 TAC 116.12(4) as ''All of the pollutant-emitting activities which belong to the same industrial grouping, are located in one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same ''major group'' (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 supplement.'' The technical review and proposed approval of the MECT rule is based upon the definition of the term, facility, as defined in 30 TAC 116.10(4). Facility within the context of the MECT rule is interpreted by the State and EPA to mean equipment that is vented to a stack.

What Is an Allowance?

Allowance means the authorization to emit one ton of NO_X per year. One compliance account shall be used for multiple sources located at the same site and under common ownership or control. The commission will maintain a registry of the allowances in each compliance account.

What Is a Control Period?

A control period or a compliance period is the 12-month period beginning January 1 and ending December 31 of each year. The initial control period will begin January 1, 2002.

When Will the cap Be Implemented?

The cap will be implemented on January 1, 2002 at historical emission levels, with three mandatory reductions increasing over time until achieving the final cap by January 1, 2007. These sections also require all new or modified sources in HGA to obtain unused allowances from other sources already participating under the cap to offset any increased NO_X emissions.

How Will the cap Be Determined?

The MECT rules at section 101.353 describe how allowances will be allocated to individual facilities. Initially, for any facility operating prior to January 1, 1997, allowances will be based on the average of its actual level of activity from 1997, 1998, and 1999 multiplied by the facility's actual emission factors from 1997, 1998, and 1999 (not to exceed any applicable federal or state regulation, rule, or permit limit).

How Will the cap Be Adjusted to the Level Relied Upon in the Attainment Demonstration?

All facilities in the MECT EIP program will have periodic reductions in allowances until 100% of the reductions is achieved in 2007. There are two categories of sources for which the reduction schedule has been developed. The first category is boilers, auxiliary steam boilers, and stationary gas turbines within an electric power generating system. The second category is all other sources. Beginning April 1, 2007 and for all subsequent control periods, allowances will be reduced by 100% of the required reductions.

TNRCC proposed revisions to the MECT rule on May 30, 2001 which is being parallel processed by this document. The proposed rule revision contains a potential revised schedule of emission reduction factors depending upon the results of a TNRCC study that is to be completed by 2002 and requires EPA approval. The EPA is proposing approval of the revisions to the MECT rule submitted to us on June 15, 2001 which we are parallel processing but not that portion of the proposed rule containing a potential modification to the reduction schedule. Specifically, we are not taking action on section 101.353(a)(3)(B) and (D) in this document.

Are There Allowances for New Sources in the cap?

No, any new or modified facility will not be allocated any allowances if that

facility has submitted a NSR permit application which has determined to be administratively complete on or after January 2, 2001.

How Will New Sources Participate in the MECT cap?

The new or modified facilities will be required to obtain allowances from other facilities already participating in the cap and trade program or by obtaining DERCs or MDERCs.

Can Allowances Be Used in Other Programs?

Allowances are valid only for MECT program purposes. An allowance does not constitute a security or a property right. Allowances cannot be used to exceed any NSR permit limitation or any other applicable rule or law. Allowances can be used for the 1:1 portion of NSR offsetting under section 101.352(e). Allowances can not be used for netting under the NSR program.

What Happens to a Facility That Has Less NO_X Emissions Than Allowances for a Compliance Period?

Allowances may generally be banked for future use or traded during the control period for which they are allocated or the following control period.

What Happens to a Facility That Has More NO_X Emissions Than Allowances for a Compliance Period?

If a facility emits more NO_X than was held in the compliance account on March 1 following the control period, allowances for the next control period will be reduced by the amount equal to the emissions exceeding the compliance account plus an additional 10%. This does not preclude additional enforcement action by the TNRCC and/or EPA.

Can Unused Allowances Be Banked for Future Use?

Yes, allowances may generally be banked for future use or traded during the control period for which they are allocated or the following control period. Any allowance not used for compliance may be banked or traded for use in the following control period. Allowances that are not expired or used can be traded at any time after they have been allocated.

How Are Trades of Allowances Conducted?

Only authorized account representatives may trade allowances. Trade requests are to be made through the submittal of a completed ECT–2 Form, Application for Transfer of Allowances. The completed form, including the price paid per allowance, will be submitted to TNRCC 30 days prior to the allowances being deposited into the account. Trades will be completed through the TNRCC executive director and will be considered complete when the executive director issues a letter finalizing the trade.

Will the Program Be Audited?

Yes, an audit of the cap and trade program will be conducted by TNRCC every three years. The audit will evaluate the impact of the program on the state's attainment demonstration, the availability and cost of allowances, compliance by the participants, and other elements. The TNRCC Executive Director will recommend measures to remedy any problems identified in the audit. The trading of allowances, discrete emission reduction credits, and/or mobile discrete emission reduction credits may be discontinued as a remedy for problems identified in the program audit. The audit data and results will be completed and submitted to the EPA and made available for public inspection within six months after the audit begins.

How Will Emissions Be Monitored by the Facilities in Order To Determine Compliance With the cap?

The proposed revision to the MECT EIP rule which is being parallel processed contains a revision to section 101.354 Allowance Deductions. The revision requires allowance deductions to be based upon the emission quantification protocols established in 30 TAC Chapter 117. The EPA is proposing to approve the Chapter 117 monitoring methodology in this action as the emission quantification protocols for the MECT program.

How Will a Facility Report Compliance With the Cap?

Facilities are required by March 31 of each year to submit a completed ECT–1 Form to TNRCC with the amount of actual NO_X emissions for the preceding control period. Also included are the methods used in determining the emissions and a summary of all final trades.

C. EPA's Analysis

How Did EPA Review and Evaluate the TNRCC MECT EIP SIP Submittal?

The document, Improving Air Quality with Economic Incentive Programs, (EPA–452/R–01–001) January 2001 is the EPA guideline for reviewing and approving discretionary EIP submittals for SIP credit. It will be referred to as the EPA EIP Guidance throughout this notice. The guidance pertains to discretionary EIPs that will be measures in State implementation plans. The guidance applies to the establishment of a discretionary EIP for attaining the NAAQS for criteria pollutants. The EPA technical review of the MECT SIP submittal against the expectations of the EPA EIP Guidance is contained in the Technical Support Document for the TNRCC Mass Emissions Cap and Trade Program for the HGA Nonattainment Area dated April 2001. The technical support document is available as specified in the section of this document identified as **ADDRESSES**.

What Does the EPA Mean by Guidance?

The EPA stated that the EIP guidance applies to discretionary EIPs, but does not represent the EPA's final action regarding discretionary EIPs. Final action occurs when the EPA has approved or disapproved the discretionary EIP submitted as a SIP revision. Congress did not address specific requirements for EIPs in the CAA. Consistent with our mandate, the EPA has interpreted what an EIP should contain in order to meet the requirements of the CAA. The document is a guidance document that sets forth EPA's non-binding policy for EIPs. The document does not represent final EPA action on the requirements for EIPs. Rather, the document identifies several different types of economic incentive programs, and proposes elements for each type that, if met, EPA currently believes would assure that the program would meet the applicable CAA provisions.

The guidance phrases these elements in the imperative—that is, using the terms ''must'' or ''shall.'' This is done only to signify that EPA would propose to approve a SIP submittal of a program containing the indicated elements on grounds that under section 110(l) of the CAA, the SIP revision does not interfere with any applicable requirement concerning attainment, reasonable further progress, or any other applicable requirement.

Was the EPA EIP Guidance a Final Agency Action?

Because it is a guidance document, the EPA EIP Guidance does not represent the EPA's final action for any discretionary EIP. Final action occurs when the EPA has approved or disapproved the discretionary EIP submitted as a SIP revision.

Once an EIP SIP revision is submitted, EPA will take action through notice-and-comment rule making to determine if the statutory requirements have been

met. Only action taken after the conclusion of that rulemaking would constitute final Agency action. The EPA would take steps to expedite its proposed approval in the case of SIP revisions containing programs that contain the elements of the EPA EIP guidance.

If a program that does not contain the elements of the EPA EIP guidance for that type of program is submitted, EPA would still seek to determine whether the applicable CAA requirements were met, and, if so, EPA would approve the submission. The EPA would make the determination through notice-and-comment rulemaking.

What Criteria Did EPA Use To Analyze the MECT SIP Submittal?

There are three fundamental principles that apply to all EIPs; integrity, equity and environmental benefit. The MECT was evaluated against the Clean Air Act requirements for all three of these principles. The EPA EIP guidance contained elements for trading EIPs as well as provisions specific to mass cap and trade EIPs. Each of these principles, elements and provisions are addressed in this notice.

Fundamental EIP Principle One—Integrity

There are four elements that make up the EIP principle of integrity. The fundamental principle of integrity consists of the qualities of surplus, enforceable, quantifiable and permanent.

Integrity Element One—Surplus

The element of surplus as it applies to MECT EIPs provides that programmatic emission reductions are surplus as long as they are not otherwise relied on in any of the following air quality-related programs such as the SIP, SIP-related requirements such as transportation conformity, other adopted TNRCC air quality programs not in the SIP, and federal rules that focus on reducing precursors of criteria pollutants such as new source performance standards (NSPS), rules for reducing VOCs promulgated under section 183 of the CAA, and statutorily mandated mobile source requirements.

In multi-source emission cap-and-trade EIPs, the programmatic fundamental element of surplus, as used with reference to the EIP as a whole, has a special meaning. A program that conforms to the EIP Guidance will show that the cap on all emissions is below the threshold that would have been set before the program was implemented for the affected sources. It should be noted that the fundamental element of surplus does not apply to sources participating in multi-source emission cap-and-trade EIPs, only to the programmatic emission reductions.

EPA concluded that the TNRCC MECT SIP submittal at section 101.353(a)(3) demonstrated declining reductions of NO_X emissions over time in order to reach attainment. The cap is at least 80% lower than the emission level that existed prior to the implementation of the MECT EIP. In addition the MECT EIP will ensure lower NO_X emissions than implementation of 30 TAC Chapter 117 emission standards for the HGA attainment demonstration will ensure, since the MECT program limits mass emissions based on historical activity levels, and reduces the mass cap over time based on emission rate specifications in section 117. The Chapter 117 Emission Specifications for Attainment Demonstrations (ESAD) limitations are rate based and do not limit mass emissions. Thus, the programmatic surplus provision for the MECT EIP that the cap on all emissions be below the threshold that would have otherwise been set for the affected sources has been met. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for the integrity element of surplus.

Integrity Element Two—Enforceable

Emission reduction use, generation, and other actions are enforceable on a programmatic basis, if they are independently verifiable, define program violations and identify those liable for violations. The EPA EIP expectation for enforceable also is that the state and the EPA maintain the ability to apply penalties and secure appropriate corrective actions where applicable. Citizens should also have access to all the emissions-related information obtained from the source so that citizens can file suits against sources for violations. Required actions are enforceable on a programmatic basis if they are practicably enforceable in accordance with other EPA guidance on practicable enforceability.

In multi-source emission cap-and-trade EIPs, the source-specific fundamental elements of enforceable, and quantifiable, as used with reference to the actions of the individual sources participating in the EIP, have special meanings. Source-specific actions are enforceable if each source owner/operator is responsible for owning enough allowances to cover its emissions for the given time period and for providing clear title to the allowances it transfers.

On a source specific basis as spelled out in § 4.1(b), actions, emission reductions or emission limits as required by the MECT EIP are enforceable if the source is liable for any violations, the liable party is identifiable and the state, the public, and the EPA can independently verify a source's compliance. The expectation for enforcement elements common to all trading EIPs is that certain enforcement elements will be incorporated into all trading EIP rules submitted as a SIP revision. These include provisions for assessing liability, provisions to assess penalties against participating sources, and provisions for sources with title V permits.

1. Enforceable Element—Liability Assessment

The expectation for provisions for assessing liability common to all trading EIPs is discussed at section 6.1(a) of the EPA EIP guidance document. A program that conforms to the EIP Guidance will include provisions for assessing liability. Unlike traditional CAA regulatory mechanisms, emission trading involves more than one party. These parties can include those who own or operate the sources participating in the trade and sometimes another party who facilitated the trade (such as a broker).

To ensure there is integrity in the trading system, parties are also normally responsible for ensuring the validity of the trades or their use of emission reductions. At a minimum, each party is responsible for the truth, accuracy, and recording of all the information it provides to make the trade happen. The TNRCC MECT EIP rule should contain provisions to make users responsible for ensuring the validity of their use of emission reductions.

Traded emissions reductions are valid if they are true and accurate, generally meet all requirements of the MECT EIP rule, are properly measured in keeping with quantification protocols, satisfy monitoring, recordkeeping and reporting (MRR) provisions, and adhere to all other provisions for trading, such as no double counting. Sources using traded emission reductions are the main parties which will be held liable for any violations of applicable emission limitations. However, to discourage any possible collusion between sources, generators, and third parties, EPA may also hold other parties liable as explained in the EIP Guidance.

The revision to the MECT rule which is being parallel processed by this notice submitted the emission quantification protocols in 30 TAC Chapter 117. EPA is reviewing the submitted protocols in

accordance with the principles discussed herein, and CAA requirements. The revised section 101.354 speaks to the Executive Director approving other methods instead of the protocols in Chapter 117. Any use of a method other than the Chapter 117 protocols must be submitted to, and approved by, EPA.

The EIP states that in any enforcement action, the parties bear the burden of proof on each of their respective responsibilities. The MECT EIP submittal did not specifically address the assessment of liability for generators, third parties and users. EPA concluded that the MECT EIP rule itself did not contain the EPA EIP guidance specific expectation for liability assessment.

However, the TNRCC enforcement statute & rule are not typically in individual rules but have their own codification elsewhere. The Texas Water Code Chapter 7 contains the statutory provisions for enforcement of the MECT EIP regulation. The TNRCC enforcement rule is found at 30 TAC section 70.5. It provides remedies found in the state statutes (Texas Water Code and the Texas Health and Safety Code). It includes referrals to the EPA for civil, judicial or administrative action. Nothing in chapter 70 shall preclude the TNRCC executive director from seeking any remedy in law or equity not specifically mentioned in the rules. The Office of the Attorney General of the State of Texas cited State laws and regulations that regulate, at a minimum, the same sources as the Clean Air Act and do so with standards that are no less stringent than those specified by the CAA. The cited laws and regulations are: Texas Health and Safety Code Ann. sections 382.016 (Monitoring Requirements, Examination of Records), 382.021 (Sampling Methods and Procedures), 382.0514 (Sampling, Monitoring and Certification); 30 TAC sections 122.132 (Application and Required Information for Initial Permit Issuance, Reopening, Renewal, or General Operating Permits), 122.134 (Complete Application), 122.136 (Application Deficiencies), 122.142 (Permit Content Requirements), 122.143 (General Terms and Conditions), 122.144 (Recordkeeping Terms and Conditions), 122.145 (Reporting Terms and Conditions), 122.146 (Compliance Certification Terms and Conditions), 122.165 (Certification by Responsible Official; 30 TAC sections 101.8 (Sampling), 101.9 (Sampling Ports).

The MECT rules do not establish the number of days of violation when the cap is exceeded. Although not specifically included in the MECT EIP submittal, if the State can demonstrate to EPA's satisfaction that it has adequate authority regarding this issue, the enforcement expectations of the EPA EIP are met.

Other TNRCC programs requiring enforcement provisions consistent with the Clean Air Act have not been found deficient by EPA. The 40 CFR part 70, Title V operating permits program and the 40 CFR part 63, National Emission Standards for Hazardous Air Pollutants (NESHAPs) are two such programs. The Office of the Attorney General of the State of Texas has provided written opinions for these programs. The opinions state that TNRCC has the necessary legal authority to implement and enforce the programs. TNRCC has the authority to have reasonable requirements for measuring and monitoring air emissions and to require owners and operators of sources to make and maintain records of the emissions. The Attorney General has determined that TNRCC is allowed to prescribe sampling methods and procedures to be used to determine violations of and compliance with the TNRCC rules and orders. EPA concluded that the TNRCC MECT EIP SIP submittal will meet the Clean Air Act requirements and EPA EIP guidance expectations for liability assessment in the integrity element of enforceable if the State demonstrates to EPA's satisfaction adequate authority regarding the number of days of violation, and the rules are amended to provide that any use of monitoring protocols other than those specified in Chapter 117 will be approved by EPA.

2. Enforceable Element—Penalties and Corrective Action

The expectation for provisions for penalties and corrective actions common to all trading EIPs is that the monetary and non-monetary penalty provisions in the MECT emission trading EIP will include mechanisms that enable TNRCC to assess monetary penalties and impose corrective actions against the sources participating in the EIP. These mechanisms include making up any emission shortfall, paying a monetary penalty based on statutory penalties for source noncompliance, and surrender an additional punitive amount of emission reductions. They also include implementing corrective actions to ensure the violation will not occur in the future and to compensate for the environmental damage caused by an emissions violation. These corrective actions may consist of such items as better monitors, more effective emissions controls, more frequent monitoring and reporting and better monitoring procedures. The EIP Guidance expectation for penalty policy is described in section 5.1(c) and section 6.1(b).

The EIP Guidance expectation for penalty provisions includes provisions for imposing penalties when a source is in violation of MECT allowances, and record keeping. A program that conforms with the EIP Guidance will define a violation, establish the procedure for determining the magnitude of a violation, set potential penalties, and maintain the ability to impose a maximum monetary penalty of at least $10,000 per day per violation. Title V of the CAA currently requires States to have a maximum penalty authority of at least $10,000 per day per violation. The Federal CAA maximum is $27,500 per day per violation.

The MECT EIP SIP submittal at section 101.353(c) requires that if actual emissions of NO_X during a control period exceed the amount of allowances held in a compliance account on February 1 following the control period, allowances for the next control period will be reduced by an amount equal to the emissions exceeding the allowances in the compliance account plus an additional 10%. This does not preclude additional enforcement action by the TNRCC executive director.

The MECT EIP submittal was silent with respect to the authority for monetary penalty provisions up to the CAA statutory maximum on a per day and per unit basis. The Office of the Attorney General of the State of Texas has provided written opinions for the Title V operating permits program and the NESHAP program. The opinions of the Texas Attorney General indicate that TNRCC has the necessary legal authority to implement and enforce the programs in accordance with the requirements of the Clean Air Act. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for penalties and corrective action in the integrity element of enforceable.

3. Enforceable Element—Monitoring, Recordkeeping and Reporting

The expectation for monitoring, recordkeeping and reporting procedures is to ensure source compliance and State and Federal enforceability. Monitoring ensures the operator of the source that compliance is being achieved at all times. It also ensures an inspector that compliance has been achieved at times when the inspector is not on site to observe behavior. Retention of monitoring records ensures that the records are available for review by inspectors or source supervisors who are determining compliance.

Periodic and annual reports are also essential to summarize the compliance picture for State planning purposes, for review by the EPA and the public, as well as by source managers who wish to oversee the progress of their participation in the EIP. The EIP guidance provides the following as examples of MRR procedures: Continuous or periodic monitoring of emissions, production, activity levels, or emission control equipment operation; measurement devices to verify emission rates and operating conditions; measurement of mass emissions or emission rates using the EPA-approved reference test methods; operating and maintenance procedures or other work practices and record keeping of material usage, inventories, or throughput.

The MECT EIP SIP submittal at section 101.358 requires sources conducting compliance monitoring to use emission quantification methods. A condition for all sources in the MECT program is that they be subject to 30 TAC Chapter 117. For each source category in Chapter 117, there is a corresponding section covering the requirements for the initial demonstration of compliance, the continuous demonstration of compliance, as well as the requirements for notification, recordkeeping and reporting requirements. The following table cross references these requirements by source category.

TNRCC has submitted a revision to the MECT rule which is being parallel processed with this notice that is the submission of emission quantification protocols. The protocols in 30 TAC Chapter 117 specify initial and continuous monitoring methodologies. These requirements in Chapter 117 have met the public notice provisions for protocols. EPA concluded that the TNRCC MECT EIP SIP submittal will meet the Clean Air Act requirements and EPA EIP guidance expectations for emission quantification protocols, monitoring, recordkeeping and reporting in the integrity element of enforceable, if, as was discussed above, any use of protocols other than those specified in Chapter 117 will be approved by EPA.

Cross Reference of MECT Source Category by Compliance, Notification, Recordkeeping, and Reporting Requirements

30 TAC Chapter 117 Source Categories	Initial Demonstration of Compliance	Continuous Demonstration of Compliance	Notification, Recordkeeping and Reporting Requirements
Utility Boilers, Auxiliary Steam Boilers & Stationary Gas Turbines	§ 117.111	§ 117.113	§ 117.119
Industrial, Commercial and Institutional Boilers, Process Heaters, Stationary Gas Turbines, I.C. Engines, FCCs, BIFs, Duct Burners, Recovery Furnaces, Lime Kilns, Lightweight Aggregate Kilns, Heat Transfer Furnaces, Magnesium Chloride Fluidized Bed Dryers & Incinerators.	§ 117.209	§ 117.213	§ 117.219
Acid Manufacturing—Adipic Acid Manufacturing	§ 117.311	§ 117.113	§ 117.319
Acid Manufacturing—Nitric Acid Manufacturing	§ 117.411	§ 117.413	§ 117.419
Small Combustion Sources—Water Heaters, Small Boilers and Process Heaters.	Emission Specifications § 117.465.	Certification Requirements § 117.467.	117.469
Small Combustion Sources—Boilers, Process Heaters, and stationary Engines at Minor Sources.	Emission Specifications § 117.475.	Operating Requirements § 117.478.	§ 117.479

4. Enforceable Element—Evaluation

The EIP evaluation procedure is the process of retrospectively assessing the performance of the EIP. The primary purpose of program evaluation is to determine the overall effects of the MECT EIP on emissions and measure other aspects of program performance, such as increased flexibility or reduced costs.

The EIP performance procedures may include tracking and evaluating program performance measures that were raised by the stakeholders during the rule development process. The EIP Guidance includes program evaluation procedures. A program that conforms to the EIP Guidance will include procedures that make the public aware that the program is being evaluated, and give the public ample opportunity to help evaluate the program. The EIP Guidance specifies that a program evaluation will be conducted at least every 3 years. The schedule coincides with other periodic reporting provisions such as those applicable to emission inventory revisions required by the CAA. The EIP Guidance expectation is that the state will submit the results of the EIP program evaluation to EPA.

The evaluation program should include inspections to allow assessment of the implementation of the program and to confirm assumptions. Annual evaluation of the program is appropriate for at least 2 years, until the projected emissions have been adequately confirmed.

The MECT EIP SIP submittal at § 101.363 requires program audits every three years. The audit will evaluate the impact of the program on the state's attainment demonstration, the availability and cost of allowances, compliance by the participants, and any other elements the TNRCC executive director may choose to include. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for evaluation in the integrity element of enforceable.

5. Enforceable Element—Reconciliation

The expectation for EIP evaluation procedures is a commitment to develop and implement reconciliation procedures if the EIP evaluation determines that source emissions exceed the allowances for a control period. The primary purpose of conducting a program reconciliation is to correct any differences between allowances versus actual emissions. This allows for the opportunity to make mid-course corrections to the program.

A program that conforms to the EIP Guidance will include an enforceable commitment that if the program evaluation shows a problem with the EIP such as emissions exceeding allowances, the problem will be corrected as expeditiously as possible. The commitment to correct the problem should be based on what may be achieved using reasonable, sustained efforts within the context of the TNRCC's rule making process. Corrections should include any revisions to the program to ensure that subsequent problems do not occur. The EIP Guidance specifies that any problem will be corrected as soon as practicable,

but no later than the next triennial program evaluation.

The MECT EIP SIP submittal at section 101.363 requires program audits every three years. The audit will evaluate the impact of the program on the state's attainment demonstration, the availability and cost of allowances, compliance by the participants, and any other elements the TNRCC executive director may choose to include. The revised attainment demonstration submittal which is being parallel processed includes a TNRCC study to be completed in 2002 which will evaluate and potentially adjust Chapter 117 emission limitations. In addition, the 2004 mid-course correction by TNRCC will evaluate control measures and enforceable commitments necessary to reach attainment in 2007. There will be an opportunity at both of these occasions to adjust allowances to reach attainment if the audit results indicate that all issued allocations are higher than assumed in the attainment demonstration. The proposed revisions to the MECT rule have a different percent reduction if section 117.106(c)(5) and section 117.206(c)(18) apply. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for reconciliation procedures in the integrity element of enforceable.

6. Enforceable Element—Public Disclosure

The public disclosure provisions of an EIP were developed pursuant to the CAA (section 114(c)) and implementing regulations (40 CFR 2.301) which specify procedures and criteria for determining what information is available to the public and what information may be withheld from the public as confidential business information. These procedures and criteria apply to information in EIPs, just as they apply to information in other CAA programs.

Congress has recognized that regulatory failures can and do occur. To provide another avenue of protection, Congress ensured that the public has the right to access information and file suit in a Federal court. Because citizens have the right to bring legal actions under the CAA, a program that conforms to the EIP Guidance will ensure that the public has access to emission information. The public needs to be able to see the data in order to adequately judge the effectiveness of the EIP and exercise the right to file suit.

A program that conforms to the EIP Guidance will ensure that—

- Information will be disclosed in a manner that is transparent, allowing the public to easily and accurately calculate the emissions of each participating source,
- Facilities participating in the EIP will disclose violations to the state in an annual certification of compliance or non-compliance,
- Sources that violate permits will notify the affected community of the violation and of potential health and environmental impacts,
- The state will compile these disclosures into an annual comprehensive report on emissions and violations,
- The state will submit the report to EPA and make it available to the public, and
- The state will obtain from the participating sources and disclose to the public all information necessary to calculate every source's or source category's emissions.

The MECT EIP SIP submittal stipulates at section 101.352(i) that TNRCC will maintain a registry of allowances in each compliance account. Section 101.359 requires facilities with a compliance account to submit an ECT–1 form annually for each control period to TNRCC with account emissions and transfers. TNRCC rules at 30 TAC section 1.5 require public disclosure of information held by the agency, presumably including the annual report. There are, however, exemptions for information relating to trade secrets and ''economics of operation.'' If these provisions are interpreted to cover activity levels, it could impede the public from obtaining information necessary to determine emissions from some units. Activity levels are necessary to determine mass emissions from sources without monitoring devices such as continuous emission monitoring systems (CEMS). This issue regarding confidentiality of records has been transmitted to TNRCC as a comment on the proposed MECT rule revisions which are being parallel processed.

The proposed revision to the MECT rule that is being parallel processed contains a new section 101.363, Program Audits and Reports. The rule at section 101.363(b) requires TNRCC to annually develop and make available to EPA and the public a report that includes the number of allowances allocated to each compliance account, the number of actual NO_X allowances subtracted from each compliance account based on the actual NO_X emissions from the site and a summary of all trades completed. If the State demonstrates to EPA's satisfaction that the confidentiality provisions will not prevent public disclosure of activity level data necessary to determine emissions under the cap program, the TNRCC MECT EIP SIP submittal will meet the Clean Air Act requirements and EPA EIP guidance expectations for public disclosure procedures in the integrity element of enforceable.

7. Enforceable Element—Sources With Title V Permits

The EPA EIP expectation for sources with Title V permits is that the facility's operating permit will be modified to include the detailed compliance provisions necessary to assure compliance with the EIP. Thus, the permit becomes a valuable tool to ensure the source meets the requirements of the CAA. Also, Title V program requirements, such as permit modification requirements, may not be subsumed, overridden, or otherwise affected by requirements of a discretionary EIP approved into a SIP.

Once the Title V permit includes terms and conditions necessary to implement the EIP, the source may typically make individual trades under the EIP without the need for future formal permit revisions. This is true because most trading activity under such a permit would already be addressed and allowed by the specific terms and conditions of the permit and such trading would not normally conflict with the permit. This is the principle expressed by 40 CFR 70.6(a)(8), which states that permit revisions are not required for trading program changes that are ''provided for'' in the permit.

Concerning permit content, the MECT EIP program would—in order to conform to the EIP Guidance—provide that sources subject to title V place a copy of any notices specified by the EIP in the operating permit file, and make these notices available to the public. These notices should be designed to provide meaningful information in the permitting context, and should help the public to determine the lawful emissions credits generated by or available to the source at any given time.

This expectation centers upon the requirement that a facility's Title V operating permit list all of the CAA requirements that apply to that facility, including monitoring and other provisions necessary to assure compliance with the MECT EIP. By identifying MECT EIP requirements as alternate operating scenarios, for instance, the modifications of the permit can be held to a minimum.

Requirements of the MECT EIP to be included in the Title V permit include the compliance, monitoring, record keeping, reporting and public notice provisions. The TNRCC MECT EIP SIP submittal did not include a showing that the TNRCC title V operating permit regulations do not interfere with the incorporation of MECT EIP provisions into title V permits as specified by section 16.8 of the EIP guidance. Since the Title V program is outside the SIP process, the expectations of this section, if not met by the facility, do not serve as grounds for not approving the MECT EIP SIP submittal and/or the attainment demonstration SIP.

8. Enforceable Element—Tracking Mechanisms

The expectations for setting up tracking mechanisms in a multi-source emission cap-and-trade EIP are to facilitate a full and open trading of allowances. The EIP Guidance expectation is that the MECT EIP will have an efficient, effective method to track and record allowance transfers. The TNRCC MECT SIP submittal at section 101.353 established the allocation of allowances procedure in the MECT EIP. The allowance and authorized account representative will initially be identified by TNRCC by January 1, 2002. A secure data management system, enforceable procedure for data reporting, and time frame establishment are required by section 101.359. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for tracking mechanisms in the integrity element of enforceable.

Integrity Element Three—Quantifiable

The EPA EIP guidance at section 4.1(a) defines the EIP expectations for the integrity element of quantifiable for all EIPs on a programmatic basis. The EIP states that the creation and use of emission reductions are quantifiable if the source can reliably calculate the amount of emissions and/or emission reductions occurring during implementation of the program, and replicate the calculations. It further states that when quantifying results, sources will use same methodology used to measure baseline emissions, unless there are good technical reasons why this is not appropriate. The only source specific expectation for quantifiable in MECT EIPs found at section 4.1(b) is that sources will quantify total emissions per unit of time.

The EIP quantification procedures should ensure that these fundamental elements are applied throughout the life of the EIP. For the MECT EIP, the source of the data used in quantification of allowances includes using data already reported or available. The expectation is that quantification will be performed continuously throughout the compliance period to demonstrate compliance with the allowances. A program conforming to the EIP Guidance will also include quantification protocols—the technical plans and procedures used to quantify emissions during the control period.

1. Quantifiable Element—Predicting Results

The expectation for predicting EIP results is that the program include projections of the emission reductions associated with program implementation. These projected results would be based on technical assumptions related to and consistent with the assumptions used to develop the area's attainment demonstration, and provide sufficient supporting information showing what the impact would be on the applicable inventory. The MECT EIP may not interfere or be inconsistent with SIP or SIP-related requirements including the attainment plan or maintenance plan, reasonable further progress, and rate of progress. Reliable and replicable forecasts of HGA's pre- and post-EIP emission levels are part of EPA's evaluation of the SIP submittal.

The TNRCC SIP narrative for the attainment demonstration contains the emission reduction projections associated with MECT EIP implementation. The EIP SIP submittal at section 101.353(a)(3) demonstrates that the MECT has increasing reductions of NO_X emissions over time in order to reach attainment. The MECT implements an approximate reduction in NO_X emissions of over 80%. The reductions are achieved by implementation of the emission factors required for applicable stationary sources as found at 30 TAC sections 117.106, 117.206 and 117.475. These reduction levels were developed to support, and are consistent with, the attainment demonstration. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for predicting results in the integrity element of quantifiable.

2. Quantifiable Element—Uncertainty

The expectation for addressing uncertainty is to provide greater rule effectiveness, elimination of alternative emission limits, and other environmental benefits. However, implementing any type of EIP may result in higher or lower emissions than projected, due to geographic or timing uncertainties in emission distributions. A program that conforms to the EIP Guidance will provide a range of estimates of the emission reductions attributable to the EIP, judge the likelihood that the EIP will interfere with state air quality planning requirements and demonstrations, demonstrate that emission projections in the air quality management plan have been adjusted and determine whether that level of uncertainty is acceptable and document the decision.

The regulation for the MECT EIP was submitted with other control measure implementing regulations to be approved as part of the SIP. These implementing SIP approved rules have been determined to be necessary for the implementation of the attainment demonstration SIP. The SIP narrative for the attainment demonstration contains the degree of uncertainty associated with reaching attainment. Enforceable commitments and other measures have been incorporated in the attainment demonstration SIP. Thus the MECT EIP is an integral part of the air quality planning procedure and the measures necessary to reach attainment of the NAAQS. The MECT rules therefore will not interfere with attainment of the NAAQS, they are part of the strategy to attain those standards. Although not submitted with the MECT EIP SIP submittal, the EPA EIP guidance expectations for addressing uncertainty have been incorporated into other attainment demonstration SIP submittals.

Uncertainty is addressed in the EIP guidance at section 6.4(c). With respect to uncertainty in emissions measurement, the Chapter 117 monitoring provisions are adequate to reduce uncertainty to a reasonable level. In particular, the larger sources are required to have monitoring with the least uncertainty—CEMS and parametric emission monitoring systems (PEMS). This section of the EIP focuses on the different levels of uncertainty associated with using reductions from one type of source at another type of source, which is very relevant to using MDERCS and DERCS in the MECT. The MECT rules authorize the use of DERCS and MDERCS generated pursuant to 30 TAC Chapter 101, Subchapter H, Division 4 to comply with the annual cap. The DERC and MDERC rules are being reviewed for conformance with the EIP Guidance section 6.4(c) as part of EPA's evaluation of Subchapter H, Division 4. EPA will shortly propose action on the rules in Subchapter H,

Division 4. MDERCS and DERCS may not be utilized for compliance with MECT program annual caps until the DERC and MDERC rules are approved by EPA. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for uncertainty in the integrity element of quantifiable.

3. Quantifiable Element—Approving Quantification Protocols

EIPs rely on emission quantification protocols to determine source compliance and overall program performance. An EIP quantification protocol is the technical procedure a source uses to calculate the amount of emissions associated with that source's activities under an EIP.

TNRCC has submitted a revision to the MECT rule which is being parallel processed with this notice that is the submission of emission quantification protocols. The protocols which are contained in 30 TAC Chapter 117 specify initial and continuous monitoring methodologies. These requirements in Chapter 117 have met the public notice provisions for protocols. The Chapter 117 rules do not, however, contain missing data provisions establishing how to determine emissions when required NO_X monitoring equipment is not functioning properly. EIP section 5.2(c) states that protocols should contain such provisions.

EPA concluded that the TNRCC MECT EIP SIP submittal will meet the CAA requirements and EPA EIP guidance expectations for approving emission quantification protocols, if the rules are revised to specify missing data provisions as described in EIP guidance section 5.2(c).

4. Quantifiable Element—Selecting Emission Measurement Protocols

The expectation for the hierarchy for selecting emission measurement protocols is based upon site-specific information almost always being more reliable as an indicator of emissions than emission factors. Sources should use site-specific data whenever available or feasible. The EPA EIP guidance document recommends the following emission quantification approaches in the priority order described in the hierarchy below:

a. CEMS data on the unit generating the emissions during the generation.

b. CEMS data on the unit generating the emissions at a time other than the generation, but at representative conditions.

c. Multiple emission tests at the affected unit(s) at representative conditions.

d. Emission test at the affected unit(s) at representative conditions.

e. Emission test at maximum load or stack tests at identical unit.

f. Emission factors (where allowed) or material balance.

The proposed approval of this notice is based upon the review that the hierarchy for selecting emission measurement protocols has been consistent with the EPA EIP guideline document. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for selecting emission measurement protocols in the integrity element of quantifiable.

Integrity Element Four—Permanent

The EPA EIP guidance defines the expectations for the integrity element of permanent for all EIPs on a programmatic basis. The EIP states that emission reductions are permanent if a source commits to actions or achieves reductions for a future period of time as defined in the EIP.

For compliance flexibility EIPs, the results of an EIP are permanent if you are able to ensure that no emission increases (compared to emissions if there was no EIP) occur over the time defined in the SIP. For programmatic reduction EIPs, the results of an EIP are permanent if the EIP is able to ensure that the programmatic reductions occur over the duration of the EIP rule, and for as long as they are relied on in the SIP or SIP-related requirements. The only source specific provision for permanent in MECT EIPs found at section 4.1(b) is that the integrity element of permanent does not apply to emission reductions made by sources

The TNRCC MECT EIP SIP submittal at section 101.352(b) requires for every control period, each site to hold allowances equal to or greater than the total NO_X emissions. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for the integrity element of permanent.

Fundamental EIP Principle Two—Equity

Equity issues can be caused by an uneven distribution of emissions, or other non-emission effects. Some communities are considered communities of concern, because they have historically experienced higher emission levels than other communities in the same locale. These higher emissions often result in less healthy air quality. Equity issues may need resolution if the EIP continues or exacerbates existing pollutant concentrations in existing communities of concern, or causes new communities to experience higher emission levels than other communities in the same locale. There are two elements that comprise the fundamental principle of equity in EIPs. They are general equity and environmental justice.

Equity Element One—General Equity

General equity means that an EIP ensures that all segments of the population are protected from public health problems, and no segment of the population receives a disproportionate share of a program's disbenefits. The MECT EIP SIP submittal consists of an overall reduction of NO_X emissions of 80%. Although allowances can be traded annually to meet compliance requirements, the overall trend at all sources will be a reduction of NO_X levels. In addition, the TNRCC submittal at section 101.353(c) requires for a source, exceeding the allowances in the compliance account, allowances for the next control period to be reduced by a like amount plus an additional 10%. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for general equity in the fundamental principle of equity.

Equity Element Two—Environmental Justice

The environmental justice element applies if the MECT EIP covers VOCs, and could disproportionately impact communities populated by racial minorities, people with low incomes, and/or Tribes. The localized hazardous air pollutant (HAP) provisions of an EIP could occur if the EIP allowed VOC HAPs to be shifted from one facility to another. Although the TNRCC MECT EIP SIP submittal is a mass cap and trade program for NO_X stationary sources only, section 101.356(f) provides for sites to use VOC DERCs and MDERCs in place of allowances for compliance provided a demonstration has been made and approved by TNRCC and EPA. The use of VOC reductions in place of NO_X allowances will only drive the VOC emissions lower. The MECT EIP rule does not allow VOC HAPs to be shifted from one facility to another. There is no likelihood under the MECT EIP for disproportionate impact on communities of concern. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for environmental justice in the fundamental principle of equity.

Fundamental Principle Three—Environmental Benefit

EPA EIP expectations for the fundamental principle of environmental benefit are that a MECT EIP ensures a declining budget or emission caps that set an absolute limit on mass emissions which would otherwise have increased or would have increased at a greater rate. The TNRCC MECT EIP SIP submittal at section 101.353(a)(3) provides for increasing reductions of NO_X emissions over time in order to reach attainment. In addition the MECT EIP will ensure lower NO_X emissions than the implementation of 30 TAC Chapter 117 emission standards for the HGA attainment demonstration will ensure, since the MECT program limits mass emissions based on historical activity levels, and reduces the mass cap over time based on the emission rate specifications in section 117. The Chapter 117 ESAD limitations are rate based and do not limit mass emissions. Thus, the environmental benefit expectation for the MECT EIP cap on all emissions to be below the level that would have otherwise been set for the affected sources has been met. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for the fundamental principle of environmental benefit.

Other Elements of All Trading EIPs

The other provisions of a trading EIP are discussed at § 6.5 of the EPA EIP guidance document. These include provisions for geographic trading across boundaries, provisions for notifying the relevant Federal Land Manager (FLM) in a Class I area, accounting for emission reductions that occur prior to the approval of the EIP, and restricting use of Alternative Emission Limits (AELs).

1. Other Trading EIP Elements—New Source Review and Trading

The expectation is for trading EIPs to contain provisions that include new source review and trading since the NSR program may affect implementation of a trading EIP and, in turn, the EIP may affect implementation of some portions of the NSR program. To meet this expectation, sources allowed to comply with offset or netting requirements with EIP emission reductions may only use those emission reductions which independently meet relevant NSR requirements in the CAA, EPA NSR regulations and guidance, and provisions of the EPA EIP guidance document. The EIP expectation is that TNRCC will ensure that major sources and major modifications are not exempted from any NSR or Prevention of Significant Deterioration of Air Quality (PSD) requirement because of the implementation of the MECT EIP. Another expectation is that a major source or major modification may not avoid NSR review by using an EIP except for the use of emission reductions that meet the NSR/PSD requirements for netting when the EIP emission reductions occur contemporaneously with their use and occur at the same source as the emission increase.

The TNRCC MECT SIP submittal at section 101.352(d) states that allowances cannot be used for netting requirements under 30 TAC Chapter 116, Subchapter B, Divisions 5 and 6 which relate to Nonattainment Review and Prevention of Significant Deterioration Review. However, section 101.352(e) does permit allowances to occur simultaneously to satisfy the correlating one to one portion of the offset requirements for new or modified facilities subject to federal nonattainment NSR requirements as provided at 30 TAC Chapter 116, Subchapter B, Division 7 relating to Emission Reductions Offsets. It is understood that the use of allowances for the offset requirements will be accomplished by a permanent transfer of the allowances to the source undergoing permitting. The proposed MECT revision which is being parallel processed by EPA in this notice contains the new section 101.356(c) which provides for the permanent selling of the annual allowances. The permanent transfer of the allowances would meet the requirements of section 116.115(b)(2)(C)(iii) for the life of the source. EPA concluded that if the State clarifies that the new source will have to obtain offsets for the life of the source the TNRCC MECT EIP SIP submittal will meet the Clean Air Act requirements and EPA EIP guidance expectations for new source review and trading for the category of other trading EIP elements.

2. Other Trading EIP Elements—Limitations on Emission Reduction Use

The expectations are for trading EIPs to provide limitations on emission reduction use to be consistent with provisions of the CAA and other existing EPA policies. A program that conforms to this expectation will not allow the use of NO_X emission reductions generated outside the modeling domain, emission reductions to meet NSPS, BACT, LAER, NSR offset requirements, title IV Acid Rain requirements, and any air toxic requirement under section 112 of the CAA. Nor would emission reductions be used to meet various statutorily-mandated mobile source requirements, including exhaust and evaporative emission standards for both highway and non-road vehicles and engines; Federal Reid Vapor Pressure (RVP), reformulated gasoline (RFG), anti-dumping and detergent additive requirements, emission reductions to meet the municipal waste combustion rules and federally-mandated inspection/maintenance (I/M) program requirements.

The TNRCC MECT SIP submittal at section 101.351 limits the MECT EIP to only stationary sources within the eight county Houston Galveston ozone nonattainment area. The MECT EIP rule at section 101.356 does not allow the use of NO_X emission reduction credits (ERCs) from 30 TAC Chapter 101, Subchapter H, Division 1 ERC EIP program for MECT banking and trading. Likewise, section 101.352(c) allows unused allowances to be used as ERCs but the use of ERCs as allowances is not permitted. DERCs or MDERCs allowed for use as allowances would by definition be surplus to the statutory mobile source, NSPS, BACT, LAER, NSR, sulfur in fuel Tier II, and municipal waste combuster (MWC) requirements. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for limitations on emission reduction use for the category of other trading EIP elements.

3. Other Trading EIP Elements—Banking Emission Reductions

The expectations for trading EIPs for banking emission reductions center on emission spiking. The expectation is that, if the banking of emission reductions is allowed in the EIP, an evaluation would be performed to examine how likely it is that emission spiking will occur, and that safeguards would be included in the EIP to prevent emission spiking commensurate with the probability that spiking will occur.

The TNRCC MECT SIP submittal at section 101.356(a) allows a source participating in the EIP to bank the allowances not used in one control period to be used in the following control period. The MECT EIP also requires that the oldest allowances must be used first. This also tends to prevent carryover for more than one year and thus prevent emission spiking. The MECT rules so restrict ''banking'' that any potential for emissions ''spiking'' would be minimal. Banking is limited to just one year, and the chance of carryover to subsequent years is

minimized by section 101.354(b) (requiring Executive Director to debit most recently allocated allowances before banked allowances—thus increasing likelihood that banked allowances will expire). Use of the banking provision will be random, and with the significantly declining cap, chances of spiking should be minimal. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for banking emission reductions for the category of other trading EIP elements.

4. Other Trading EIP Elements—General Conformity

The expectations for trading EIPs for general conformity are to ensure that a federal entity can not use emission reductions generated by an EIP to meet the offset or mitigation options of the general conformity requirements. The general conformity requirements will be contained in the revised general conformity rules that EPA will propose shortly. The EIP guidance will be revised as appropriate following promulgation of the general conformity rules. The EIP guidance does not specify that the MECT rules contain any provision on general conformity, so the MECT meets this EIP expectation on general conformity.

5. Other Trading EIP Elements—Specific Pollutant Effects

The expectation for provisions to address specific pollutant effects may need to be included in the EIP SIP submittal. If NO_X is in the MECT EIP, provisions for localized increases in emissions of criteria pollutants in section 16.11 of the EPA EIP guidance may apply. If VOCs are in the MECT EIP, provisions for localized increases in HAPs in section 16.2 may apply. If inter-precursor trading is included in the MECT EIP, provisions for ozone inter-precursor trading in section 16.9 may apply.

With respect to localized increases on NO_X, the expectation applies to trading EIPs which can potentially exceed the annual significant emissions increase threshold of 40 tons per year (tpy). This increase applies only to emission increases above what the source was emitting before the implementation of the EIP. Since the MECT EIP will result in a substantial overall emissions decrease it is highly unlikely that this provision will be triggered.

With respect to VOCs, if the MECT EIP could cause localized increases in HAPs, the provisions of section 16.2 of the EPA EIP guidance would be applicable. Since the only potential VOC participation in the EIP is the use of DERCs and MDERCs, there could be no increase in VOCs above the baseline. For this reason the Hazardous Air Pollutant (HAP) framework is not applicable to the MECT EIP. For the same reasons the expectations of section 16.9 of the EIP guidance for provisions for ozone inter-precursor trading are not applicable to the MECT EIP submittal. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for specific pollutant effects for the category of other trading EIP elements.

6. Other Trading EIP Elements—Transportation Conformity

The expectations for trading EIPs to ensure consistency with transportation conformity are that the MECT EIP rule contain requirements that mobile sources generating mobile discrete emission reductions credits certify the reductions are not used to meet transportation conformity requirements. To meet the expectation, the EIP rule would require notification to TNRCC, the HGA Metropolitan Planning Organization (MPO), and the Texas Department of Transportation of the generator's intention to generate MDERCs. Once notified, the MPO may not use these MDERCs to satisfy the requirement for transportation conformity. The expectation is that the generator will provide enough information to the MPO about the likely emission reductions from the activity to allow the MPO to adjust its regional conformity analyses appropriately. TNRCC must also include provisions for assessing penalties against sources that use EIP MDERCs that are not surplus to transportation conformity requirements.

The MECT rules do not require notification to the MPO as stated in the EIP guidance. It is understood that any MDERC to be traded must be surplus to any state or federal law, regulation or agreed order. This would mean that the MDERC has to be surplus to the conformity analysis relied upon in the SIP attainment demonstration which is required by a federal rule. The TNRCC MECT SIP submittal at section 101.356(f)requires any MDERCs traded must be surplus in accordance with the emission quantification protocols established in 30 TAC Chapter 101, Subchapter H, Division 4. If the State commits to EPA's satisfaction to provide for notification of MDERC generation to the MPO, EPA will conclude that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for transportation conformity for the category of other trading EIP elements.

7. Other Trading EIP Elements—Inter-Credit Trading

The expectations for trading EIPs to contain provisions for inter-credit trading center on the acquisition and use of an emission reduction generated under one EIP to meet the requirements of another EIP. The expectation is that if the EIP includes inter-credit trading, the provisions of section 16.12 will be met. The TNRCC MECT SIP submittal at section 101.356(f) requires any DERCs or MDERCs traded must be generated in accordance with the emission quantification protocols established in 30 TAC Chapter 101, Subchapter H, Division 4. The DERC and MDERC rules are being reviewed for conformance with the EIP section 16.12 as part of EPA's evaluation of 30 TAC Chapter 101, Subchapter H, Division 4. EPA will shortly propose action on the rules in Subchapter H, Division 4. MDERCs and DERCs may not be utilized for compliance with MECT program annual caps until the DERC and MDERC rules are approved by EPA.

EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for inter-credit trading for the category of other trading EIP elements.

8. Other Trading EIP Elements—EIPs That Include Reasonably Available Control Technology (RACT) Sources

The expectations for trading EIPs that include RACT sources are that if the EIP covers RACT sources, the provisions of the EIP guidance document section 16.13 be met. Sources with an alternative RACT limit usually are allowed to emit at a higher rate than sources covered under the presumptive RACT limit. Sources subject to presumptive and alternative RACT limits may generate reductions for use in a trading EIP. However, in a program that conforms to the EIP Guidance, the amount of the reduction would be based on application of the presumptive RACT limit rather than the alternative RACT limit. Sometimes alternative RACT determinations are considered a type of Alternative Emission Limitation. Once the MECT EIP is adopted TNRCC may not issue any new AELs.

The RACT and ESAD for the HGA area in Chapter 117 are as stringent if not more stringent than the presumptive limits contained in the Control Technology Guideline (CTG) documents. Therefore these presumptive national limits will be above the rates used to establish MECT

allowances. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for EIPs that include RACT sources for the category of other trading EIP elements.

9. Other Trading EIP Elements—Geographic Trading Across Jurisdictional Boundaries

The expectations for trading EIPs for geographic trading across jurisdictional boundaries does not provide additional geographic restrictions to trading if the MECT EIP only covers areas that are not needing and lacking an attainment demonstration. In this case the geographic restrictions contained in the approved SIP will apply to the MECT EIP. The TNRCC MECT SIP submittal at section 101.351 limits the MECT EIP only to stationary sources within the eight county Houston Galveston ozone nonattainment area. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for geographical trading across jurisdictional boundaries for the category of other trading EIP elements.

10. Other Trading EIP Elements—Federal Land Manager (FLM) Notification

The expectations for trading EIPs for Federal Land Manager notification in PSD Class I areas is found at section 16.6 for trading EIPs located in or within 100 km of a PSD Class I area. The nearest PSD Class I area to the HGA area is Breton Island National Wildlife preserve off the coast of Louisiana. It is more than 300 kilometers from the HGA area. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for FLM notification for the category of other trading EIP elements.

11. Other Trading EIP Elements—Tracking Systems and Market Clearinghouses

The expectations for trading EIPs for tracking systems and market clearinghouses is that both TNRCC and the sources participating in trading EIPs will obtain accurate information about market activities related to trading emission reductions. Specifically, the State will obtain information that would allow the tracking of generation/use of emission reductions, ensure compliance, target enforcement resources and conduct periodic EIP performance audits. A tracking system is needed to meet these provisions. The information would be made readily available to the public.

The TNRCC MECT SIP submittal at section 101.356(e) requires all trades to be completed by the TNRCC executive director following the submittal of a completed TNRCC ECT–2 form, Application for Transfer of Allowances. The completed ECT–2 shall include the price paid per allowance. The ECT–2 shall be submitted to TNRCC at least 30 days prior to the allowances being deposited into the transferee's broker or compliance account. The TNRCC executive director will issue a letter to the purchaser and seller reflecting the trade. The trade will be considered finalized upon issuance of the letter. The MECT SIP submittal at section 101.363 requires each source to report trades annually in the compliance report using TNRCC form ECT–1. Performance audits of allowance trading is required by section 101.363. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for tracking systems and market clearinghouses for the category of other trading EIP elements.

12. Other Trading EIP Elements—Multi-Claimants

The expectations for trading EIPs concerning multi-claimants focuses on certain situations where ownership of an EIP emission reduction strategy could be claimed by more than one party. When these situations occur, it is important that the MECT EIP ensure that ownership is successfully claimed by only one party to avoid double counting of reductions. From the MECT EIP SIP submittal, all sources in the cap must participate by receiving allocations of allowances as per section 101.353. The banking and trading of allowances are specified by section 101.356. The allocation, banking and trading of allowances is controlled by TNRCC at each phase by the submission and approval of forms such that there should be no practical question of ownership of allowances. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for multi-claimants for the category of other trading EIP elements.

13. Other Trading EIP Elements—Emission Reductions Prior to EIP Approval

The expectations for trading EIPs address the condition that there may be sources that reduce emissions before the development of an EIP. Some generators may want these old emission reductions to participate in the trading EIP. Any emission reductions that result from emission reduction strategies that were started before November 30, 1990 may not be allowed to participate in a trading EIP. In the MECT EIP SIP submittal at section 101.353, all sources in the cap must participate by receiving allocations of allowances. The allocations are based upon the level of activity and emission rates of all sources for the annual periods of 1997, 1998 and 1999. There is no provision for ERCs to occur prior to the approval of the EIP or outside the process of initial allocation of allowances. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for emission reductions prior to EIP approval for the category of other trading EIP elements.

14. Other Trading EIP Elements—Compliance Margins

The expectation for trading EIPs for provisions for compliance margins is that the MECT trading EIP will include provisions to account for compliance margins when sources participating in an EIP are initially complying with an emission limit. The provision for compliance margins is for sources participating in an EIP to comply with an emission limit. Since the MECT EIP is based upon allowances consisting of mass emissions determined from historical actual emissions, the provision does not apply. The eighty percent reduction of emissions from historical levels will leave little if any room for compliance margins. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for compliance margins for the category of other trading EIP elements.

15. Other Trading EIP Elements—Alternative Emission Limits

The trading EIPs expectation is for provisions restricting the use of alternative emission limits. Under traditional air quality management approaches, sources are required by regulation to meet emission limitations. In some cases, sources may find it difficult to meet these requirements by the required deadline. In such events, States have granted sources some form of relief (e.g., waivers, exemptions, compliance deadline extensions, and temporary relaxations to the regulatory requirements). These forms of relief are known as alternative emission limits, or AELs. While AELs may be necessary in limited cases, widespread use of AELs ultimately means that expected emission reductions will be delayed. A benefit of trading EIPs is that they provide sources an alternative means for obtaining required emission reductions

on time. This means that in many cases, sources will not need AELs as a means of regulatory relief.

The TNRCC MECT EIP SIP submittal at section 101.353 specifies that all allowances are based upon the level of activity and emission rates of all sources in the cap for the annual periods of 1997, 1998 and 1999. Once the MECT EIP is operational, if a source cannot meet the allowance limitation additional allowances must be purchased. The EIP Guidance expectation is that the MECT program will prohibit the issuance of AELs which would raise the annual cap unless the source demonstrates that it can not purchase allowances. The MECT program contains no explicit prohibition against issuance of AELs. EPA concluded that the TNRCC MECT EIP SIP submittal will meet the Clean Air Act requirements and EPA EIP guidance expectations for alternative emission limits for the category of other trading EIP elements, if the state demonstrates how existing provisions will prevent issuance of an AEL that increases an annual allocation, or the state commits not to issue such an AEL, unless the source demonstrates that it cannot acquire allowances.

Provisions for a Multi-Source Emission Cap-and-Trade EIP

The expectations for additional provisions needed for a multi-source emission cap-and-trade EIP are found in the EPA EIP guidance document. A multi-source emission cap-and-trade EIP is an emission trading EIP that limits the total emissions from a group of sources to a level needed for an area to attain a NAAQS, and allows sources flexibility in complying with their emission limits.

The following list presents several conditions that an EIP that conforms to the Guidance would meet to ensure the integrity of the emission cap. It also includes references to the TNRCC MECT SIP submittal which ensure the integrity of the emission cap.

- Sources have the ability to measure and report all capped emissions. TNRCC has revised the MECT rule by submitting emission quantification protocols that meet the EPA EIP guidance.
- Each affected source must designate an authorized account representative as per section 101.356(d) who is responsible for the source's emissions, trading and allowances.
- The SIP submittal demonstrated that sources cannot shift a significant amount of production, and therefore emissions, to non-affected sources outside the EIP since all regulated stationary sources of NO_X in the HGA area must participate in the MECT.
- Penalties for non-compliance are known in advance, are automatic when a unit's emissions in the control period exceed its allowances, and are equivalent to traditional CAA penalties as per TNRCC's enforcement statutes, regulations and policies.
- All the emissions, allowance, and transaction information are to be publicly available on the TNRCC world wide web site.
- The MECT EIP covers sources with RACT requirements. Rather than allow RACT sources to comply using the EIP, the MECT EIP has incorporated the RACT and limitations to reach attainment into the allowances of the EIP.
- The MECT EIP rule can not increase localized emissions of HAPs since the only use of VOCs allowed to be traded are reductions below the baseline for the attainment demonstration.

EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for additional provisions needed for a multi-source emission cap and trade EIP.

1. Other Multi-Source Cap & Trade Provisions—Setting the Budget

The expectations for setting the budget for a multi-source emission cap-and-trade EIP are that the program baseline for the cap-and-trade program will be no greater than the sum of the historical average emissions of the participating sources.

The MECT program baseline is based almost entirely on the sum of historical emissions from sources in the program. For some newer sources, allocations are based on allowable emissions for two years, but this is only until an actual emissions baseline is established as required by 30 TAC 101.353(a)(2)(B) and (4)(B).

EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for setting the budget needed for a multi-source emission cap and trade EIP.

2. Other Multi-Source Cap & Trade Provisions—Defining the Affected Sources

The expectations for defining the affected sources for a multi-source emission cap-and-trade EIP are found at section 7.4(c) of the EPA EIP guidance document. A multi-source emission cap-and-trade EIP contains a certain set of sources. The aggregate emissions from these sources are capped. The emission cap aspect of a multi-source emission cap-and-trade EIP will be compromised, however, if TNRCC defines the population of sources in a way that allows production from sources covered under the EIP to shift to those that are not covered. The TNRCC MECT SIP submittal at section 101.351 establishes the MECT EIP cap for stationary sources with emissions greater than 10 tpy. Significant emission shifts are unlikely since any sources with emissions less than 10 tpy whose sources increase above 10 tpy are required to obtain allowances from other sources and become part of the cap. Section 101.353(b) requires new or modified sources not in the cap to obtain allowances for each control period from sources participating in the MECT EIP. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for defining the affected sources for a multi-source emission cap and trade EIP.

3. Other Multi-Source Cap & Trade Provisions—Opt-in Sources

The expectations for provisions for opt-in sources in a multi-source emission cap-and-trade EIP are found at section 7.4(d) of the EPA EIP guidance document. Additional sources may want to ''opt-in'' to the multi-source cap-and-trade EIP. These additional sources could be smaller, located in a different geographic area, or represent another sector than the originally defined affected sources. All trading units are within the HGA area. There is no provision for opt-ins. Section 101.353(b) requires new or modified sources not in the cap to obtain allowances for each control period from sources participating in the MECT EIP. The TNRCC MECT SIP submittal at section 101.353(b) requires new or modified sources not in the cap to obtain allowances for each control period from sources participating in the MECT EIP. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for opt-in sources for a multi-source emission cap and trade EIP.

4. Other Multi-Source Cap & Trade Provisions—Distributing Allowances

The expectations for provisions for distributing allowances in a multi-source emission cap-and-trade EIP are found at section 7.4(e) of the EPA EIP guidance document. The expectation is that after the emission budget is set, the population of covered sources would receive a share of the emission budget. Factors that may be used to assign a share of the budget include historical,

current or projected emission levels and existing control technology requirements. The TNRCC MECT SIP submittal at section 101.351 applies to all stationary NO_X facilities subject to TNRCC Rule 117 emission specifications at sites with emissions design capacity above 10 tpy in the HGA ozone nonattainment area. The emission budget in the MECT EIP was established based on historical emission levels. From section 101.351(a), the initial allowances in the MECT EIP will be based on the actual historical emissions for each source from 1997, 1998 and 1999. Section 101.351(a)(3) requires three steps from January 1, 2002 through April 1, 2007 where the allowances are reduced to reach the final goal of approximately 80% overall reduction from the historical levels. The program will be audited every three years to evaluate its impact on the attainment demonstration. The TNRCC Executive Director will recommend any measures necessary to remedy problems.

The revised attainment demonstration submittal which is being parallel processed includes a TNRCC study to be completed in 2002 which will evaluate and potentially adjust Chapter 117 emission limitations. In addition the 2004 mid-course correction by TNRCC will evaluate control measures and enforceable commitments necessary to reach attainment in 2007. There will be an opportunity at both of these occasions to readjust allowances to reach attainment if the audit results indicate that all issued allocations are higher than assumed in the attainment demonstration.

Section 101.353(g) of the MECT Rules states that in ''extenuating circumstances'' the TNRCC executive director may deviate from the requirements for determining the amount of allowances to be issued to a facility. TNRCC explained the purpose of this provision as being to ''prevent significantly low allocations'' in ''extraordinary circumstances, for example a catastrophe which required a facility to shut down during the historic period upon which allocations would normally be based.'' TNRCC Chapter 101 Rule Log No. 1998–089–101–AI, at 74. Existing sources that wish to utilize section 101.353(g) were required by paragraph (1) of the rule to file applications by June 30, 2001. We are informed that approximately 15 sources filed applications by the deadline, and that their NO_X emissions represent approximately one half of one percent of total emissions regulated by the MECT program.

Section 101.353(g) allows executive director discretion. It is expected, however, that prior to the time that EPA takes final action on the MECT rules, the state will have made decisions on all applications that were submitted by June 30, 2001. In order for EPA to approve the MECT rules, the state must demonstrate prior to final EPA action that any allocations issued pursuant to section 101.353(g)(1) are not inconsistent with the attainment demonstration, and comply with the CAA.

Paragraph (2) of section 101.353(g) allows a finite group of relatively new sources to submit applications after June 30, 2001. In order for EPA to approve the MECT rules, the state must either (1) demonstrate that the allocations that could be issued pursuant to section 101.353(g)(2) would not be inconsistent with the attainment demonstration and would comply with the CAA, or (2) modify the rule to eliminate executive director discretion or require EPA approval of any allocation issued pursuant to paragraph (g)(2).

EPA concluded that the TNRCC MECT EIP SIP submittal will meet the Clean Air Act requirements and EPA EIP guidance expectations for distributing allowances for a multi-source emission cap and trade EIP, if the above-described demonstrations or modifications are made.

5. Other Multi-Source Cap & Trade Provisions—Emissions Banking

The TNRCC MECT SIP submittal at section 101.356(a) allows a source participating in the EIP to bank the allowances not used in one control period to be used in the following control period. The EIP Guidance expectation at section 16.15 is that a banking EIP would safeguard against emissions spiking. The MECT rules so restrict ''banking'' that any potential for emissions ''spiking'' would be minimal. Banking is limited to just one year, and the chance of carryover to subsequent years is minimized by section 101.354(b)(requiring Executive Director to debit most recently allocated allowances before banked allowances—thus increasing likelihood that banked allowances will expire). Use of the banking provision will be random, and with the significantly declining cap, chances of spiking should be minimal. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for emissions banking for a multi-source emission cap and trade EIP.

6. Other Cap & Trade Provisions—Allowing Shutdowns to Generate Reductions

Shutdowns may be allowed to generate emission reductions within the context of a multi-source cap-and-trade program if the emissions reductions resulting from the shutdown are still in the applicable emissions inventory and the EIP has provisions to address shifting demand. The MECT EIP at section 101.353(h) states that if allowances are being allocated based on allowable emissions and the facility does not achieve two complete consecutive calendar years of actual level of activity data, then allowances will not continue to be allocated if the facility ceases operation or is not built. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for allowing shutdowns to generate reductions for a multi-source emission cap and trade EIP.

7. Other Cap & Trade Provisions—Shifting Demand

Shifting of activity levels is a potentially serious problem for all multi-source cap-and-trade EIPs. A source in a cap could decide to shift production to a source outside the cap within the same non-attainment area. Shifting demand from sources within the cap to sources outside the cap is unlikely to occur due to the fact that the regulated industries (refineries, petrochemical, chemical, etc.) are made up of relatively large sources. In other words, all significant sources that could do the work performed by capped sources are also within the cap. The under 10 ton sources just are not capable of assuming any significant portion of the activity. If emissions at a non-capped source increase to over ten tons per year, it will become regulated under the cap. It was concluded that significant shifting of demand is unlikely to occur, due to the nature of the EIP. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for shifting demand for a multi-source emission cap and trade EIP.

8. Other Cap & Trade Provisions—True-up Period

Within the context of a multi-source emission cap-and-trade EIP a source may be allowed to obtain emission allocations after the end of the compliance period. The time between the end of the compliance period and when the source would demonstrate compliance is called the true-up period.

The length of a true-up period should be based on the length of the compliance period. In general, for a compliance periods of several months up to a year the true-up period should not be more than 60 days. For shorter compliance periods the true-up period should be shorter than 60 days. The MECT EIP at section 101.352(b) and at section 101.354(d) requires each site no later than March 1 of each year to hold a quantity of allowances in its compliance account that equals or exceeds the total emissions of NO_X emitted during the control period just ended. This requirement will begin March 1, 2003. This ''true up'' period is 60 days. EPA concluded that the TNRCC MECT EIP SIP submittal meets the Clean Air Act requirements and EPA EIP guidance expectations for a true-up period for a multi-source emission cap and trade EIP.

D. Conclusion

EPA reviewed the TNRCC MECT SIP submittal with respect to the expectations of the EPA EIP Guidance document and the requirements of the Clean Air Act. Overall EPA has concluded, after review and analysis, that the TNRCC MECT EIP regulation can provide a positive contribution toward the attainment of the one-hour ozone standard in the HGA area. EPA proposes to conclude that the program will satisfy all requirements of the Clean Air Act, if certain modifications and/or demonstrations described above are made.

II. Background

A. Date of State's SIP Submission

What Was the Date of the State's SIP Submission?

EPA received the proposed MECT SIP revision submitted by the TNRCC on December 22, 2000. The MECT SIP revision consisted of new sections to 30 TAC Chapter 101, Subchapter H, Division 3 which had been promulgated by TNRCC in December 2000. The MECT regulation is found at new sections 101.350 through 101.363. The Governor submitted revisions to the MECT submittal by letter dated June 15, 2001 and requested parallel processing of the revisions.

Was the TNRCC MECT Rule Subject to Public Notice?

The TNRCC held public hearings on the proposed MECT rules at the following locations: September 18, 2000, in Conroe and Lake Jackson; September 19, 2000 in Houston (2 hearings); September 20, 2000, in Katy and Pasadena; September 21, 2000, in Beaumont, Amarillo, and Texas City; September 22, 2000, in Dayton, El Paso, and Arlington; and September 25, 2000, in Austin and Corpus Christi. The comment period closed at 5 p.m. on September 25, 2000. Fifteen individuals opposed the cap and trade concept. Eight individuals expressed general support for the cap and trade concept. The public input was incorporated into the final TNRCC regulation.

What Are the Sections of the MECT Rule?

New section 101.350 contains definitions of terms used in the rule. Other sections are: section 101.351 Applicability, section 101.352 General Provisions, section 101.353 Allowances, section 101.354, Allowance Deductions, section 101.356 Allowance Banking and Trading, section 101.358 Emission Monitoring and Compliance Demonstration, section 101.359 Reporting and section 101.360 Level of Activity Certification. The revised MECT rule contains section 101.363, Program Audits and Reports.

B. General Criteria for an EIP

What Are the General Criteria for an EIP?

The document, Improving Air Quality with Economic Incentive Programs, (EPA–452/R–01–001) January 2001 is the EPA guideline for discretionary EIP submittals for SIP credit. As previously stated, the guidance document does not represent the EPA's final action for any discretionary EIP. Final action occurs when the EPA has approved or disapproved the discretionary EIP submitted as a SIP revision.

What Is the Applicability of Previous EPA EIP Regulations and Guidance?

The EPA EIP Guidance will take precedence over the discretionary EIP guidance provided in prior documents such as the 1994 EIP (published at 59 FR 16690) and the guidance in the emission trading policy statement (ETPS) (published on December 4, 1986 at 51 FR 43813). In addition, the guidance represents the EPA's final action on the Open-Market Trading Rule (OMTR) (proposed in August 3, 1995 at 60 FR 39668, and on August 25, 1995 at 60 FR 44290). While the proposed OMTR rule was never made final, the EPA EIP Guidance addresses the public comments received for that proposal, and provides guidance on other types of EIPs as well. These previously published documents provide supplementary information and useful background for designing an EIP. The requirements for mandatory EIPs remain in the Code of Federal Regulations (CFR), title 40, part 51, subpart U (59 FR 16690).

How Does the EPA EIP Guidance Affect the EPA's 1994 EIP Rule?

The EPA's 1994 EIP rule established requirements for mandatory EIPs, and guidance for discretionary EIPs. The rule still remains in effect for mandatory EIPs. The new EPA EIP document updates the guidance the EPA's 1994 EIP rule provides for developing discretionary EIPs. The EPA removed § 51.490(b) of the EPA's 1994 EIP rule when the final version of the EIP guidance was published.

Why Was the EPA EIP Guidance Developed?

The EPA intended for the EPA EIP to be the primary guidance for use in EIP development. The EPA intended for the EIP guidance to achieve the following:

- Update the existing guidance using a new plain language format.
- Tie together, for reference purposes, all of the existing related guidance in one document.
- Provide additional information on issues not discussed in previously existing guidance.

The EPA EIP guidance document provides strategic advice on choosing a program and determining which sources to include in the program. It provides information on using emission reductions attributable to a discretionary EIP to meet the air quality-related programs such as SIP or SIP-related requirements. It also discusses the important tasks in program implementation such as tracking and evaluation.

What Are the Goals of the EPA EIP Guidance?

The goals of the EPA EIP guidance are as follows:

- Define economic incentive programs.
- Select the best type of EIP for a given situation.
- Provide help in understanding the process for getting an EIP rule approved as part of the SIP.
- Provide the information needed to implement an approved EIP.
- Provide information regarding evaluation and updating an approved EIP.
- Describe other guidance that might applicable.

Is the EPA EIP Guidance Information on the Program-Level or the Source-Level?

Both, the guidance provides information at two levels, a program-level and a source-level. Program-level

guidance applies to the EIP as a whole. States are primarily responsible for implementing these provisions. Source-level guidance applies to specific sources participating in the EIP. While the State is responsible for establishing the appropriate requirements for sources in the rule, the sources themselves are responsible for implementing these other provisions. Program-level and source-level guidance will apply to the majority of EIPs, but there are some exceptions where source-level guidance is not applicable. The EPA intended the guidance to be a ''living document,'' and plans to update the guidance periodically as the EPA establishes new policies and standards.

How Will EPA Act on an EIP SIP Submittal?

Once an EIP SIP revision is submitted, EPA will take action through notice-and-comment rule making to determine if the statutory requirements have been met. Only action taken after the conclusion of that rulemaking would constitute final Agency action. The EPA would take steps to expedite its proposed approval in the case of SIP revisions containing programs that contain the elements of the EPA EIP guidance.

If a program that does not contain the elements of the EPA EIP guidance for that type of program is submitted, EPA would still seek to determine whether the applicable CAA requirements were met, and, if so, EPA would approve the submission. The EPA would make the determination through notice-and-comment rule making.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Nonattainment, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 16, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 01–18318 Filed 7–20–01; 8:45 am]

BILLING CODE 6560–15–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 573

[Docket No. NHTSA–2001–9599]

RIN 2127–AI30

Motor Vehicle Safety; Limitations on Sale and Lease of Noncompliant and Defective Motor Vehicles and Items of Motor Vehicle Equipment

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: NHTSA proposes to add regulations limiting the sale or lease of noncompliant and defective motor vehicles and items of motor vehicle equipment. The Intermodal Surface Transportation Efficiency Act (ISTEA) and the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act amended federal motor vehicle safety laws by limiting the sale or lease of defective and noncompliant vehicles and equipment. The proposed rules would codify the limitations set forth in ISTEA and the TREAD Act and reduce questions relating to the meaning of those limitations.

DATES: *Comment Closing:* Comments must be received by September 21, 2001. The effective date of a final rule based on this proposal would be 30 days after publication of the final rule.

ADDRESSES: You should mention the docket number of this document in your comments, and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, D.C. 20590. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at

http://dms.dot.gov. Click on ''Help and Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

You may call Docket Management at 202–366–9324. You may visit the Docket from 9:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Lloyd S. Guerci, Office of Chief Counsel, NCC–10, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone 202–366–5263.

SUPPLEMENTARY INFORMATION:

Background

Since the enactment of the National Traffic and Motor Vehicle Safety Act in 1966, now codified as 49 U.S.C. Chapter 301 (Safety Act), Federal law has prohibited the sale of new motor vehicles and motor vehicle equipment that fail to comply with an applicable Federal motor vehicle safety standard (FMVSS). See section 108(a) of Pub. L. 89–563, 80 Stat. 722, codified as 49 U.S.C. 30112(a). However, until 1991, the Safety Act did not contain specific provisions limiting the sale or lease of defective vehicles and equipment. On December 18, 1991, the Intermodal Surface Transportation Efficiency Act (''ISTEA''), Pub. L. 102–240, 105 Stat. 2083, was enacted. Section 2504 of ISTEA amended Section 154 of the Safety Act, by adding a new subsection, (d), which is codified at 49 U.S.C. 30120(i).

Section 30120(i) states:

> [i]f notification is required by an order under section 30118(b) of this title or is required under section 30118(c) of this title and the manufacturer has provided to a dealer (including retailers of motor vehicle equipment) notification about a new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification that contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter, the dealer may sell or lease the motor vehicle or item of replacement equipment only if—(A) the defect or noncompliance is remedied as required by this section before delivery under the sale or lease; or (B) when the notification is required by an order under section 30118(b) of this title, enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) of this title applies.[1]

Section 30120(i) does not prohibit a dealer from offering the vehicle or equipment for sale or lease. Thus, the dealer can offer the vehicle in the showroom but cannot sell or lease it. In the 1990s, NHTSA did not engage in rulemaking with regard to this statutory prohibition.

On November 1, 2000, the TREAD Act, Pub. L. 106–414, was enacted. The statute was, in part, a response to congressional concerns regarding the manner in which various entities dealt with defective motor vehicles and motor vehicle equipment, including tires. During congressional consideration of the bill that eventually was adopted as the TREAD Act, there had been media reports that some persons were selling defective Firestone ATX or Wilderness tires that had been returned to dealers for replacement tires under an ongoing safety recall. The Safety Act did not expressly prohibit such actions, since section 30120(i) does not apply to the sale or lease of used vehicles or equipment. The TREAD Act added various provisions related to safety-related defects and noncompliances with applicable Federal motor vehicle safety standards to the Safety Act.

Section 8 of the TREAD Act added a new subsection (j), ''Prohibition on sales of replaced equipment,'' to 49 U.S.C. 30120, effective November 1, 2000. This subsection provides that no person may sell or lease any motor vehicle equipment (including a tire), for installation on a motor vehicle, that is the subject of a decision under 49 U.S.C. 30118(b) or a notice required under 49 U.S.C. 30118(c) in a condition that it may be reasonably used for its original purpose. Under section 30120(j)(1) and (2), the foregoing prohibition does not apply if the defect or noncompliance is remedied as required by 49 U.S.C. 30120, including implementing regulations, before delivery under the sale or lease; or notification of the defect or noncompliance is required under section 30118(b) but enforcement of the order is set aside in a civil action to which 49 U.S.C. 30121(d) applies.

While sections 30120(i) and (j) do not require rulemaking for their effectuation, NHTSA believes that there will be two benefits to rulemaking. First, rules will largely reduce, if not eliminate, questions relating to the meaning of the prohibitions. Second, there are benefits to codifying the prohibitions, which complement other rules, in the Code of the Federal Regulations.

In view of the TREAD Act, we are proposing to reorganize and amend 49 CFR Part 573 to include the limitations established by sections 30120 (i) and (j).

Section 30120(i): Limitation on Sale or Lease

Who Would Be Covered?

Section 30120(i) applies to dealers, including retailers of motor vehicle equipment. Dealer is defined in 49 U.S.C. 30102(a)(1) as ''a person selling and distributing new motor vehicles or motor vehicle equipment primarily to purchasers that in good faith purchase the vehicles or equipment other than for resale.''

What Motor Vehicles and Equipment Would Be Covered?

The section covers the sale and lease of new motor vehicles and motor vehicle equipment. It provides that a dealer may not sell or lease noncompliant or defective new motor vehicles or new items of replacement equipment. Section 30102(a)(6) defines the term, ''motor vehicle,'' as ''a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads and highways, but does not include a vehicle operated only on a rail line.'' Section 30102(b)(1)(D) defines replacement equipment as ''motor vehicle equipment (including a tire) that is not original equipment.'' By its terms, section 30120(i) applies to new motor vehicles and new items of replacement equipment. Thus, the proposed requirements relating to section 30120(i) would not apply to used motor vehicles and used replacement equipment.

Under What Circumstances Would the Limitation on the Sale or Lease of Motor Vehicles or Equipment Apply?

In order for the limitation on the sale or lease of motor vehicles and equipment under section 30120(i) to apply, several things must occur. First, notification of a defect or noncompliance must have been required by an order under section 30118(b) or under section 30118(c). Second, a dealer must have been notified of the defect or noncompliance under section 30120(d)(4). Finally, the dealer must be in possession of the vehicle or equipment. This could include, for example, items in inventory and subsequently received items covered by the notification.

Section 30120(i) also provides for two situations where the dealer may sell or

[1] Section 30118(c) requires manufacturers of motor vehicles or equipment to provide notification of safety-related defects or noncompliances with motor vehicle safety standards to NHTSA, as well as to the owners, purchasers and dealers of the vehicle or equipment.

Section 30118(b) authorizes the Secretary to make a final decision that motor vehicles or equipment contain a safety-related defect and/or do not comply with an applicable motor vehicle safety standard and, in that event, order the manufacturer to give notification of the defect or noncompliance to owners, purchasers, and dealers of the vehicles or equipment, and order the manufacturer to remedy the defect or noncompliance without charge.

lease motor vehicles or equipment that have been determined to be defective or noncompliant. First, the dealer may sell or lease the motor vehicle or item of replacement equipment if the defect or noncompliance is remedied as required by section 30120 before delivery under the sale or lease. Second, the sale or lease is permissible when notification is required by an order under section 30118(b) but enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) applies. Thus, if the order is set aside by a court, as stated above, the prohibition would not apply and the sale would be permissible. Finally, section 30120(i) states that it does not prohibit a dealer from simply offering the vehicle or equipment for sale or lease.

Section 30120(j): Limitation on Sale or Lease of Equipment [2]

Who Would Be Covered?

Section 30120(j) provides that ''*no person* may sell or lease any motor vehicle equipment (including a tire) for installation on a motor vehicle, that is the subject of a decision under section 30118(b) or a notice required under section 30118(c) in a condition that it may be reasonably used for its original purpose.'' (Emphasis added). In this section, Congress chose to use the general terms ''no person'' as opposed to the more restricted categories of ''manufacturer'' and ''dealer'' used elsewhere within section 30120 and Chapter 301. In view of the breadth of the term ''no person,'' the section is not limited to persons in particular classes or categories. Thus, the proposed rule's prohibition would apply to the actions of all persons, including individuals and entities such as corporations.

What Activities Would Be Covered?

The activities that are covered by section 30120(j) and the proposed rule are selling or leasing, ''*for installation on a motor vehicle,*'' any motor vehicle equipment (including a tire), that is the subject of a decision under section 30118(b) or a notice required under section 30118(c) (emphasis added). Accordingly, the rule would apply to businesses and individuals that sell used automobile parts, including tires. While this proposed rule would prohibit the sale or lease of equipment including tires for *installation* on a motor vehicle, it would not prohibit a person from selling or leasing a new or used vehicle with defective or noncompliant equipment or tires.[3] For example, a motor vehicle dealer is not subject to the prohibition of this proposed rule except with respect to equipment and tires that the dealer sells or leases separately from a vehicle. Similarly, motor vehicle lessors and motor vehicle rental companies would not be subject to the rule because these groups are selling and leasing vehicles, not equipment or tires for use on motor vehicles. Thus, the rule would generally apply to equipment and tire retailers, including individuals.

What Motor Vehicle Equipment Would Be Covered?

Section 30120(j) prohibits the selling or leasing of any motor vehicle equipment (including a tire), for installation on a motor vehicle, that is the subject of a decision under section 30118(b) or a notice required under section 30118(c). Section 30102(a)(7) defines ''motor vehicle equipment'' as:

> (A) any system, part, or component of a motor vehicle as originally manufactured; (B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or (C) any device or an article or apparel (except medicine or eyeglasses prescribed by a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death.

In section 30120(j), Congress chose to restrict the sale of equipment, without limitation. Thus, the prohibition includes all equipment, including used equipment as well as new equipment.[4]

Section 30120(j) prohibits the sale of equipment *in a condition that it may be reasonably used for its original purpose* (emphasis added). Accordingly, the rule would only prohibit the sale of equipment and tires that are still in a condition in which they can be used for the purpose for which they were originally intended. Thus, the rule would not apply to equipment and tires that have been altered in a way that they can no longer be reasonably used for their original purpose. For example, a tire that is drilled with holes for eye-bolts may be sold for use as part of a playground swing.

Section 30120(j)(1) provides that the prohibition on the sale of equipment applies unless ''the defect or noncompliance is remedied as required by this section before delivery under the sale or lease.'' Therefore, the equipment could be sold if it has been repaired so that it is no longer defective or noncompliant.

The sale of the equipment would also be allowed if ''notification of the defect or noncompliance is required under section 30118(b) but enforcement of the order is set aside in a civil action to which section 30121(d) applies.'' Under 30118(b), if it is determined that a motor vehicle or replacement equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard, the manufacturer is ordered to give notification of the defect or noncompliance under section 30119 to owners, purchasers and dealers of the vehicle or equipment.[5] However, if this order is set aside by a court, the prohibition in section 30120(j) would not apply, and, therefore, the sale would be permissible during the period when the order was not effective.

Regulatory Analyses and Notices

1. E.O. 12866 and DOT Regulatory Policies and Procedures

This notice has not been reviewed under E.O. 12866, ''Regulatory Planning and Review.'' After considering the impacts of this proposed rulemaking action, we have determined that the action is not ''significant'' within the meaning of the Department of the Transportation regulatory policies and procedures. There are statutory provisions in place and these proposed rules would not increase the burdens on those covered by the prohibitions. The impact of this proposed rule would be so minimal as not to warrant preparation of a full regulatory evaluation because these provisions only involve prohibitions on sales of defective and noncompliant vehicles and equipment, which are rare even absent the rule. In light of the statutory provisions, this action does not involve a substantial public interest or controversy. The rulemaking action would not have a substantial impact on any transportation safety program or on state and local governments.

2. Regulatory Flexibility Act

We have also considered the effects of this action in relation to the Regulatory

[2] We recognize that the title of section 30120(j) refers to a ''prohibition'' on the sale of equipment. However, we have used the word ''limitation'' consistently throughout this document.

[3] As discussed above, the sale or lease of a new vehicle with defective or noncompliant equipment or tires is already prohibited by 49 U.S.C. 30120(i).

[4] We recognize that the title of section 30120(j) refers to ''replaced equipment.'' The U.S. Supreme Court has long held that a subtitle of an act cannot overcome the plain and unambiguous meaning of the words used in the text of the statute. *See Knowlton* v. *Moore,* 178 U.S. 41 (1900). Thus, since the language of section 30120(j) is not limited, its reach extends to all equipment that has been found to be defective or noncompliant.

[5] Section 30119 sets out the notification procedures the manufacturer must follow.

Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that this proposed rule would have no significant economic impact on a substantial number of small entities. The impact of this proposed rule would be expected to be so minimal as not to warrant preparation of a full regulatory flexibility analysis because this provision only involves the prohibition on sales or leases of vehicles or equipment that have been determined to be defective or noncompliant, and the incidence of covered sales and leases would have been small even absent this rule. Governmental jurisdictions will not be affected.

3. E.O. 13132 (Federalism)

E.O. 13132 (64 FR 43255, August 10, 1999), revokes and replaces E.O.s 12612 ''Federalism'' and 12875 ''Enhancing the Intergovernmental partnership.'' E.O. 13132 requires NHTSA 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.'' E.O. 13132 defines the term ''policies that have federalism implications'' to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under E.O. 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

The proposed rule 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 as specified in E.O. 13132. Thus, the requirements of section 6 of the E.O. do not apply to this proposed rule.

4. National Environmental Policy Act

We have analyzed this proposed action for purposes of the National Environmental Policy Act. The action would not have a significant effect upon the environment.

5. Civil Justice Reform

This proposed rule does not have a retroactive or preemptive effect. Judicial review of a rule based on this proposal may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

6. Paperwork Reduction Act

NHTSA has determined that this notice will not impose a new collection of information burden within the meaning of the Paperwork Reduction Act of 1995 (PRA).

7. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector, of more that $100 million annually. Because a final rule based on this proposal would not have an effect of $100 million, no Unfunded Mandates assessment has been prepared.

8. Plain Language

E.O. 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language include consideration of the following questions:

—Have we organized the material to suit the public's needs?

—Are the requirement in the proposed rule clearly stated?

—Does the proposed rule contain technical language or jargon that is unclear?

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

—Would more (but shorter) sections be better?

—Could we improve clarity by adding tables, lists, or diagrams?

—What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this document.

Request for Comments

How Can I Influence NHTSA's Thinking on This Rule?

In developing this notice of proposed rulemaking, we tried to address the anticipated concerns of all our stakeholders. Your comments will help us improve this rule. We invite you to provide different views, new approaches we have not considered, new data, how this rule may affect you, or other relevant information. Your comments will be most effective if you follow the suggestions below:

Explain your views and reasoning as clearly as possible.

Provide solid information to support your views.

If you estimate potential numbers or reports or costs, explain how you arrived at the estimate.

Tell us which parts of the rule you support, as well as those with which you disagree.

Provide specific examples to illustrate your concerns.

Offer specific alternatives.

Refer your comments to specific sections of the rule, such as the units or page numbers of the preamble, or the regulatory sections.

Be sure to include the name, date, and docket number with your comments.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachment, to Docket Management at the beginning of this document, under **ADDRESSES.**

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given at the beginning of this document under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at

the address given at the beginning of this document under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation, 49 CFR part 512.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted By Other People?

You may read the comments received by Docket management at the address and times given near the beginning of this document under **ADDRESSES.**

You may also see the comments on the internet. To read the comments on the internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation. (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the heading of this document. Example: if the docket number were NHTSA–2000–1234, ''you would type A1234.''

(4) After typing the docket number, click on ''search.''

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see.

You may download the comments. Although the comments are imaged documents, instead of the word processing documents, the ''pdf'' versions of the documents are word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

List of Subjects in 49 CFR Part 573

Defects, Motor vehicle safety, Noncompliance, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Part 573 as set forth below.

PART 573—REQUIREMENTS AND PROHIBITIONS APPLICABLE TO SAFETY DEFECT AND NONCOMPLIANCE RECALLS

1. The authority citation for Part 573 continues to read as follows:

Authority: 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegation of authority at 49 CFR 1.50.

2. Revise the heading of part 573 to read as set forth above.

3. In § 573.3, revise paragraph (a) and add paragraphs (h) and (i) to read as follows:

§ 573.3 Application.

(a) Except as provided in §§ 573.3(g), 573.3(h) and 573.3(i), this part applies to manufacturers of complete motor vehicles, incomplete motor vehicles, and motor vehicle original and replacement equipment, with respect to all vehicles and equipment that have been transported beyond the direct control of the manufacturer.

* * * * *

(h) The provisions of § 573.11 apply to dealers.

(i) The provisions of § 573.12 apply to all persons.

* * * * *

4. Add § 573.11 to read as follows:

§ 573.11 Limitation on sale or lease of new motor vehicles and new items of replacement equipment.

(a) If notification is required by an order under 49 U.S.C. 30118(b) or is required under 49 U.S.C. 30118(c) and the manufacturer has provided to a dealer (including retailers of motor vehicle equipment) notification about a new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification that contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard issued under 49 CFR part 571, the dealer may sell or lease the motor vehicle or item of replacement equipment only if:

(1) The defect or noncompliance is remedied as required by 49 U.S.C. 30120 before delivery under the sale or lease; or

(2) When the notification is required by an order under 49 U.S.C. 30118(b), enforcement of the order is restrained or the order is set aside in a civil action to which 49 U.S.C. 30121(d) applies.

(b) Paragraph (a) of this section does not prohibit a dealer from offering the vehicle or equipment for sale or lease, provided that the dealer does not sell or lease it.

5. Add § 573.12 to read as follows:

§ 573.12 Limitation on sale or lease of new and used defective and noncompliant motor vehicle equipment.

(a) Subject to § 573.12(b), no person may sell or lease any new or used item of motor vehicle equipment (including a tire) as defined by 49 U.S.C. 30102(a)(7), for installation on a motor vehicle, that is the subject of a decision under 49 U.S.C. 30118(b) or a notice required under 49 U.S.C. 30118(c) in a condition that it may be reasonably used for its original purpose.

(b) Paragraph (a) of this section is not applicable where:

(1) The defect or noncompliance is remedied as required under 49 U.S.C. 30120 before delivery under the sale or lease; or

(2) Notification of the defect or noncompliance is required by an order under 49 U.S.C. 30118(b), but enforcement of the order is restrained or the order is set aside in a civil action to which 49 U.S.C. 30121(d) applies.

Issued on: July 17, 2001.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–18249 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 66, No. 141

Monday, July 23, 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.

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews and requests for revocation in part.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with June anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke two antidumping duty orders in part.

EFFECTIVE DATE: July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Holly Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202)482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b) (2000), for administrative reviews of various antidumping and countervailing duty orders and findings with June anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders on Tapered Roller Bearings and Parts Thereof from the People's Republic of China and Polyethylene Terephthalate Film, Sheet and Strip (Pet Film) from the Republic of Korea.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than June 30, 2002.

	Period to be reviewed
Antidumping Duty Proceedings	
JAPAN:	
Hot-Rolled Flat-Rolled Carbon-Quality Steel Products	
A–588–846	06/01/00–05/31/01
Kawasaki Steel Corporation	
Structural Steel Beams	
A–588–852	02/11/00–05/31/01
Kawasaki Steel Corporation	
Nippon Steel Corporation	
NKK Corporation	
Sumitomo Metal Industries, Ltd.	
Tokyo Steel Manufacturing Co., Ltd.	
Topy Industries, Ltd.	
Republic of Korea:	
Polyethylene Terephthalate Film, Sheet and Strip (Pet Film)	
A–580–807	06/01/00–05/31/01
H.S. Industries Co., Ltd.	
Hyosung Corporation	
Taiwan:	
Certain Stainless Steel Butt-Weld Pipe Fittings	
A–583–816	06/01/00–05/31/01
Liang Feng Stainless Steel Fitting Co., Ltd.	
Ta Chen Stainless Steel Pipe, Ltd.	
Tru-Flow Industrial Co., Ltd.	
The People's Republic of China:	
Certain Non-Frozen Apple Juice Concentrate [1]	
A–570–855	11/23/99–05/31/01
Shaanxi Haisheng Fresh Fruit Juice Co., Ltd.	
Sanmenxia Lakeside Fruit Juice Co., Ltd.	
Shandong ZhongLu Juice Group Co.,/Rushan Shangjin-Zhonglu Foodstuff Co., Ltd./Shandong Luling Fruit Juice Co., Ltd./Rushan Dongjin Foodstuffs	
Yantai Oriental Juice Co., Ltd.	
Qingdao Nannan Foods Co., Ltd.	
Xian Asia Qin Fruit Co., Ltd.	
Xian Yang Fuan Juice Co., Ltd.	
Changsha Industrial Products & Minerals Import & Export Co.	
Shandong Foodstuffs Import & Export Corporation	
Shaanxi Hengxing Fruit Juice Co., Ltd.	

	Period to be reviewed
Shaanxi Machinery and Equipment Import and Export Corporation	
Shaanxi Gold Peter Natural Drink Co., Ltd.	
Synthetic Indigo [2]	
A–570–856	09/15/99–05/31/01
China Jiangsu International Economic Technical Cooperation Corp.	
Wonderful Chemical Industrial Ltd./Jiangsu Taifeng Chemical Industry	
Tapered Roller Bearings [3]	
A–570–601	06/01/00–05/31/01
Zhejiang Machinery Import & Export Copr.	
China National Machinery Import & Export Corp.	
Luoyang Bearing Corporation	
Tianshui Hailin Import & Export Corp.	
Wanxiang Group Corporation	
Weihai Machinery Holding (Group) Co., Ltd.	
Shanghai China Bearing Factory	
Shanghai Zhenhua Bearing General Company	
SKF Automobile Bearing Co., Ltd. (SKF—Zhenhua or SKF—Zhenghua)	
Beijing SKF—Nankou Railway Bearings Corp., Ltd.	
Xi'an Haihong Bearings Factory	
Dalian Metallurgical Bearings Group Corp.	
Hebei Rolling Bearing China	
Hebei Rolling Mill Bearing Group Company	
Hunan Hengyang Bearing Factory	
China Machine-Building International Corp.	
City Bearings Industrial Co., Ltd.	
Fujian Yong'an Bearing Co., Ltd.	
Ningbo Huanchi Group Corporation	
Shandong Lunan Bearing Co., Ltd.	
Xinjiang Bearing General Company	
Nanjing Bearing Factory	
Renben Group (Hangzhou Bearing Factory)	
Qingdao No. 2 Bearing Factory	
Shandong Liangshan Jingjiu Bearing Co., Ltd.	
Hubei Xishui Bearing Factory	
Zhangjiagang AAA Bearing Co., Ltd.	
Baishan Bearing Co., Ltd.	
Dandong Bearing Factory	
Xiantao Special Bearing Co., Ltd.	
Jamusi Bearing Factory	
Shandong Wendeng Bearing Factory	
Jingjiang Bearing Factory	
Yunnan Honghe Bearing Factory	
Dalong Bearing Factory	
Beijing Renmin Bearing Factory	
Xiangyang No. 2 Bearing Factory	
Sichuang Dongfang Bearing Factory	
Shanxi Baoji Bearing Factory	
Shanghai Lianhe (United) Rolling Bearing Co., Ltd.	
FAG Automotive Bearing (Shanghai) Co., Ltd.	
Guyang Bearing Factory	
Harbin Bearing Group Corporation	
Xiangyang Automobile Bearing Co., Ltd.	
Xiangyang Bearings	
Chengdu Bearing Factory	
Changzhi Bearing Factory	
Wuxi No. 3 Bearing Factory	
Chongqing Bearing Industrial Company	
Changge Bearing Factory	
Guizhou Hongshan Bearing Factory I/E Corp.	
Hunan Zhuzhou Bearing General Factory	
Nanan General Bearing Works	
Ningbo Cixi Nailin Bearings Co., Ltd.	
Ningxia Xibei Bearing Factory	
Shenyang General Bearings	
Taizhou Guotai Bearing Co., Ltd.	
Zhejiang Lishui Waite Bearing Industrial Co., Ltd.	
Shijiazhuang Imported Bearings	
China Metals, Minerals, Machinery & Chemicals Import Export Corporation	
Chin Jun Industrial, Ltd.	
China National Machinery Import/Export Corporation, Yantai	
Shanghai Machinery Import/Export Corp.	
Hubei Provincial Machinery Import & Export Corp.	
Tianshui Hailin Import & Export Corporation	

	Period to be reviewed
Heilongjang Machinery Import/Export	
Shanghai Pacific Machinery Import & Export Corp.	
Direct Source International	
Goldhill International Trading & Services Co.	
Bilop International	
China Aeolus Automotive Industries Import Export Corporation	
Flying Dragon Machinery	
Harbin Bearing Factory	
Xiangyang Bearing Factory	
Suzhou Bearing Factory	
Chengdu General Bearing Factory	
Hongshan Bearing Factory	
Guiyang Bearing Factory	
Haihong Bearing Factory	
Lanzhou Bearing Factory	
Beijing People Bearing Factory	
Handan Bearing Factory	
Jining Bearing Factory	
Shenyang Bearing Factory	
Chaoyang Bearing Factory	
Gongzhuling Bearing Factory	
Jiamusi Bearing Factory	
Zhongguo Bearing Factory	
Xiamen Bearing Factory	
Shanghai Hongxing Bearing Factory	
Wuxi Bearing Factory	
Hangzhou Bearing Factory	
Hefei Bearing Factory	
Huainan Bearing Factory	
Longxi Bearing Factory	
Jiangxi Bearing Factory	
Liangshan Bearing Factory	
Jinan Bearing Factory	
Huangshi Bearing Factory	
Changsha Bearing Factory	
Guangzhou Bearing Factory	
Guangxi Bearing Factory Yishan County	
Chongqing General Bearing Factory	
Yunnan Bearing Factory	
Datong Bearing Factory	
Hebei Rolling Mill Bearing Factory	
Hebei Bearing Factory	
Chengde Bearing Factory	
The Third Bearing Factory of Shanxi	
Anshan Bearing Factory	
Yingkou Bearing Factory	
Xingcheng Bearing Factory	
Hunjiang Bearing Factory	
Daan Bearing Factory	
Shanghai Hunan Bearing Factory	
Shanghai Pujiang Bearing Factory	
Shanghai Changning Bearing Factory	
Xuzhou Revolving Support Factory	
Taian Bearing Factory	
Changshu Bearing Factory	
Northwest Bearing Plant	
Huangshi Bearing Factory	
Guangxi Bearing Factory Yizhou	
Chongqing Bearing Factory	
Baoji Bearing Factory	
Xiangtan Bearing Factory	
Shaoguan Bearing Factory	
Xinjiang Bearing Factory	
The Second Bearing Factory of Xuzhou	
Houzhou Bearing Factory	
Yuxi Bearing Factory	
Chifeng Bearing Factory	
Huangyian Bearing Factory	
Xingchang Bearing Factory	
Liuan Bearing Factory	
Zibo Bearing Factory	
Jining Bearing Factory (Shandong)	
Kaifeng Bearing Factory	

	Period to be reviewed
Shashi Bearing Factory	
Wuhan Bearing Factory	
Changde Bearing Factory	
Hengyang Bearing Factory	
Hubei Bearing Factory '	
Yueyang Bearing Factory	
Zhuzhou Bearing Factory	
Fanchang Bearing Factory	
Dongguan Bearing Factory	
Sichuan Small Size Bearing Factory	
Leshan Bearing Factory	
Honghe Bearing Factory	
Shaanxi Bearing Factory	
Shijiazhuang Bearing Factory	
Shanxi Bearing Factory	
Xiangtan Bearing Factory	
Shaoguan Bearing Factory	
Beijing-Pinggu Bearing Factory	
Huhhot Bearing Factory	
Nantong Bearing Factory	
Qingjiang Bearing Factory	
Wuhu Bearing Factory	
Yiyang Bearing Factory	
Zhongshan Bearing Factory	
Handan Bearing Factory	
Xingcheng Bearing Factory	
China National Machinery/Equipment Corp., Harbin Branch	
Far East Enterprising Co. (H.K.) Ltd.	
China Ningbo Int'l Economic & Technical Cooperation Corp.	
China Ningbo Cixi Import/Export Corp.	
Ningbo Xing Li Bearing Co., Ltd.	
Ningbo Yinxian Import/Export Corp. China	
Ningbo Yinxian Import/Export Corp. Hong Kong	
Santoh HK Ltd.	
Huuzhou Import and Export Corp.	
Fortune Network Ltd.	
China Jiangsu Technical Import/Export Corp.	
Zhejang Expanded Bearing Co. China	
Zhejang Expanded Bearing Co. Hong Kong	
Zhejang Yongtong Company China	
Zhejang Yongtong Company Hong Kong	
China National Bearing Joint Export Corp.	
Sui Jun International Ltd.	
Aempac System, Inc.	
Xinguang Ind. Prod. Import/Export Corp. of Sichuan Province	
Long Trend Ltd.	
Wing Tung Wei (China) Ltd.	
China Merchants S & E Co., Ltd.	
Zhejiang Huangli Bearing Co., Ltd.	
China Ningbo International Economic & Technical Cooperation Corporation	
Ningbo Free Trade Zone	
China National Machinery Imp. & Exp. Corp., Chongquing Branch	
China-East Resources International	
Distribution Services Ltd.	
Inteks Inc. N.V.O.C.C.	
China Tiancheng Jiangsu Corp. Nanjing	
China Tiancheng Jiangsu Corp. Shanghai	
Wholelucks Industrial Lim.	
Peko Incorporation	
O/B Manfred Development Co., (HK) Ltd.	
Asia Stone Company Limited	
Asia (USA) Inc. (Shanghai)	
Xiamen Special Economic Zone Trade Co. Ltd.	
Transunion International Company Hong Kong	
Distribution Services Ltd. Shanghai	
Phoenix Shanghai China	
Shanghai Dong Yu Materials Co., Ltd.	
Guandong Lingnan Industrial Products	
Guandong Lingnan Industrial Products Import & Export Corporation	
Dongguan Industry Development Corp.	
Hi Light Int'l, Inc.	
Ever Concord Ltd.	
Sino Eagle Co.	

	Period to be reviewed
Ever Concord Ltd. (Guangzhou)	
China Mudanjiang Heading factory	
Dalian Machine Tools Parts Factory	
Ningbo Tiansheng Bearing Corp.	
Shenzhen Rising Sun Bearing	
Goldline Ltd.	
Shenzhen Jinyuan Industrial	
Capital Distribution Services	
Versatile Int'l Corp.	
Panalpina China, Ltd.	
Wah Hing Trading Co.	
China North Industries	
Point Talent International Ltd.	
Votainer Far East BV	
Wuxi Viking General	
Shenzen South China International	
Oceanic Bridge International Inc.	
China Jiansu Technical Import & Export Corp.	
Ever Concord Ltd.	
OAG International, Inc.	
Zhejiang Xinchang Foreign Economic	
Heicone Jiang Machinery Import & Export	
Wenling Foreign Trading Corporation	
Shanghai Dongyu Materials Co.	
Ensign Freight (China) Ltd.	
Amec International Co., Inc.	
China Dong Feng Motor	
Rong Shang International Corp.	
STS Machinery, Inc.	
USA International Business	
China Xian Import & Export Corporation	
China Jiangsu Machinery Import and Export (Group) Corp.	
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
None.	

[1] If one of the above named companies does not qualify for a separate rate, all other exporters of non-frozen apple juice concentrate from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[2] If one of the above named companies does not qualify for a separate rate, all other exporters of synthetic indigo from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporter is a part.

[3] If one of the above named companies does not qualify for a separate rate, all other exporters of tapered roller bearings from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporter is a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: July 17, 2001.

Holly A. Kuga,

Senior Office Director, Group II, Office 4, AD/CVD Enforcement.

[FR Doc. 01–18342 Filed 7–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–867]

Automotive Replacement Glass Windshields From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of preliminary determination of antidumping duty investigation.

EFFECTIVE DATE: July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Rick Johnson at (202) 482–3818; Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Statutory Time Limits

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to issue the preliminary determination of an antidumping duty investigation within 140 days after the date of initiation. However, if the case is extraordinarily complicated and additional time is necessary to make the preliminary determination, and the parties concerned are cooperating in the investigation, section 733(c)(1)(B) of the Act allows the Department to extend the time limit for the preliminary determination until not later than 190 days after the date of initiation.

Background

On March 20, 2001, the Department initiated the above-referenced investigation. *See Notice of Initiation of Antidumping Duty Investigation: Automotive Replacement Glass Windshields from the People's Republic of China,* 66 FR 16651 (March 27, 2001). The preliminary determination is currently due no later than August 7, 2001.

Postponement of Preliminary Determination

The Department has now concluded, consistent with section 733(c)(1)(B) of the Act, that this investigation is extraordinarily complicated, and that additional time is necessary to issue the preliminary determination due to the complexity of certain issues raised in this case. Specifically, the Department is investigating a novel product with complex issues related to the scope of the investigation, as well as to the development and identification of appropriate criteria used to define individual models for margin comparison purposes. Moreover, because this case involves a non-market economy country, an extremely large number of surrogate values must be obtained and analyzed in order to construct normal values for the voluminous number of individual models reported by the mandatory respondents in this investigation.

Therefore, in light of the fact that the parties to this proceeding have been cooperating, pursuant to section 733(c)(1) of the Act, and that additional time is necessary to make this preliminary determination in accordance with section 733(c)(1)(B)(ii) of the Act, the Department is postponing the deadline for issuing this determination until August 31, 2001.

Dated: July 17, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–18340 Filed 7–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Stainless Steel Wire Rod From India: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for the preliminary results of antidumping duty administrative review.

EFFECTIVE DATE: July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Rick Johnson, AD/CVD Enforcement, Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–3207 or (202) 482–3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Departments's regulations are to the current regulations, codified at 19 CFR part 351 (2001).

Background

On December 27, 2000, the Department of Commerce (the Department) received a request from the Viraj Group, Limited, (''Viraj'') for an administrative review of the antidumping duty order on stainless steel wire rod from India. On January 31, 2001, the Department published a notice of initiation of this administrative review, covering the period of December 1, 1999 through November 30, 2000 (66 FR 8378). The preliminary results are currently due no later than September 2, 2001.

Extension of Time Limit for Preliminary Results

There are several complex issues in this case with respect to respondent's reported cost of manufacturing. Therefore, it is not practicable to complete this review within the initial time limits mandated by section 751(a)(3)(A) of the Act. Therefore, we are fully extending the due date for the preliminary results by 120 days until December 31, 2001. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: July 17, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary Enforcement, Group III.

[FR Doc. 01–18341 Filed 7–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Missions

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.

CRECEX Trade Mission to San Jose, Costa Rica
September 3–17, 2001
Recruitment closes on July 31, 2001
For further information contact: Mr. Dennis Millard, U.S. Department of Commerce, Telephone 501–324–5797; or e-Mail: Dennis.Millard@mail.doc.gov

Corporate Executive Office Mission at Expopharm '01
Munich, Germany
September 13–16, 2001
Recruitment closes on August 15, 2001
For further information contact: Ms. Sabine Winkels, U.S. Consulate, Dusseldorf, Germany, Telephone 011–49–211–737–767–40; or e-Mail: Sabine.Winkels@mail.doc.gov

or

Mr. David Fiscus, U.S. Department of Commerce, Telephone 202–482–1599; or e-Mail: David.Fiscus@mail.doc.gov

Corporate Executive Office Mission at the K'Show '01
Dusseldorf, Germany
October 25–November 1, 2001
Recruitment closes on August 30, 2001
For further information contact: Ms. Kirsten Hentschel, U.S. Consulate, Dusseldorf, Germany, Telephone 011–49–211–737–767–30; or e-Mail: Kirsten.Hentschel@mail.doc.gov

or

Mr. David Fiscus, U.S. Department of Commerce, Telephone 202–482–1599; or e-Mail: David.Fiscus@mail.doc.gov

Oil and Gas Equipment and Services Trade Mission to Kazakhstan, with optional stop in Azerbaijan Almaty, Astana, Atyrau and Baku
October 1–9, 2001
Recruitment Closes on August 31, 2001
For further information contact: Mr. Michael Beeman, U.S. Department of Commerce, Telephone 202–482–3492; or e-Mail: Michael_Beeman@ita.doc.gov

Internet and Telecommunications Trade Mission to Germany
Munich, Frankfurt and Berlin or Hamburg
November 4–9, 2001
Recruitment closes on September 7, 2001
For further information contact: Ms. Danielle_Kriz, U.S. Department of Commerce, Telephone 202–482–0568; or e-Mail: Danielle_Kriz@ita.doc.gov

Franchising Trade Mission to China, Hong Kong (SAR) and Taiwan
Beijing, Hong Kong, Shanghai and Taipei
November 4–9, 2001
Recruitment closes on September 30, 2001
For further information contact: Mr. Raj_Dwivedy, U.S. Department of Commerce, Telephone 202–482–4581; or e-Mail: Raj_Dwivedy@ita.doc.gov

Corporate Executive Office Mission at Medica
Dusseldorf, Germany
November 21–24, 2001
Recruitment closes on October 5, 2001
For further information contact: Ms. Sabine Winkels, U.S. Consulate, Dusseldorf, Germany. Telephone 011–49–211–737–767–40; or e-Mail: Sabine.Winkels@mail.doc.gov

or

Mr. David Fiscus, U.S. Department of Commerce, Telephone 202–482–1599; or e-Mail: David.Fiscus@mail.doc.gov

For further information contact Mr. Thomas Nisbet, U.S. Department of Commerce, Telephone 202–482–5657, or e-Mail Tom_Nisbet@ita.doc.gov

Dated: July 17, 2001.

Thomas H. Nisbet,

Director, Promotion Planning and Support Division, Office of Export Promotion Coordination.

[FR Doc. 01–18292 Filed 7–20–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071101A]

Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Retrofit of the Richmond-San Rafael Bridge, San Francisco Bay, CA

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

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the California Department of Transportation (CALTRANS) for a renewal of its Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to seismic retrofit construction of the Richmond-San Rafael Bridge (the Bridge), San Francisco Bay (the Bay), CA. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to renew a small take authorization to CALTRANS to incidentally take, by harassment, small numbers of Pacific harbor seals and possibly California sea lions for 1 year.

DATES: Comments and information must be received no later than August 22, 2001.

ADDRESSES: Comments on the application should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225. A copy of the application may be obtained by writing to this address or by telephoning one of the contacts listed here. Comments cannot be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, or Christina Fahy, Southwest Regional Office, NMFS, (562) 980–4023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101 (a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines ''harassment'' as:

> ...any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Subsection 101 (a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On June 8, 2001, NMFS received a letter from CALTRANS, requesting reauthorization of an IHA that was first issued to it on December 16, 1997 (62 FR 6704, December 23, 1997), and renewed on January 8, 2000 (65 FR 2375, January 14, 2000), with an effective date for the IHA beginning on

September 1, 2000, and expiring on August 31, 2001. The renewed authorization would be for the possible harassment of small numbers of Pacific harbor seals (*Phoca vitulina*) and possibly some California sea lions (*Zalophus californianus*), incidental to seismic retrofit construction of the Bridge.

The Bridge is being seismically retrofitted to withstand a future severe earthquake. Construction is scheduled to extend until the year 2005. A detailed description of the work planned is contained in the Final Natural Environmental Study/Biological Assessment for the Richmond-San Rafael Bridge Seismic Retrofit Project (CALTRANS, 1996). Among other things, seismic retrofit work will include excavation around pier bases, hydro-jet cleaning, installation of steel casings around the piers with a crane, installation of micro-piles, and installation of precast concrete jackets. Foundation construction will require approximately 2 months per pier, with construction occurring on more than one pier at a time. In addition to pier retrofit, superstructure construction and tower retrofit work will also be carried out. Because seismic retrofit construction between piers 52 and 57 has the potential to disturb harbor seals hauled out on Castro Rocks, an IHA is warranted. The duration for the seismic retrofit of foundation and towers on piers 52 through 57, which has not taken place as of this date, will take approximately 7 to 8 months to complete.

Description of Habitat and Marine Mammals Affected by the Activity

A description of the Bay ecosystem and its associated marine mammals can be found in the CALTRANS application (CALTRANS 1997) and in CALTRANS (1996).

Castro Rocks are a small chain of rocky islands located next to the Bridge and approximately 1500 ft (460 m) north of the Chevron Long Wharf. They extend in a southwesterly direction for approximately 800 ft (240 m) from pier 55. The rocks start at about 55 ft (17 m) from pier 55 and end at approximately 250 ft (76 m) from pier 53. The chain of rocks is exposed during low tides and inundated during high tide.

Marine Mammals

General information on harbor seals and other marine mammal species found in Central California waters can be found in Forney *et al.* (2000). The marine mammals likely to be found in the Bridge area are limited to California sea lions and harbor seals.

The California sea lion primarily uses the Central San Francisco Bay area to feed. California sea lions are periodically observed at Castro Rocks. No pupping or regular haulouts occur in the project area.

The harbor seal is the only marine mammal species expected to be found regularly in the Bridge area. A detailed description of harbor seals was provided in the 1997 notification of proposed authorization (62 FR 46480, September 3, 1997) and is not repeated here. Corrections and clarifications to the first IHA were provided in the notice of IHA issuance (62 FR 67045, December 23, 1997). Additional information on harbor seals in San Francisco Bay, impacts on harbor seals, and on mitigation and monitoring of the activity were provided in the 2000 IHA authorization document (65 FR 2375, January 14, 2000).

Potential Effects on Marine Mammals

The impact to the harbor seals and California sea lions is expected to be disturbance by the presence of workers, construction noise, and construction vessel traffic. Disturbance from these activities is expected to have a short-term negligible impact to a small number of harbor seals and sea lions. These disturbances will be reduced to the lowest level practicable by implementation of the proposed work restrictions and mitigation measures (see Mitigation).

During the work period, the incidental harassment of harbor seals and, on rare occasions, California sea lions is expected to occur on a daily basis upon initiation of the retrofit work. If harbor seals no longer perceive construction noise and activity as being threatening, they are likely to resume their regular haul out behavior. The number of seals disturbed will vary daily depending upon tidal elevations. It is expected that disturbance to harbor seals during peak periods of abundance will not occur since construction activities will not take place within the restricted work area during the peak period (see Mitigation).

Whether California sea lions will react to construction noise and move away from the rocks during construction activities is unknown. Sea lions are generally thought to be more tolerant of human activities than harbor seals and are, therefore, less likely to be affected.

Potential Effects on Habitat

Short-term impacts of the activities are expected to result in a temporary reduction in utilization of the Castro Rocks haulout site while work is in progress or until seals acclimate to the disturbance. This will not likely result in any permanent reduction in the number of seals at Castro Rocks. The abandonment of Castro Rocks as a harbor seal haulout and rookery is not anticipated since existing traffic noise from the Bridge, commercial activities at the Chevron Long Wharf used for off-loading crude oil, and considerable recreational boating and commercial shipping that currently occur within the area have not caused long-term abandonment. In addition, mitigation measures and proposed work restrictions are designed to preclude abandonment.

Therefore, as described in detail in CALTRANS (1996), other than the potential short-term abandonment by harbor seals of part or all of Castro Rocks during retrofit construction, no impact on the habitat or food sources of marine mammals are likely from this construction project.

Mitigation

Several mitigation measures to reduce the potential for general noise will be implemented by CALTRANS as part of their activity. General restrictions include: with the exception of the Concrete Trestle Section, no piles will be driven (i.e., no repetitive pounding of piles) on the Bridge between 9 p.m. and 7 a.m.; an imposition of a construction noise limit of 86 dBA at 50 ft (15 m) between 9 p.m. and 7 a.m.; and, a limitation on construction noise levels for 24 hrs/day in the vicinity of Castro Rocks during the pupping/molting restriction period (February 15 through July 31).

To minimize potential harassment of marine mammals, NMFS proposes to require CALTRANS to comply with the following mitigation measures: (1) A February 15 through July 31 restriction on work in the water south of the Bridge center line and retrofit work on the Bridge substructure, towers, superstructure, piers, and pilings from piers 52 through 57; (2) no watercraft will be deployed by CALTRANS employees or contractors, during the year within the exclusion zone located between piers 52 and 57, except for when construction equipment is required for seismic retrofitting of piers 52 through 57; and (3) minimize vessel traffic to the greatest extent practicable in the exclusion zone when conducting construction activities between piers 52 and 57. The boundary of the exclusion zone is rectangular in shape (1700 ft (518 m) by 800 ft (244 m)) and completely encloses Castro Rocks and piers 52 through 57, inclusive. The northern boundary of the exclusion zone will be located 300 ft (91 m) from the most northern tip of Castro Rocks,

and the southern boundary will be located 300 ft (91 m) from the most southern tip of Castro Rocks. The eastern boundary will be located 300 ft (91 m) from the most eastern tip of Castro Rocks, and the western boundary will be located 300 ft (91 m) from the most western tip of Castro Rocks. This exclusion zone will be restricted as a controlled access area and will be marked off with buoys and warning signs for the entire year.

Monitoring

NMFS will require CALTRANS to monitor the impact of seismic retrofit construction activities on harbor seals at Castro Rocks. Monitoring will be conducted by one or more NMFS-approved monitors. CALTRANS is to monitor at least one additional harbor seal haulout within San Francisco Bay to evaluate whether harbor seals use alternative haulout areas as a result of seismic retrofit disturbance at Castro Rocks.

The monitoring protocol will be divided into the Work Period Phase (August 1 through February 14) and the Closure Period Phase (February 15 through July 31). During the Work Period Phase and Closure Period Phase, the monitor(s) will conduct observations of seal behavior at least 3 days/week for approximately one tidal cycle each day at Castro Rocks. The following data will be recorded: (1) Number of seals and sea lions on site; (2) date; (3) time; (4) tidal height; (5) number of adults, subadults, and pups; (6) number of individuals with red pelage; (7) number of females and males; (8) number of molting seals; and (9) details of any observed disturbances. Concurrently, the monitor(s) will record general construction activity, location, duration, and noise levels. At least 2 nights/week, the monitor will conduct a harbor seal census after midnight at Castro Rocks. In addition, during the Work Period Phase and prior to any construction between piers 52 and 57, inclusive, the monitor(s) will conduct baseline observations of seal behavior at Castro Rocks and at the alternative site(s) once a day for a period of 5 consecutive days immediately before the initiation of construction in the area to establish pre-construction behavioral patterns. During the Work Period and Closure Period Phases, the monitor(s) will conduct observations of seal behavior, and collect appropriate data, at the alternative Bay harbor seal haulout at least 3 days/week (Work Period) and 2 days/week (Closure Period), during a low tide.

In addition, NMFS proposes to require that, immediately following the completion of the seismic retrofit construction of the Bridge, the monitor(s) will conduct observations of seal behavior, at Castro Rocks, at least 5 days/week for approximately 1 tidal cycle (high tide to high tide) each day, for one week/month during the months of April, July, October, and January. At least 2 nights/week during this same period, the monitor will conduct an additional harbor seal census after midnight.

Reporting

CALTRANS will provide weekly reports to the Southwest Regional Administrator (Regional Administrator), NMFS, including a summary of the previous week's monitoring activities and an estimate of the number of harbor seals that may have been disturbed as a result of seismic retrofit construction activities. These reports will provide dates, time, tidal height, maximum number of harbor seals ashore, number of adults, sub-adults and pups, number of females/males, number of harbor seals with a red pelage, and any observed disturbances. A description of retrofit activities at the time of observation and any sound pressure levels measurements made at the haulout will also be provided. A draft interim report must be submitted to NMFS by April 30, 2002.

Because seismic retrofit activities are expected to continue beyond the date of expiration of this IHA (presumably under a new IHA), a draft final report must be submitted to the Regional Administrator within 90 days after the expiration of this IHA. A final report must be submitted to the Regional Administrator within 30 days after receiving comments from the Regional Administrator on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

CALTRANS will provide NMFS with a follow-up report on the post-construction monitoring activities within 18 months of project completion in order to evaluate whether haulout patterns are similar to the pre-retrofit haul-out patterns at Castro Rocks.

National Environmental Policy Act

NMFS prepared an Environmental Assessment (EA) in 1997 that concluded that the impacts of CALTRANS' seismic retrofit construction of the Bridge will not have a significant impact on the human environment. A copy of that EA, which includes the Finding of No Significant Impact is available upon request (see **ADDRESSES**).

Preliminary Conclusions

NMFS has preliminarily determined that the short-term impact of the seismic retrofit construction of the Bridge, as described in this document, should result, at worst, in the temporary modification in behavior by harbor seals and, possibly, by some California sea lions. While behavioral modifications, including temporarily vacating the haulout, may be made by these species to avoid the resultant visual and acoustic disturbance, this action is expected to have a negligible impact on the animals. In addition, no take by injury and/or death is anticipated, and harassment takes will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

Proposed Authorization

NMFS proposes to renew an IHA to CALTRANS for the potential harassment of small numbers of harbor seals and California sea lions incidental to seismic retrofit construction of the Bridge, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activity would result in the harassment of only small numbers of harbor seals and possibly California sea lions and will have no more than a negligible impact on these marine mammal stocks.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: July 17, 2001.

Wanda L. Cain,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–18322 Filed 7–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Finance and Accounting Service announces the proposed public information collection and seeks public comment on the provisions thereof.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 21, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to, ATTN: DFAS–GAG/CL, Rodney Winn, Assistant General Counsel for Garnishment Operations, Defense Finance and Accounting Service—Cleveland, P.O. Box 998002, Cleveland, OH 44199–8002.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call, Mr. Rodney Winn, (216) 522–5118.

Title, Associated Form, and OMB Number: Application for Former Spouse Payments From Retired Pay, DD Form 2293; OMB Number 0730–0008.

Needs and Uses: Under 10 U.S.C. 1408, state courts may divide military retired pay as property or order alimony and child support payment from that retired pay. The former spouse may apply to the Defense Finance and Accounting Service (DFAS) for direct payment of these monies by using DD Form 2293. This information collection is needed to provide DFAS the basic data needed to process the request.

Affected Public: Individuals and households.

Annual Burden Hours: 5130 hours.

Number of Respondents: 20,520.

Responses Per Respondent: 1.

Average Burden Per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The respondents of this information collection are spouses or former spouses of military members. The applicant submits a DD Form 2293 to the Defense Finance and Accounting Service (DFAS). The information from the DD Form 2293 is used by DFAS in processing the applicant's request as authorized under 10 U.S.C. 1408. The DD Form 2293 was devised to standardize applications for payment under the Act. Information on the form is also used to determine the applicant's current status and contains statutory required certifications the applicant/former spouse must make when applying for payments.

Dated: July 10, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–18260 Filed 7–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form Number, and OMB Number: Nomination for Appointment to the United States Military Academy, Naval Academy, and Air Force Academy; DD Form 1870; OMB Number 0701–0026.

Type of Request: Extension.

Number of Respondents: 16,200.

Responses Per Respondent: 1.

Annual Responses: 16,200.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 8,100.

Needs and Uses: The information collection requirement is necessary in order to receive nominations from all Members of Congress, Vice President, Delegates to Congress, and the Governor and Resident Commissioner of Puerto Rico annually to each of the three service academies as legal nominating authorities. This information collection which results in appointments made to the academies is in compliance with 10 U.S.C. 4342, 6954, 9342, and 32 CFR 901. The completed form provides the required information for a nomination to be processed.

Affected Public: Individuals or Households.

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: July 10, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–18259 Filed 7–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Richard Freund

AGENCY: Department of the Navy, DOD.

SUMMARY: The Department of the Navy hereby gives notice of it's intent to grant a prospective license to Richard Freund to the Government-owned invention described in U.S. Patent Serial No. 06/076,174 entitled ''Scheduling Framework for a Heterogeneous Computer Network,'' issued 13 June 2000.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than August 7, 2001.

ADDRESSES: Written objections are to be filed with the Office of Patent Counsel, Space and Naval Warfare Systems Center, D0012, 53510 Silvergate Ave., Room 103, San Diego, CA 92152–5765.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Fendelman, Patent Counsel, Space and Naval Warfare Systems Center, Code D0012, 53510 Silvergate Ave., Room 103, San Diego, CA 92152–5765, telephone (619) 553–3001.

(Authority: 35 U.S.C. 207, 37 CFR part 404)

Dated: July 21, 2001.

T.J. Welsh,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 01–18262 Filed 7–20–01; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–126–000, et al.]

Northeast Empire Limited Partnership #1, et al.; Electric Rate and Corporate Regulation Filings

July 17, 2001.

Take notice that the following filings have been made with the Commission:

1. Northeast Empire Limited Partnership #1, Northeast Empire Limited Partnership #2, Boralex Livermore Falls, Inc., and Boralex Ashland, Inc.

[Docket No. EC01–126–000]

Take notice that on July 11, 2001, Northeast Empire Limited Partnership #1 (NELP#1), Northeast Empire Limited Partnership #2 (NELP#2), Boralex Livermore Falls, Inc. (Boralex Livermore Falls), and Boralex Ashland, Inc. (Boralex Ashland) (collectively, Applicants) filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act (FPA) for authorization of a disposition of jurisdictional facilities whereby NELP#1 will divest, and Boralex Livermore Falls will acquire, a 37 megawatt (net) wood-burning qualifying small power production facility located in Livermore Falls, Maine, and NELP#2 will divest, and Boralex Ashland will acquire, a 37 megawatt (net) wood-burning qualifying small power production facility located in Ashland, Maine, including the facilities' appurtenant interconnection facilities, power purchase agreements and rights and interest in an interconnection service agreement for one of the facilities. Applicants state that Federal Energy Regulatory Commission approval is required for the divestiture and acquisition pursuant to section 203 of the FPA and the Public Utility Regulatory Policies Act of 1978 requirements applicable to qualifying facilities with a total capacity between 30 MW and 80 MW.

Comment date: August 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Walton Electric Membership Corporation

[Docket No. ER01–1400–003]

Take notice that on July 12, 2001, Walton Electric Membership Corporation (''Walton'') tendered for filing the Power Supply and Energy Call Agreement by and between Williams Energy Marketing & Trading Company and Walton as requested by Commission Staff.

Comment date: August 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Company

[Docket No. ER01–2567–000]

Take notice that on July 12, 2001, New England Power Company (NEP) submitted a revised Service Agreement for Network Integration Transmission Service (Service Agreement) between NEP and Danvers Electric Division. The Service Agreement is designated First Revised Service Agreement No. 127 under NEP's open access transmission tariff—New England Power Company, FERC Electric Tariff, Second Revised Volume No. 9.

Comment date: August 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Boralex Ashland, Inc.

[Docket No. ER01–2568–000]

Take notice that Boralex Ashland, Inc. (Boralex Ashland), on July 12, 2001, tendered for filing an application for authorization to sell capacity, energy and ancillary services at market-based rates pursuant to Section 205 of the Federal Power Act. Boralex Ashland also requests that the Commission accept for filing a long-term power purchase agreement for the sale of power from Boralex Ashland to WPS Energy Services, Inc., as a stand-alone rate schedule to Boralex Ashland's proposed market-based rate tariff.

Copies of the filing were served upon the Maine Public Service Commission and WPS Energy Services, Inc.

Comment date: August 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Boralex Livermore Falls, Inc.

[Docket No. ER01–2569–000]

Take notice that Boralex Livermore Falls, Inc. (Boralex Livermore Falls), on July 12, 2001, tendered for filing an application for authorization to sell capacity, energy and ancillary services at market-based rates pursuant to Section 205 of the Federal Power Act.

Copies of the filing were served upon the Central Maine Power Corporation.

Comment date: August 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corporation

[Docket No. ER01–2571–000]

Take notice that on July 12, 2001, Wisconsin Public Service Corporation (WPSC) filed an executed long-term service agreement with Madison Gas and Electric Company (MG&E) under WPSC's market-based rate tariff, FERC Electric Tariff, Third Revised Volume No. 10 (Tariff). WPSC requests that the Commission allow the service agreement to become effective on September 22, 2001.

A copy of the filing was served upon MG&E.

Comment date: August 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Central Maine Power Company

[Docket No. ER01–2572–000]

Take notice that Central Maine Power Company (CMP), on July 12, 2001, tendered for filing pursuant to Section 205 of the Federal Power Act (FPA) of the Federal Energy Regulatory Commission (Commission or FERC), (i) an Amendment to Hydroelectric & Biomass Entitlement Agreement; and (ii) an Amendment to Cogeneration and Waste-to-Energy Entitlement Agreement (collectively, the Amendments between CMP and Engage Energy America LLC (Engage). In compliance with Order No. 614, FERC Stats. & Regs. 31,096 (2000), CMP also tendered for filing a Second Revised Hydroelectric & Biomass Entitlement Agreement and a Second Revised Cogeneration and Waste-to-Energy Entitlement Agreement (collectively, the Second Revised Agreements), each revised pursuant to the Amendments.

CMP respectfully requests that the Commission accept the Amendments and the Second Revised Agreements effective as of June 26, 2001, without modification or condition, and grant waiver of any and all requirements, including the Commission's notice requirements for good cause, for these agreements to become effective. Copies of this filing have been served on Engage and the State of Maine Public Utilities Commission.

Comment date: August 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Northern Indiana Public Service Company

[Docket No. ER01–2573–000]

Take notice that on July 12, 2001, Northern Indiana Public Service Company (Northern) tendered for filing a First Revised Northern Indiana Public Service Company Electric Rte Schedule FERC No. 11. The revision eliminates periodic facilities charges, effective May 1, 2001. Northern requests an effective date of May 1, 2001, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Michigan Public Service Commission, the Michigan Electric Transmission Company and the Indiana Utility Regulatory Commission.

Comment date: August 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. NorthWestern Public Service Company

[Docket No. ER01–2574–000]

Take notice that on July 12, 2001, NorthWestern Public Service Company (NorthWestern) enclosed for filing executed service agreements for Firm Point-to-Point Transmission Service with the City of Bryant, South Dakota and the City of Miller, South Dakota (collectively, Transmission Customers). Copies of this filing were served on the Transmission Customers.

NorthWestern seeks an effective date of July 1, 2001 for these service agreements.

Comment date: August 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Central Power and Light Company

[Docket No. ER01–2575–000]

Take notice that on July 12, 2001, Central Power and Light Company (CLP) submitted for filing an Interconnection Agreement, dated September 2, 1998, between CPL and South Texas Electric Cooperative, Inc. (STEC) amended to include four additional points of interconnection between the parties. CPL served copies of the filing on STEC and the Public Utility Commission of Texas.

CPL seeks an effective date of September 8, 2001 for one of these points of interconnection and September 9, 2001 for the other three, and, accordingly, seeks waiver of the Commission's notice requirements.

Comment date: August 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Black Hills Generation, Inc.

[Docket No. ER01–2576–000]

Take notice that Black Hills Generation, Inc. (Black Hills) tendered for filing on July 12, 2001, the following long-term service agreements. Power Purchase Agreement Between Black Hills Generation, Inc. and Municipal Energy Agency of Nebraska. Power Purchase Agreement Between Black Hills Generation, Inc. and Cheyenne Light, Fuel and Power Company. Gillette Turbine Power Purchase Agreement Between Black Hills Generation, Inc. and Cheyenne Light, Fuel and Power Company.

Copies of the filings were provided to the Municipal Energy Agency of Nebraska, Cheyenne Light, Fuel and Power Company, Xcel Energy Markets, and Black Hills Power, Inc.

Black Hills Generation, Inc. has requested that further notice requirement be waived and the executed service agreements be allowed to become effective June 15, 2001.

Comment date: August 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Black Hills Corporation, n/k/a Black Hills Power, Inc.

[Docket No. ER01–2577–000]

Take notice that Black Hills Corporation, d/b/a Black Hills Power, Inc., a wholly-owned subsidiary of Black Hills Corporation, Inc. (a South Dakota holding corporation), on July 12, 2001, tendered for filing a Power Purchase Agreement Between Black Hills Power, Inc. and Municipal Energy Agency of Nebraska. Copies of the filing were provided to the Municipal Energy Agency of Nebraska and Black Hills Generation, Inc.

Black Hills Power, Inc. has requested that further notice requirement be waived and the executed service agreement be allowed to become effective June 15, 2001.

Comment date: August 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Orion Power MidWest, L.P.

[Docket No. ER01–2578–000]

Take notice that on July 12, 2001, Orion Power MidWest, L.P. (Orion Power MidWest) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application and revised tariff sheets seeking authorization to amend its rate schedule enabling Orion Power MidWest to reassign transmission capacity.

Comment date: August 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Great River Energy

[Docket No. ER01–2583–000]

Take notice that on July 11, 2001, Great River Energy (Great River), filed a Request for Waiver of Section 1.14a of the Midwest Independent System Operator, Inc. (MISO) Open Access Transmission Tariff. If approved by the Commission, Great River's Request for Waiver would allow MISO to Grandfather Great River's network service agreements with Minnesota Power.

Copies of the filing have been served on each of MISO and Minnesota Power.

Comment date: August 1, 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18253 Filed 7–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

July 18, 2001.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

Agency Holding Meeting: Federal Energy Regulatory Commission.

Date and Time: July 25, 2001, 10:00 A.M.

Place: Room 2C, 888 First Street, NE., Washington, DC 20426.

Status: Open.

Matters To Be Considered: Agenda.

* Note—Items listed on the agenda may be deleted without further notice.

Contact Person for More Information: David P. Boergers, Secretary, Telephone (202) 208–0400, for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It Does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

772nd—Meeting July 25, 2001 Regular Meeting 10 A.M.

Consent Agenda—Markets, Tariffs and Rates—Electric

CAE–1.
Omitted
CAE–2.
Docket# ER01–2251, 000, New York Independent System Operator, Inc.
CAE–3.
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David P. Boergers,

Secretary.

[FR Doc. 01–18375 Filed 7–19–01; 11:10 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–7012–6]

Final Issuance of National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges From Concentrated Animal Feeding Operations in Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final NPDES General Permit.

SUMMARY: The Regional Administrator, EPA, Region 9, is today issuing an NPDES general permit (permit No. AZG800000) for discharges from concentrated animal feeding operations (CAFOs) in Arizona. A notice of EPA's proposal to issue the permit was published in the **Federal Register** on Friday, September 1, 2000. The public comment period for this general permit ended on November 20, 2000. The final permit establishes effluent limitations, prohibitions, best management practices and other conditions governing the discharge of pollutants to waters of the United States from CAFOs in Arizona.

DATES: This general permit shall be effective on August 27, 2001. Deadlines for submittal of notices of intent to be governed by the permit are provided in part III, section B of the general permit. Today's general permit also provides additional dates for compliance with permit requirements.

ADDRESSES: The index to the administrative record for the final general permit is available from the EPA Region 9 office in San Francisco. The NPDES general permit and other related documents in the administrative record are on file at the EPA Region 9 office at the following address: U.S. EPA, Region 9, CWA Standards and Permits Office (WTR–5), 75 Hawthorne Street, San Francisco, CA 94105–3901. The records are available for inspection from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. For appointments to examine the administrative record, please call Jacques Landy at (415) 744–1922 or Shirin Tolle at (415) 744–1898. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For further information on this permit please contact Jacques Landy or Shirin Tolle, EPA Region 9, at the address listed above or telephone Jacques Landy at (415) 744–1922 or Shirin Tolle at (415) 744–1898. Copies of the permit, permit appendices, fact sheet and response to comments document will be provided upon request and are also available at EPA, Region 9's website at *http://www.epa.gov/region09/water/npdes/index.html* (permit link located under section heading Final NPDES Permits).

SUPPLEMENTARY INFORMATION:

Summary of Terms and Conditions of General Permit

A. Facility Coverage

This permit covers Concentrated Animal Feeding Operations (CAFOs as defined in 40 CFR 122.23(b)) in Arizona and in Indian Country in Arizona as set forth in part II, section A of the permit. An owner or operator of a CAFO eligible for coverage under this general permit may apply for an individual permit rather than seek coverage under the general permit.

An owner or operator of a CAFO seeking coverage under this permit must submit a Notice of Intent (NOI) to EPA, and to the Arizona Department of Environmental Quality (ADEQ) or the appropriate Indian Tribe. A NOI for an existing CAFO must be submitted within 180 days after the effective date of this permit. An owner or operator seeking coverage for a new facility must submit a NOI, and additional information identified in Appendix C of the permit, at least ninety days before the facility becomes a CAFO.

This permit will terminate five years after its effective date. In accordance with 40 CFR 122.28(b)(3), EPA may require any discharger authorized by this permit to apply for and obtain an individual NPDES permit, and terminate or revoke coverage under the general permit. Owners or operators authorized by this permit may also

request to be excluded from the general permit's coverage by applying for an individual permit.

B. Effluent Limitations

This permit includes technology-based effluent limitations and standards based on the effluent limitations guidelines for the Feedlots Point Source Category, 40 CFR part 412. The permit also includes conditions designed to achieve water quality standards established under CWA, section 303, including Arizona's water quality criteria codified at Arizona Administrative Code Title 18, Chapter 11, and federally promulgated water quality standards codified at 40 CFR 131.31. Provisions requiring the use of best management practices (BMPS) to control or abate the discharge of pollutants are included in the permit pursuant to Clean Water Act (CWA) section 402(a)(1) and 40 CFR 122.43 and 122.44(k). Monitoring requirements are included pursuant to 40 CFR 122.48 and 122.44(i), and conditions applicable to all permits are included pursuant to 40 CFR 122.41.

A fact sheet briefly setting forth the principal facts and significant factual, legal, methodological and policy questions considered in preparing this final general permit is available as part of the public record for this action. In addition, a response to the comments received in response to the public notice of this permit has been prepared pursuant to 40 CFR 124.17.

C. EPA issuance of General Permits

Arizona has not received approval to issue NPDES permits and otherwise administer the NPDES program. Accordingly, EPA Region 9 is issuing this general permit governing discharges from CAFOs pursuant to CWA section 402.

EPA may issue either individual or general NPDES permits. General permits, and the conditions under which they may be issued, are described at 40 CFR 122.28. EPA may issue a general permit to regulate a category of point sources, if the sources all involve substantially similar types of operations, discharge the same types of wastes, require the same effluent limitations, require similar monitoring, and are more appropriately controlled under a general permit than under individual permits. EPA has determined that CAFOs eligible for coverage pursuant to Part II of the permit meet the criteria set forth in 40 CFR 122.28 and that issuance of the general permit is appropriate pursuant to that provision.

D. National Environmental Policy Act

Pursuant to CWA section 511(c), and 40 CFR part 6, EPA has conducted an environmental review of the proposed action, and has determined that no significant impacts are anticipated and that an Environmental Impact Statement (EIS) is not required. EPA has prepared an environmental assessment and Finding of No Significant Impact (FNSI), which are available as part of the public record for this action.

This permit requires that a person seeking coverage for a new CAFO must submit to EPA, and to the State or Indian Tribe, as appropriate, an Environmental Information Document (EID), containing the information identified in Appendix C, no later than 90 days before the operation becomes a CAFO. This requirement will provide EPA an opportunity to conduct an environmental review, determine if any significant impacts are anticipated, determine if an environmental impact statement is required and otherwise ensure compliance with NEPA requirements, with respect to the proposed new source.

E. Endangered Species Act

Section 7(a)(2) of the Endangered Species Act (ESA) requires that Federal agencies consult with the U.S. Fish and Wildlife Service (FWS) to insure that any action authorized, funded or carried out by them (also known as an ''agency action'') is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. Part II, section B.2 of the permit expressly prohibits coverage under the permit of any CAFO which is likely to adversely affect a listed or proposed to be listed threatened or endangered species or its critical habitat. Any such facility would be required to apply for and obtain an individual NPDES permit, and the process of issuing the individual permit would fully address protection of endangered and threatened species and their habitat though the section 7 consultation process of the Endangered Species Act (ESA).

Following discussions with FWS, EPA has decided to issue the permit pursuant to ESA section 7(d), without concluding the consultation with FWS, based on the finding that this action will not result in an irreversible or irretrievable commitment of resources.

F. National Historic Preservation Act

The National Historic Preservation Act (NHPA) and implementing regulations require the Regional Administrator, before issuing a permit, to adopt measures when feasible to mitigate potential adverse effects of the permitted activity on properties listed or eligible for listing in the National Register of Historic Places. The Act's requirements are to be implemented in cooperation with State Historic Preservation Officers and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation. This permit provides that CAFOs which are likely to adversely affect properties listed or eligible to be listed in the National Register of Historic Places are ineligible for coverage under the permit. This permit also requires that a person seeking coverage for a new CAFO must submit to EPA, and to the State or Indian Tribe, as appropriate, an Environmental Information Document (EID), containing information related to impacts upon historical or archeological resources, no later than 90 days before the operation becomes a CAFO. This requirement will provide EPA an opportunity to ensure compliance with NHPA requirements with respect to the proposed new source.

G. Permit Appeal Procedures

Within 120 days following notice of EPA's final decision for the general permit under 40 CFR 124.15, any interested person may appeal the permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the CWA. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21 (and authorized at 40 CFR 122.28) and then petition the Environmental Appeals Board to review any condition of the individual permit pursuant to 40 CFR 124.19.

H. Paperwork Reduction Act

The information collection required by this permit has been approved by Office of Management and Budget under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., in submission made for the NPDES permit program and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

I. Economic Impact (Executive Order 12866)

Under Executive Order 12866 (58 FR 51735 (Oct. 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of

the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this final general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866.

J. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' on State, local, and tribal governments and the private sector. UMRA uses the term ''regulatory actions'' to refer to regulations. (See, e.g., UMRA section 201, ''Each agency shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law)''). UMRA section 102 defines ''regulation'' by reference to section 658 of Title 2 of the U.S. Code, which in turn defines ''regulation'' and ''rule'' by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the Administrative Procedures Act (APA)], or any other law * * *''

As discussed in the RFA section of this notice, NPDES general permits are not ''rules'' under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the Clean Water Act. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide ''an opportunity for a hearing.'' Thus, NPDES general permits are not ''rules'' for RFA or UMRA purposes.

EPA has determined that this final general permit does not contain a Federal requirement that may result in expenditures of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that this final general permit will not significantly nor uniquely affect small governments. For UMRA purposes, ''small governments'' is defined by reference to the definition of ''small governmental jurisdiction'' under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) ''Small governmental jurisdiction'' means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

This final general permit also will not uniquely affect small governments because compliance with the permit conditions affects small governments in the same manner as any other entities seeking coverage under the final general permit.

K. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. Under 5 U.S.C. 605(b), no Regulatory Flexibility Analysis is required where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The Agency takes the position that NPDES general permits are not subject to rulemaking requirements under APA section 553 or any other law. The requirements of APA section 553 apply only to the issuance of ''rules,'' which the APA defines in a manner that excludes permits. See APA section 551(4), (6) and (8). The CWA also does not require publication of a general notice of proposed rulemaking for general permits. EPA publishes draft general NPDES permits for public comment in the **Federal Register** in order to meet the applicable CWA procedural requirement to provide ''an opportunity for a hearing.'' See CWA section 402(a), 33 U.S.C. 1342(a).

Nevertheless, the Agency has determined that this permit will not have a significant economic impact on a substantial number of small entities. The permit requirements have been designed to minimize significant administrative and economic impacts on small entities and should not have a significant impact on regulated sources in general. Moreover, the final general permit reduces a significant burden on regulated sources of applying for individual permits.

L. Signature

Accordingly, I hereby find consistent with the provisions of the RFA, that this final general permit will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 *et seq.*), owners or operators of a concentrated animal feeding operation that submit a completed Notice of Intent in accordance with part III, section A for a concentrated animal feeding operation located in the area specified in part II, section A and eligible for permit coverage under part II, section B are authorized to discharge pollutants to waters of the United States in accordance with the conditions and requirements set forth herein.

This permit becomes effective on August 27, 2001.

This permit and the authorization to discharge expire at midnight, August 26, 2006.

Dated: July 5, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

Environmental Protection Agency Region 9 Concentrated Animal Feeding Operations (CAFOs) National Pollutant Discharge Elimination System (NPDES) General Permit NO. AZG800000 For the State of Arizona

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Part I. Authority

This permit is issued pursuant to Clean Water Act, section 402.

Part II. Permit Coverage

A. Area

The permit covers the State of Arizona and Indian Country in Arizona subject to the jurisdiction of the following Indian Tribes: Ak-Chin, Cocopah, Colorado River, Fort McDowell Mohave-Apache, Fort Mohave, Fort Yuma-Quechan, Gila River, Havasupai, Hopi, Hualapai, Kaibab Paiute, Navajo, Pascua Yaqui, Salt River Pima-Maricopa, San Carlos, San Juan Southern Paiute, Tohono O'odham, Tonto Apache, White Mountain Apache, Yavapai-Apache (Camp Verde), and Yavapai-Prescott.

B. Sources

The permit covers concentrated animal feeding operations (CAFOs) in the permit area, except any CAFO that:

1. has been notified by the Director to apply for an individual permit pursuant to 40 CFR 122.28(b)(3);

2. is likely to adversely affect a listed or proposed to be listed endangered or threatened species or its critical habitat;

3. is likely to adversely affect properties listed or eligible to be listed in the National Register of Historic Places; or

4. becomes a CAFO after the effective date of this permit and meets any of the following conditions: (a) Discharges to a water quality limited segment listed for: Total nitrogen, nitrogen species, total phosphorus, turbidity, fecal coliform or E.Coli, (b) discharges to a ''Unique Water'' identified in Arizona Administrative Code R18–11–112, or (c) is located within the 100 year floodplain.

C. Reopener Clause for Endangered Species Protection

This permit may be modified or revoked and reissued based on the results of Endangered Species Act section 7 consultation with the U.S. Fish and Wildlife Service.

Part III. Application for Coverage

A. Notice of Intent

An owner or operator of a CAFO seeking coverage under this permit must submit a completed ''Notice of Intent to be Covered by General Permit No. AZG800000 for Concentrated Animal Feeding Operations'' (NOI), attached as Appendix A, to: US EPA, Region 9, Attn.: AZG800000/NOI, WTR–7, 75 Hawthorne St., San Francisco, CA 94105.

An owner or operator seeking coverage for a CAFO not in Indian Country subject to the jurisdiction of an Indian Tribe identified in Part II.A. must submit a copy of the completed NOI to: Arizona Department of Environmental Quality, Water Quality Compliance Section, Mail Code M0501, 3033 N. Central Avenue, Phoenix, AZ 85012.

An owner or operator seeking coverage for a CAFO in Indian Country subject to the jurisdiction of an Indian Tribe identified in Part II.A. must submit a copy of the completed NOI to the appropriate Indian Tribe. See, Appendix D, Contact Names and Addresses.

B. Deadline for Notice of Intent

The deadline for submitting a completed NOI is:

1. For an operation which is a CAFO on the effective date of the permit, 180 days after the effective date of the permit;

2. For an operation designated as a CAFO pursuant to 40 CFR 122.23(c), 90 days after designation as a CAFO; and

3. For an operation which becomes a CAFO after the effective date of the permit, 90 days before the operation becomes a CAFO.

C. Additional Information Regarding New CAFOs

A person seeking coverage under this permit for an operation which becomes a CAFO after the effective date of the permit and which meets the definition of a ''new source'' as provided in Part VII.S of this permit, must also submit to EPA, and to the State or Indian Tribe, as appropriate, an ''Environmental Information Document'' (EID), containing the information identified in Appendix C, no later than 90 days before the operation becomes a CAFO. For assistance in determining whether an operation which becomes a CAFO after the effective date of the permit meets the definition of new source, please contact Shirin Tolle at (415) 744–1898 or Jacques Landy at (415) 744–1922.

D. Commencement of Authorization to Discharge

Authorization to discharge from an eligible CAFO in accordance with the permit begins:

1. For an operation which is a CAFO on the effective date of the permit, or designated as a CAFO pursuant to 40 CFR 122.23(c), 24 hours after a complete and timely NOI is mailed to EPA; and

2. for an operation which becomes a CAFO after the effective date of the permit, 90 days after a complete and timely NOI and EID is mailed to EPA, unless the CAFO is notified by EPA during the 90-day period following mailing of the NOI and EID, that more than 90 days are required to process the NOI and conduct the National Environmental Policy Act review required by 40 CFR 122.29(c).

E. Expiration, Termination or Revocation of Coverage

This permit expires five years after its effective date. If this permit is not reissued prior to its expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and any discharger authorized by this permit prior to the expiration date will remain authorized under this permit until (i) the permit is reissued or (ii) EPA publishes a determination not to reissue this permit. In accordance with 40 CFR 122.28(b)(3), EPA may require any discharger authorized by the permit to apply for and obtain an individual NPDES permit, and terminate or revoke coverage under this general permit. In accordance with 40 CFR 122.28(b)(3), any owner or operator authorized by the permit may request to be excluded from coverage of the general permit by applying for an individual permit.

Part IV. Permit Requirements

A. Effluent Limitations and Discharge Prohibitions

1. There shall be no discharge of waste, process waste water, or process waste water pollutants to waters of the United States except when storm events, either chronic or catastrophic, cause an overflow of process waste water from a

facility properly designed, constructed, maintained, and operated to contain:

a. All process generated waste waters resulting from the operation of the CAFO (such as wash water, parlor water, watering system overflow); plus

b.All contaminated runoff from a 25-year, 24-hour storm event.

2. Except for discharges which are

a. composed entirely of storm water runoff, snow melt runoff and/or

b. return flows from irrigated agriculture, originating from a land area upon which manure and/or waste water from a CAFO has been applied in accordance with a Best Management Practices Plan (BMP Plan) under Part IV.B.1 and with a Nutrient Management Plan (NMP) under Part IV.B.3.a, there shall be no discharge which causes or contributes to a violation of a State or, if appropriate, tribal water quality standard.

3. Discharges of manure or process waste water from waste water control or retention structures to waters of the United States by means of a hydrologic connection are prohibited.

B. Special Conditions

1. Best Management Practices (BMP) Plan

a. Deadlines for developing and implementing a BMP Plan

A permittee must develop and implement a BMP Plan for the CAFO covered by this permit:

i. For an operation which is a CAFO on the effective date of the permit, by one year after the effective date of the permit;

ii. For an operation designated as a CAFO pursuant to 40 CFR 122.23(c), by one year after designation as a CAFO; and

iii. For an operation which becomes a CAFO after the effective date of the permit, by the date on which the NOI for the CAFO is submitted.

b. Submission of BMP Plans for New CAFOs

A permittee for an operation which becomes a CAFO after the effective date of the permit must submit the BMP Plan with the original and the copy of the NOI for that CAFO to the agencies listed in Part III.A, as appropriate.

c. Content of BMP Plan

A BMP Plan must:

i. be developed in accordance with standard engineering practices as defined by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS), National Engineering Handbook, Part 651, Agricultural Waste Management Field Handbook available at *ftp://ftp.ftw.nrcs.usda.gov/pub/awmfh,* or any subsequent NRCS revision of Part 651 which the permittee references in the BMP Plan;

ii. describe the BMPs and Minimum Standards which the permittee will implement to assure compliance with the permit;

iii. demonstrate that the waste water control or retention structures are adequately designed (in accordance with NRCS Conservation Practice Standard Code 313—Waste Storage Facilities or any subsequent NRCS revision of Standard 313 which the permittee references in the BMP Plan) and can achieve the effluent limitations and discharge prohibitions of Part IV.A. above;

iv. identify the persons responsible for developing, implementing, and revising the BMP Plan (including its inspection and record keeping procedures), and describe their respective activities and responsibilities;

v. include a map showing the drainage pattern, surface water bodies, and existing waste water control or retention structures;

vi. list the significant chemicals and/or hazardous substances that are used, stored or disposed of at the CAFO, and describe any significant spills of these chemicals and/or hazardous substances at the CAFO after the effective date of this permit;

vii. describe activities and chemicals and/or hazardous substances which may be a potential pollutant source, including sources which may reasonably be expected to add pollutants to runoff from the facility;

viii. include all existing sampling data obtained pursuant to Part V.B;

ix. describe the inspection and record keeping procedures which the permittee will implement pursuant to Part IV.B.4;

x. describe an appropriate schedule for preventive maintenance and good housekeeping;

xi. identify areas which have a high potential for significant soil erosion and describe measures to limit erosion and pollutant runoff;

xii. describe an employee training program pertaining to permit compliance;

xiii. be signed in accordance with Part VI.E.; and

xiv. Be updated as appropriate.

2. Minimum Standards

Minimum Standards are applicable to the CAFO operation upon issuance of the permit and are to be incorporated into the CAFO's BMP Plan.

a. Diversion of Run-on

The permittee shall isolate feedlots and associated wastes from outside surface drainage by ditches, dikes, berms, terraces or other waste water control or retention structures, designed to carry, store or contain peak flows during the 25-year, 24-hour storm event. The permittee must protect any waste water control or retention structure by berms or other appropriate structures to prevent inundation that may occur during a 25-year, 24-hour flood event. The permittee should consult with the County Flood Control District in order to ensure that any measures taken to comply with this requirement are consistent with Arizona law.

b. Waste Water Control or Retention Structure Freeboard

To maintain adequate capacity in waste water control or retention structures, the permittee shall establish and maintain a minimum freeboard for all waste water control or retention structures adequate to prevent berm failure and overflow during normal operating conditions and to ensure compliance with the permit conditions.

c. CAFO Expansion

The permittee shall not expand its CAFO, either in size or number of animals, before making a determination and ensuring that wastes generated by the expansion will not exceed the design capacity of the waste water control or retention structures.

d. Land Application of Manure

Manure or process waste water must not be applied on land that is flooded, saturated with water, frozen or snow covered, where such conditions could reasonably be expected to result in a discharge of manure or process waste water to waters of the United States.

e. Buffers and Equivalent Practices

The permittee shall maintain buffer strips or other equivalent practices near feedlots, manure storage areas, and land application areas that are sufficient to minimize discharge of pollutants to waters of the United States.

f. Chemical Handling

The permittee shall ensure that wastes from facility activities such as dipping and/or pest/parasite control and hazardous substances or toxic pollutants do not enter any waters of the United States.

g. Disposal of Material into Waste Water Control or Retention Structures

The disposal of any hazardous substances or toxic pollutants, other

than discharges associated with proper operation and maintenance of the CAFO, into waste water control or retention structures is prohibited.

h. Dead Animals

The permittee must dispose of dead animals in a manner that prevents contamination of waters of the United States.

i. Spills

The permittee must take appropriate measures to prevent and clean up spills of any pollutants, and to report spills as required by Part VI.D.3.

j. Facility Closure

The permittee shall close all waste water control or retention structures in accordance with NRCS Conservation Practice Standard Code 360—Closure of Waste Impoundments or any subsequent NRCS revision of Conservation Practice Standard Code 360 which the permittee references in the BMP Plan.

l. Liner Requirements for New Waste Water Control or Retention Structures

Waste water control or retention structures constructed after the effective date of this permit shall incorporate either a synthetic or soil liner in accordance with NRCS Agricultural Waste Management Field Handbook Part 651.1080 Appendix 10D—Geotechnical, Design and Construction Guidelines as posted at *http://www.ncg.nrcs.usda.gov/awmfh.html* or *ftp://ftp.ftw.nrcs.usda.gov/pub/awmfh/* on August 24, 1998, or any subsequent NRCS revision of Part 651.1080 Appendix 10D which the permittee references in the BMP Plan.

3. Nutrient Management

a. Nutrient Management Plan (NMP)

If manure or process waste water is applied to land under the operational control of the permittee, the permittee shall, no later than (i) two years after the effective date of the permit or (ii) thirty (30) days before beginning land application, whichever is later, develop a Nutrient Management Plan (NMP) approved by Arizona NRCS or a Certified Nutrient Management Planning Specialist. The NMP must provide that waste, process waste water and soil sampling shall be conducted in accordance with the most current version of NRCS Conservation Practice Standard—Arizona Nutrient Management, Code 590.

b. On-site Land Application of Manure or Process Waste Water

The permittee shall not land apply manure or process waste water unless the permittee has completed an NMP and determined a site-specific, quantified land application rate that does not exceed the capacity of the soil and the planned crops to assimilate nutrients based on the most limiting nutrient in the soil (e.g., phosphorus or nitrogen), type of crop, realistic crop yields, soil type, and all nutrient inputs in addition to those from the manure or process waste water. The permittee shall not land apply manure or process waste water in excess of the land application rate which it has determined under the NMP.

c. Land Application Monitoring

On each day during which manure or process waste water is land applied by the permittee, the permittee shall record the following information to determine compliance with the land application rate:

i. Quantity of manure or process waste water applied (in gallons/day, cubic feet/day, or acre-inches/day),

ii. Land application rate (in tons/acre or lbs/acre of process waste water or manure), and

iii. Application area (in acres).

d. Off-Site Land Application of Manure or Process Waste Water

If the permittee provides manure or process waste water generated at the CAFO to another person for off-site land application, the permittee must:

i. Provide to the applier the nutrient values expected to be found in the manure or process waste water;

ii. Inform the applier of the requirements of Arizona Administrative Code Title 18, Chapter 9, Article 4, pertaining to Agricultural General Permits (reproduced in Appendix E);

iii. Record the amount of manure or process waste water that leaves the permitted operation; and

iv. For quantities greater than 100 tons provided to a single recipient per week, record the name and address of the recipient.

4. Inspections and Record Keeping

a. The permittee shall retain a copy of the NOI, permit, BMP Plan, NMP and other records required to be maintained under the permit at the CAFO.

b. The permittee shall ensure each year that the person or persons identified pursuant to Part IV.B.1.c.iv as responsible for implementing the BMP Plan's inspection and record keeping procedures completely inspects the CAFO and completes a report of the findings of the inspection. The report must state:

i. Whether the BMP Plan's description of potential pollutant sources is accurate,

ii. If the drainage map shows current conditions or must be updated,

iii. What pollutants have entered the waste water control or retention structures, and

iv. Whether the minimum standards are being implemented and are adequate.

c. Waste Water Control or Retention Structure Inspection and Monitoring

i. Monthly (and in any event within five days of each chronic rainfall or catastrophic storm event), the permittee shall inspect the waste water control or retention structures for berm integrity, cracking, slumping, excess vegetation, burrowing animals and seepage.

ii. Quarterly (and in any event within five days of each chronic rainfall or catastrophic storm event), waste water control or retention structure freeboard (in feet) shall be monitored and recorded. Freeboard records shall be kept with the BMP plan.

Part V. Discharge Notification and Monitoring

A. Discharge Notification

The permittee must report any discharge: within 24 hours, by verbal notification to EPA at (415) 744–1905; and, within five (5) days of the discharge, by written notification to EPA and to the State or Indian tribe, as appropriate. The notification must include:

1. A description of the discharge and cause, whether excess precipitation, snow melt, or other specified causes;

2. The date and time of the discharge, its duration and, if not corrected, the anticipated time the discharge is expected to continue;

3. A description of the path to the receiving water and the name of the receiving stream;

4. An estimate of the flow and volume discharged;

5. If the discharge was caused by a precipitation event, information concerning the size of the precipitation event from the National Weather Service or on-site rain gauge;

6. The name of the person recording the discharge; and

7. A description of steps being taken to reduce, eliminate and prevent recurrence of the discharge.

B. Discharge Monitoring

The permittee must sample and analyze grab samples from all overflows or discharges from the waste water control or retention structures for the following analytes:

1. Fecal coliform bacteria;

2. 5-day Biochemical Oxygen Demand (BOD_5);

3. Total Suspended Solids (TSS);

4. ammonia (NH_3–N); nitrite (as N), nitrates (as N), total Kjeldahl nitrogen (TKN as N); and

5. total phosphorus (as P);

The permittee shall: (a) collect the sample within 30 minutes of commencement of the discharge; or (b) if sampling in that period is inappropriate due to dangerous weather, flooding or other conditions, collect the sample as soon as possible after suitable conditions occur, and document the reason for the delay.

C. Sampling Methods and Procedures

Within 60 days of commencement of authorization to discharge as provided by Part III.D of this permit, the permittee shall select a licensed Arizona laboratory and inform the laboratory of the analytes to be sampled. The permittee shall obtain the following polyethylene sampling bottles from the laboratory: one 250 ml bottle for bacterial analysis, one 500 ml bottle for BOD_5 and TSS, and one 500 ml bottle for nutrients. These bottles shall be kept ready on-site along with an ice-chest. An on-site source of ice shall be identified for sample preservation. Samples shall be taken as grab samples directly from the end of pipes or from ditches or surface waters. Sample bottles shall not touch solid surfaces during sampling. Sample bottles shall be filled completely, and shall be packed in ice in the ice-chest and delivered to the identified laboratory within six hours of sampling. At the laboratory, the sampler or a designee identified by the sampler in the field log shall sign the 'relinquished by' box on a form which shall be provided by the laboratory. On this form, the sampler or designee shall note date and time when the samples are delivered. The sampler or designee shall inform laboratory of sample type (waste water) and analyses to be performed.

D. Sample Documentation and Transport

The permittee shall record the following information at the time of the sampling event and shall include the information with the facility's BMP plan pursuant to Part IV.B.1.c.viii of this permit:

1. Sample location and description of discharge;

2. Sampler's name(s);

3. Date and time of sample collection;

4. Date and time that sample arrived at laboratory; and

5. Name of person delivering sample to laboratory.

Part VI. Standard Permit Conditions

A. General Conditions

1. Introduction

In accordance with the provisions of 40 CFR 122.41, et seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the ''Act'') as well as ALL applicable regulations.

2. Duty To Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation, and reissuance; for denial of a permit renewal application; and/or for requiring a permittee to apply for and obtain an individual NPDES permit.

3. Toxic Pollutants

The permittee shall comply with effluent standards and prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

4. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request for a permit modification, revocation and re issuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State/Tribal or local laws or regulations.

6. Duty To Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

7. Criminal and Civil Liability

Nothing in this permit will be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable regulations which avoids or effectively defeats the regulatory purpose of the permit may subject the permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.

8. State/Tribal Laws

Nothing in this permit will be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State/Indian Tribe law or regulation under authority preserved by section 510 of the Act.

9. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, will not be affected thereby.

B. Proper Operation and Maintenance

1. Need to Halt or Reduce Activity Not a Defense

It will not be a defense for a permittee in an enforcement action to plead that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. Duty To Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. Proper Operation and Maintenance

The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

C. Monitoring and Records

1. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. Enter the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect, at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor, at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. Representative Sampling

Samples and measurements taken for the purpose of monitoring will be representative of the monitored activity.

3. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

4. Record Content

Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

5. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator. The requirements at 40 CFR Part 136 may be accessed at the following web-site: *http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1*

D. Reporting Requirements

1. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned physical alterations or additions or changes in activity which may result in noncompliance with permit requirements.

2. Transfers

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act (CWA). (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory.)

3. Twenty-Four Hour Reporting

The permittee shall report any noncompliance which may endanger human health or the environment. Any information must be provided orally to the EPA Region IX, via its 24-hour voice mail system, telephone number 415/744–1905 within 24 hours from the time the permittee becomes aware of the noncompliance circumstances. Notice will also be provided to ADEQ or the Tribal Authority, as appropriate. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances.

The report must contain the following information:

a. A description of the noncompliance and its cause;

b. The period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and,

c. Steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

4. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, the permittee shall promptly submit such facts or information to the Director.

E. Signatory Requirements

All applications, reports, or information submitted to the Director will be signed and certified consistent with 40 CFR 122.22:

1. All permit applications will be signed as follows:

a. For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,

ii. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or

b. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively, By the co-permittee (if determined to be operator).

2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described above;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,

c. The written authorization is submitted to the Director.

F. Certification

Any person signing a document under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

G. Availability of Reports

Any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

H. Penalties for Violations of Permit Conditions

1. Criminal Penalties

a. Negligent violations: The Act provides that any person who negligently violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act or any condition or limitation implementing those provisions in a permit issued under Section 402 is subject to a fine of not less that $2,750 nor more than $27,500 per day of violation, or by imprisonment for not more than one year, or both.

b. Knowing violations: The Act provides that any person who knowingly violates Section 301, 302, 306, 307, 308, 318 or 405 of the Act or permit conditions implementing those provisions and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $275,000, or by imprisonment for not more than 15 years, or both.

c. Knowing endangerment: The Act provides that any person who knowingly violates Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act or permit conditions implementing those provisions and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $275,000, or by imprisonment for not more than 15 years, or both.

d. False statements: The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring devise or method required to maintained under the Act, shall upon conviction, be punished by a fine of not more than $11,000, or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $22,000 per day of violation, or by imprisonment of not more than four years, or by both. (See Section 309(c)4 of the Clean Water Act)

2. Civil Penalties

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $27,500 per day for each violation. (See Section 309(d))

3. Administrative Penalties

The Act provides that the Administrator may assess a Class I or Class II administrative penalty if the Administrator finds that a person has violated Sections 301, 302, 306, 307, 308, 318, or 405 of the Act or a permit condition or limitation implementing these provisions, as follows (See Section 309(g))

a. Class I penalty; Not to exceed $11,000 per violation nor shall the maximum amount exceed $27,500.

b. Class II penalty: Not to exceed $11,000 per day for each day during which the violation continues nor shall the maximum amount exceed $137,500.

I. Upset

1. Definition

''Upset'' means an exceptional incident in which there is unintentional and temporary noncompliance with Part IV.A.1 of this permit because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. Effect of an Upset

An upset constitutes an affirmative defense to an action brought for noncompliance with Part IV.A.1 of this permit if the requirements of Part VI.I.3 of this permit are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

3. Conditions Necessary for a Demonstration of Upset

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;

(ii) The permitted facility was at the time being properly operated;

(iii) The permittee submitted notice of the upset as required in Part V.A of this permit (24-hour notice); and

(iv) The permittee complied with any remedial measures required under Part VI.B.2 of this permit.

4. Burden of Proof

In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

Part VII. Definitions

A. 25-Year, 24-Hour Storm Event

Means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years, as defined by the National Weather Service in Technical Paper Number 40, ''Rainfall Frequency Atlas of the United States'', May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom. A current map showing the 25-year, 24-hour precipitation event may be viewed at the following website: *http://www.wrcc.dri.edu/pcpnfreq/az25y24.gif,* which is maintained by the Western Regional Climate Center, accessible through the Homepage for the Hydrometeorological Design Studies Center, part of the National Weather Service's Office of Hydrology.

B. Animal Feeding Operation

Is defined at 40 CFR 122.23(b) as: ''(1)* * * a lot or facility (other than an aquatic animal production facility) where the following conditions are met: (i) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and (ii) Crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. (2) Two or more animal feeding operations under common ownership are considered, for the purposes of these

regulations, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.''

C. Application

Means a written ''notice of intent'' pursuant to 40 CFR 122.28.

D. Best Management Practices (''BMPs'')

Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. Best Management Practices also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

E. Catastrophic Storm Event

Is equivalent to a 25-year, 24-hour storm event. Catastrophic events include tornadoes, hurricanes or other catastrophic conditions that would cause an overflow from a waste water control or retention structure that is designed, constructed, operated and maintained to meet all the requirements of this permit.

F. Certified Nutrient Management Planning Specialist

Is a person, including a CAFO operator or other third party vendor, who has completed the following training and who has received approval by the Natural Resources Conservation Service (NRCS) as a ''Certified Nutrient Management Planning Specialist.'' A Certified Nutrient Management Planning Specialist has the authority to plan or approve Nutrient Management Plans (NMPs) under this permit.

1. The following NRCS web-based classes, located at *http://www.ftw.nrcs.usda.gov/nedc/homepage.html,* must have been completed and passed by a person training to be a Certified Nutrient Management Planning Specialist prior to that person undertaking the training described in subsection 2 below:

a. ''Introduction to Water Quality'',

b.''Nutrient Management Considerations in Conservation Planning'', and

c.''Agricultural Waste Management Systems—A Primer''.

2. The following NRCS-Arizona 1-day Nutrient Management Training Course must have been completed and passed by a person training to be a Certified Nutrient Management Planning Specialist prior to that person being eligible to obtain approval by the NRCS as a Certified Nutrient Management Planning Specialist:

a. Conservation Planning Course Modules 1–5,

b. Federal Regulations,

c. Arizona Regulations, and

d. ''Arizona Nutrient Management Considerations in Conservation Planning''.

G. Chronic Rainfall

Is a series of wet weather conditions that preclude de-watering of properly maintained waste water control or retention structures.

H. Concentrated Animal Feeding Operation (CAFO)

Is defined at 40 CFR 122.23(b) to mean an animal feeding operation which meets the criteria in appendix B of 40 CFR 122, or which the Director so designates. Appendix B to Part 122-Criteria for Determining a Concentrated Animal Feeding Operation (122.23) states that: ''An animal feeding operation is a concentrated animal feeding operation for purposes of 122.23 if either of the following criteria are met.

(a) More than the numbers of animals specified in any of the following categories are confined:

(1) 1,000 slaughter and feeder cattle,

(2) 700 mature dairy cattle (whether milked or dry cows),

(3) 2,500 swine each weighing over 25 kilograms (approximately 55 pounds),

(4) 500 horses,

(5) 10,000 sheep or lambs,

(6) 55,000 turkeys,

(7) 100,000 laying hens or broilers (if the facility has continuous overflow watering),

(8) 30,000 laying hens or broilers (if the facility has a liquid manure system),

(9) 5,000 ducks, or

(10) 1,000 animal units; or

(b) More than the following number and types of animals are confined:

(1) 300 slaughter and feeder cattle,

(2) 200 mature dairy cattle (whether milked or dry cows),

(3) 750 swine each weighing over 25 kilograms (approximately 55 pounds),

(4) 150 horses,

(5) 3,000 sheep or lambs,

(6) 16,500 turkeys,

(7) 30,000 laying hens or broilers (if the facility has continuous overflow watering),

(8) 9,000 laying hens or broilers (if the facility has a liquid manure system),

(9) 1,500 ducks, or

(10) 300 animal units;

and either one of the following conditions are met: pollutants are discharged into navigable waters through a manmade ditch, flushing system or other similar man-made device; or pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Provided, however, that no animal feeding operation is a concentrated animal feeding operation as defined above if such animal feeding operation discharges only in the event of a 25 year, 24-hour storm event.''

I. Discharge

Means the ''discharge of a pollutant''.

J. Discharge of a Pollutant

Means any addition of any pollutant or combination of pollutants to waters of the United States from any point source. This definition includes additions of pollutants into waters of the United States from: surface water runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances leading into privately owned treatment works. [See, 40 CFR 122.2.]

K. Effective Date of the Permit

Is August 27, 2001.

L. Feedlot

Means a concentrated, confined animal or poultry growing operation for meat, milk, or egg production, or stabling, in pens or houses wherein the animals or poultry are fed at the place of confinement and crop or forage growth or production is not sustained in the area of confinement.

M. Freeboard

Means the linear distance in feet from the structural top of a berm (usually defined by a road or access path) to the operational level of waste water in a retention structure.

N. Ground Water

Means any subsurface waters.

O. Hazardous Substance

Means any substance designated under 40 CFR Part 116 pursuant to section 311 of the Act. A list of currently designated hazardous substances is included in 40 CFR 116.4, Table 116.4A. 40 CFR 116.4 may be obtained at the following web-site: *http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1,* by entering the following numbers: Title 40, Part 116, and Section 4 for the ''most recent available'' revision year. Alternatively, a

paper copy of 40 CFR 116.4, Table 116.4A may be obtained by contacting U.S. EPA Region 9's CWA Standards and Permits Office at (415) 744–1898 or (415) 744–1922.

P. Hydrologic Connection

Means a discrete connection between groundwater and surface water, e.g. percolation from a waste impoundment or improper land application resulting in down-gradient seepage into waters of the United States.

Q. Land Application

Means the application of process waste water or waste onto or incorporation into the soil.

R. Manure

Means animal waste.

S. New Source

Means the following as defined under 40 CFR 122.29 (b)(1):

''(i) It is constructed at a site at which no other source is located; or (ii) It totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or (iii) Its processes are substantially independent of an existing source at the same site. In determining whether these processes are substantially independent, the Director shall consider such factors as the extent to which the new facility is integrated with the existing plant; and the extent to which the new facility is engaged in the same general type of activity as the existing source.''

T. Nutrient Management Plan (NMP)

Means a plan, approved by Natural Resources Conservation Service (NRCS) or a Certified Nutrient Management Planning Specialist, which, among other elements, establishes the rates at which manure or process waste water can be land applied so as to meet crop nutrient needs while minimizing the amount of pollutants discharged in agricultural return flows. The requirements for NMPs have been established by NRCS under the NRCS Conservation Practice Standard—Arizona Nutrient Management, Code 590. An NMP must contain the following minimum information: a Field Map, Soil Test Results, Crop Sequence, Realistic Yield Goals, Manure and Waste Water Nutrient Values, Recommended Application Rates, Recommended Application Methods, and Guidance for implementation, operation, maintenance and record keeping.

U. Pollutant

Means the following as defined under 40 CFR 122.2: ''dredged spoil, solid waste, incinerator residue, filter back-wash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials * * *, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.''

V. Process Waste Water

Means any process generated waste water; and any precipitation (*e.g.,* rain or snow) which comes into contact with any manure, litter or bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or poultry or direct products (*e.g.,* milk, eggs).

W. Process Generated Waste Water

Means water directly or indirectly used in the operation of a feedlot for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing pens, barns, manure pits or other feedlot facilities; direct contact swimming, washing or spray cooling of animals; and dust control.

X. Spill

Means discharge, usually (but not exclusively) a small, inadvertent discharge of a toxic pollutant or hazardous substance.

Y. The Act

Means Federal Water Pollution Control Act as amended, also known as the Clean Water Act, found at 33 U.S.C. 1251 *et seq.*

Z. Toxic Pollutants

Means any pollutant listed as toxic under Section 307(a)(1) of the Act. Toxic pollutants are listed in 40 CFR 401.15, which may be obtained at the following web-site: *http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1* by entering the following numbers: Title 40, Part 401, and Section 15 for the ''most recent available'' revision year. Alternatively, a paper copy of 40 CFR 401.15 may be obtained by contacting U.S. EPA Region 9's CWA Standards and Permits Office at (415) 744–1898 or (415) 744–1922.

AA. Waste

Means manure as well as bedding, feed and other by-products of an animal feeding operation.

BB. Waste Water Control or Retention Structure

Means any structure such as a pond, impoundment or lagoon used for the retention of liquid wastes or sludges (including manure, liquid waste, and runoff from the feedlot area) on the premises until their ultimate disposal. This includes all collection ditches, conduits and swales for the collection of runoff and waste water.

CC. Water Quality Limited Segment

Means a water body identified as Water Quality Limited Segment pursuant to 40 CFR 130.7. At the time of permit issuance the most recent list of water quality limited waters in Arizona may be found in: ''Arizona's 1998 Water Quality Limited Waters List,'' ADEQ, July 1998, EQR–98–8.

DD. Water Quality Standard

Is defined at 40 CFR 130.2(d) as: ''Provisions of State or Federal law which consist of a designated use or uses for the waters of the United States and water quality criteria for such waters based upon such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the Act.'' The State of Arizona's water quality standards are contained in Arizona Administrative Code Title 18 (Environmental Quality) Chapter 11 (Department of Environmental Quality Water Quality Standards) Article 1 (Water Quality Standards for Surface Waters). The website where they may be found is: *http://www.sosaz.com/public_services/Title_18/18–11.htm.*

EE. Waters of the United States

Is defined at 40 CFR 122.2 as: ''(a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate ''wetlands;''(c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, ''wetlands,'' sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise

defined as waters of the United States under this definition; (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial sea; and (g) ''Wetlands'' adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. * * * .''

Part VIII. Availability of Technical and Legal References

Hard copies or electronic versions of all citations and technical or other documents referenced in this permit may be obtained by contacting Shirin Tolle at (415) 744–1898 or Jacques Landy at (415) 744–1922.

[FR Doc. 01–18193 Filed 7–20–01; 8:45 am]

BILLING CODE 6560–60–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority; Comments Requested

July 13, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 21, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 1 A–804, 445 Twelfth Street, SW., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0661.

Title: Section 21.931 Partitioning of BTAs.

Form No.: n/a.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 10.

Estimated Hours Per Response: 7 hours (1 hour respondent, 4 hours contract attorney, 2 hours contract engineer).

Frequency of Response: on occasion.

Cost to Respondents: $11,000.

Estimated Total Annual Burden: 10.

Needs and Uses: Section 21.931 permits a Basic Trading Area (BTA) to enter into contracts with eligible parties to partition any contiguous portion of its service area. Under Section 21.931(a)(2), applicants are required to submit partitioning contracts with the Commission within 30 days of the date the contracts are reached. These contracts will be submitted with one of the following: (1) An MDS long-form application; (2) an application for assignment or transfer; or (3) a statement of intention. These collections have separate OMB control numbers. These partitioning contracts will facilitate the development of successful wireless cable systems in rural areas and will make the most efficient use of the available spectrum. The contracts designate the specific geopolitical boundaries used to partition the BTA. The Commission will apply the same MDS technical rules to partitioned service areas.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–18293 Filed 7–20–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

July 16, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before August 22, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0788.

Title: DTV Showings/Interference Agreements.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents: 350.

Estimated Time Per Response: 5 hours.

Frequency of Response: On occasion reporting requirement, and third party disclosure requirement.

Total Annual Burden: 1,750 hours.

Total Annual Cost: $2,800,000.

Needs and Uses: The technical showings and interference agreements submitted by DTV respondents will be used by FCC staff to determine if the public interest would be served by the grant of the application and to ensure that the proposed facilities will not result in additional interference to other stations. This collection of information has been revised to remove all references to industry frequency coordination committees. These committees did not evolve. Respondents have been using consulting engineers and attorneys to prepare the technical showings and interference agreements.

OMB Control No.: 3060–0979.

Title: Spectrum Audit Letter.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local, or tribal government.

Number of Respondents: 300,000.

Estimated Time Per Response: .50 hours.

Frequency of Response: One time reporting requirement.

Total Annual Burden: 150,000 hours.

Total Annual Cost: N/A.

Needs and Uses: The information collected is required for an audit of the construction and operational status of all of the Private Land Mobile Radio (PLMR) and Fixed Microwave Radio (FMR) stations in the Commission's licensing database that are subject to rule-based construction and operational requirements. The Commissions' rules for the PLMR and FMR services require construction within a specified time frame and require a station to remain operational in order for the license to remain valid.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–18294 Filed 7–20–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

July 16, 2001.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before August 22, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fec.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0004.

Title: Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, Second Memorandum Opinion and Order, ET Docket No. 93–62.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and Not-for-profit institutions; Individuals or households; and State, local, or tribal governments.

Number of Respondents: 126,550.

Estimated Time per Response: 2 hrs. (avg.).

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 239,620 hrs.

Total Annual Costs: $849,000.

Needs and Uses: The National Environmental Policy Act of 1969 (NEPA) required Federal agencies to evaluate the effects of their actions on ''human environmental quality.'' To comply with NEPA, the Commission adopted rules, 47 CFR 1.1307, which revised the RF exposure guidelines for FCC-regulated facilities. The new guidelines reflect more recent scientific studies of RF electromagnetic fields and their biological effects and are designed to ensure that the public and workers receive adequate protection from exposure to potentially harmful RF electromagnetic fields. The Commission staff uses the information required under 47 CFR 1.1307 to determine whether the environmental evaluation is sufficiently complete and in compliance with the FCC Rules to be acceptable for filing.

OMB Control Number: 3060–0844.

Title: Carriage of the Transmission of Digital Television Broadcast Stations, R&O, and FNPRM.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 12,700.

Estimated Time per Response: 30 mins. to 40 hrs.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 93,221 hours.

Total Annual Costs: $2,414,894.

Needs and Uses: The FCC adopted a Report and Order (R&O) on January 23, 2001 and Further Notice of Proposed Rulemaking (FNPRM). The R&O modified 47 CFR 76.64(f) to provide that stations that return their analog spectrum and broadcast only in digital format are entitled to elect must-carry or retransmission consent status following the procedures previously applicable to new television stations. The R&O also provides only carriage rights for a very limited number of digital-only television broadcast stations (DTV) and may result in voluntary carriage for a subset of other DTV stations. Furthermore, the R&O established a

framework for voluntary retransmission consent agreements between DTV station licensees and multichannel video programming distributors and modified several sections of the rules accordingly. The FNPRM seeks additional comments on carriage requirements relating to digital television stations generally, as proposed in the initial NPRM.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–18295 Filed 7–20–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL DEPOSIT INSURANCE CORPORATION

Request for Comment on Study of Banking Regulations Regarding the Online Delivery of Banking Services; Correction

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Request for comment; correction.

SUMMARY: The FDIC published a document in the **Federal Register** of July 16, 2001, concerning request for comments on issues arising from the electronic delivery of financial products and services. The document inadvertently omitted the FDIC's EPC (electronic public comment) address.

FOR FURTHER INFORMATION CONTACT: Jenetha M. Hickson, Alternate Liaison Officer, (202) 898–3807.

Correction

In the **Federal Register** of July 16, 2001, in FR Doc. 01–17666, on page 37029, in the second column, correct the **ADDRESSES** caption to read:

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. (facsimile number (202) 898–3838. Comments may be submitted to the FDIC electronically over the Internet at <*http://www.fdic.gov/regulations/laws/publiccomments/index.html* or *comments@fdic.gov* <*mailto:comments@fdic.gov*>), and may be posted on the FDIC internet site at *http://www.fdic.gov/regulations/laws/federal/propose.html.* Comments may also 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.

Dated: July 18, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–18300 Filed 7–20–01; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 7, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. David Foster McAnelly, Liberty, Kentucky; to acquire additional voting shares of Casey County Bancorp, Inc., Liberty, Kentucky, and thereby indirectly acquire voting shares of Casey County Bank, Liberty, Kentucky.

2. Robert T. and June Dowell Rousey (as a control group), Liberty, Kentucky; to acquire additional voting shares of Casey County Bancorp, Inc., Liberty, Kentucky, and thereby indirectly acquire additional voting shares of Casey County Bank, Liberty, Kentucky.

Board of Governors of the Federal Reserve System, July 18, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–18334 Filed 7–20–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 01-16870) published on pages 35639-35640 of the issue for Friday, July 6, 2001.

Under the Federal Reserve Bank of New York heading, the entry for North Fork Bancorporation, Melville, New York, is revised to read as follows:

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. North Fork Bancorporation, Inc., Melville, New York; to acquire through North Fork Bank, Melville, New York, the voting shares of Commercial Bank of New York, New York, New York.

In connection with this application, North Fork Bank has applied to become a bank holding company.

Comments on this application must be received by July 30, 2001.

Board of Governors of the Federal Reserve System, July 18, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–18335 Filed 7–20–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the

BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 17, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Chemical Financial Corporation, Midland, Michigan; to acquire Bank West Financial Corporation, Grand Rapids, Michigan, and Bank West, Grand Rapids, Michigan, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y, and to acquire Sunrise Mortgage Company, Grand Rapids, Michigan, and thereby engage in extending credit and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, July 18, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–18333 Filed 7–20–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Friday, July 27, 2001, from 8:30 a.m. to 4 p.m. and is open to the public.

ADDRESSES: The meeting will be held at 6010 Executive Boulevard, Fourth Floor, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Anne Lebbon, Coordinator of the Advisory Council, at the Agency for Healthcare Research and Quality, 2101 East Jefferson Street, Suite 600, Rockville, Maryland, 20852, (301) 594–7216. For press-related information, please contact Karen Migdail at 301/594–6120.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Linda Reeves, Assistant Administrator for Equal Opportunity, AHRQ, on (301) 594–6662 no later than February 26, 2001.

SUPPLEMENTARY INFORMATION:

I. Purpose

Section 921 of the Public Health Service Act (42 U.S.C. 299c) established the National Advisory Council for Healthcare Research and Quality. In accordance with its statutory mandate, the Council is to advise the Secretary and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to actions of the agency to enhance the quality, improve outcomes, reduce costs of health care services, improve access to such services through scientific research, the promotion of improvements in clinical practice and in the organization, financing, and delivery of health care services.

The Council is composed of members of the public appointed by the Secretary and Federal ex-officio members. Donald M. Berwick, M.D., the Council chairman, will preside.

II. Agenda

On Friday, July 27, 2001, the meeting will begin at 8:30 a.m., with the call to order by the Council Chairman. The Director, AHRQ, will present the status of the Agency's current research, programs and initiatives. Tentative agenda items include HCUP quality indicators, U.S./U.K. collaboration, and evidence-based management research. The official agenda will be available on AHRQ's website at *www.ahrq.gov* no later than July 20, 2001. The meeting will adjourn at 4 p.m.

Dated: July 17, 2001.

John M. Eisenberg,

Director.

[FR Doc. 01–18301 Filed 7–20–01; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Contract Review Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Technical Review Committee (TRC) meeting. This TRC's charge is to review contract proposals and provide recommendations to the Director, AHRQ, with respect to the technical merit of proposals submitted in response to a Request for Proposals (RFP) regarding ''National Quality Measures Clearinghouse''. The RFP was published in the Commerce Business Daily on April 27, 2001.

The upcoming TRC meeting will be closed to the public in accordance with the Federal Advisory Committee Act (FACA), section 10(d) of 5 U.S.C., Appendix 2, implementing regulations, and procurement regulations, 41 CFR 101–6.1023 and 48 CFR 315.604(d). The discussions at this meeting of contract proposals submitted in response to the above-referenced RFP are likely to reveal proprietary information and personal information concerning individuals associated with the proposals. Such information is exempt from disclosure under the above-cited FACA provision and procurement rules that protect the free exchange of candid views and facilitate Department and Committee operations.

Name of TRC: The Agency for Healthcare Research and Quality—''National Quality Measures Clearinghouse''.

Date: August 9, 2001 (Closed to the public).

Place: Agency for Healthcare Research & Quality, 6010 Executive Blvd, 4th Floor, Conference Room D, Rockville, Maryland 20852.

Contact Person: Anyone wishing to obtain information regarding this meeting should contact Jean Slutsky, Center for Practice and Technology Assessment, Agency for Healthcare Research and Quality, 6010 Executive Blvd, Suite 300, Rockville, Maryland, 20852, 301–594–4042.

Dated: July 13, 2001.

John M. Eisenberg,

Director.

[FR Doc. 01–18302 Filed 7–20–01; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01151]

Development of Model Voluntary Counseling and Testing Services in the Democratic Republic of Ethiopia; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the

availability of fiscal year (FY) 2001 funds for a cooperative agreement program for the development of pilot voluntary counseling and testing (VCT) services in the Federal Democratic Republic of Ethiopia.

The purpose of this cooperative agreement is to increase access to quality VCT services in Addis Ababa by involving, encouraging and supporting the Addis Ababa HIV/AIDS Prevention and Control Secretariat for pilot VCT services in the city of Addis Ababa.

Since the implementation of VCT services to the general population has been identified as a key strategy for the prevention of HIV transmission, these collaborative activities could profoundly change the focus and activities of the Ethiopian National AIDS Policy and improve AIDS control programs and prevention efforts in Ethiopia and eventually throughout sub-Saharan Africa.

The U.S. Government seeks to reduce the impact of HIV/AIDS in specific countries within sub-Saharan Africa, Asia, and the Americas through its Leadership and Investment in Fighting an Epidemic (LIFE) initiative. Through this LIFE program, CDC has initiated its Global AIDS Program (GAP) to strengthen capacity and expand activities in the areas of (1) HIV primary prevention; (2) HIV care, support, and treatment; and (3) capacity and infrastructure development. Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. Government agencies are already active. Ethiopia is one of these targeted countries.

As a key partner in the U.S. Government's LIFE initiative, CDC is working in a collaborative manner with national governments and other agencies to develop programs of assistance to address the HIV/AIDS epidemic in LIFE initiative countries. In particular, CDC's mission in Ethiopia is to work with Ethiopian and international partners to develop and apply effective interventions to prevent HIV infection and associated illness and death from AIDS.

Ethiopia is among the world's countries most adversely affected by the HIV/AIDS epidemic and TB. With an estimated three million adults infected with HIV by end of 1999, Ethiopia has the third largest population of HIV-infected persons in the world, accounting for about 9 percent of the world's HIV/AIDS cases. The estimated percent of adults aged 15 to 49 infected with HIV is 10.6 percent, making Ethiopia sixteenth in the world in HIV prevalence. There have been over a million cumulative deaths due to AIDS, with 280,000 occurring in 1999 alone. UNAIDS estimated that 150,000 children are currently living with HIV and that 1.2 million children have been orphaned by AIDS, making Ethiopia third in the number of HIV orphans in the world. The principal routes of HIV transmission are heterosexual and mother-to-infant; HIV and other STIs are closely associated. The World Health Organizations (WHO) estimated TB incidence, prevalence and deaths rates for Ethiopia in 1997 were 260, 367, and 82 per 100,000 population respectively, which represented 156,000 new cases, 221,000 infections and 49,000 deaths for that year. TB cases have been increasing over the years coincident with HIV epidemic; HIV prevalence among TB patients is estimated at 40–50 percent. Data on STIs, however, are scant. These statistics suggest the need for the expansion and improvement of a range of surveillance, care, and prevention activities and services.

Voluntary counseling and testing is one of the major strategies in the prevention of HIV transmission which also serves as a tool to reduce and/or avoid risky behaviors. It provides increased opportunities for the early diagnosis of HIV infection, prevention and/or treatment of opportunistic infections, prevention of mother-to-child HIV transmission (PMTCT), and improvement of surveillance systems. Implementing quality VCT has not been feasible thus far because of the unavailability of standard counseling and testing guidelines, training manuals and established referral systems linked to care and support. In Addis Ababa during the past two years, the few ''VCT'' centers established were primarily owned and operated by private clinics and faith-based organizations. Findings from studies and personal observations indicate that although the community demand for testing is on the increase in the city, most of the services were found to be unaffordable financially and also lacked standard approaches for testing and counseling. To address this public demand and further intensify the prevention efforts, the establishment of quality VCT is very important. This project is therefore aimed at setting up standardized integrated VCT service at one of the general hospitals (Princess Zewditu Memorial Hospital) and free-standing VCT services at an NGO (OSSA) in Addis Ababa.

B. Eligible Applicants

Assistance will be provided only to the Addis Ababa HIV/AIDS Prevention and Control Secretariat. No other applications are solicited.

The Addis Ababa HIV/AIDS Prevention and Control Secretariat is the only appropriate and qualified organization to conduct a specific set of activities supportive of the CDC Global AIDS Program's technical assistance to Ethiopia because:

1. The Addis Ababa HIV/AIDS Prevention and Control Secretariat is uniquely positioned, in terms of legal authority, ability, and credibility among Ethiopian citizens, to develop and implement a model VCT system in public and non-governmental organization sites in Addis Ababa, Ethiopia.

2. The Addis Ababa HIV/AIDS Prevention and Control Secretariat already has established mechanisms to develop and implement VCT services in Addis Ababa, enabling it to immediately become engaged in the activities listed in this announcement.

3. The purpose of the announcement is to build upon the existing framework of HIV prevention activities that the Addis Ababa HIV/AIDS Prevention and Control Secretariat itself has developed or initiated.

4. The Addis Ababa HIV/AIDS Prevention and Control Secretariat has been mandated by the Ethiopian government to coordinate and implement HIV prevention activities including VCT within the Addis Ababa region.

C. Availability of Funds

Approximately $500,000 is available in FY 2001 to fund this award. It is expected that the award will begin on or about September 30, 2001 and will be made for a 12-month budget period within a project period of up to five years. Annual funding estimates may change.

Continuation awards within the approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

1. Use of Funds

Funds received from this announcement will not be used for the

purchase of antiretroviral drugs for treatment of established HIV infection (with the exception nevirapine in PMTCT cases and with prior written approval), occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

No funds awarded under this announcement shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the activities (including program management and operations and delivery of prevention services) for which funds are requested.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exception;

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organizations, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

D. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To obtain business management technical assistance, contact: Dorimar Rosado, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2782, e-mail: dpr7@cdc.gov.

For program technical assistance, contact: Tadesse Wuhib, MD, MPH, CDC Ethiopia, U.S. Embassy, P.O. Box 1014, Entoto Road, Addis Ababa, Ethiopia, Telephone: 251–9–22–00–84 e-mail: tew7@cdc.gov.

Dated: July 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–18283 Filed 7–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01146]

Expansion of HIV/AIDS Prevention Activities in the Republic of Kenya; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for Global AIDS Program.

The purpose of the program is to provide assistance in developing a disease Surveillance program for the control of HIV/AIDS in the country of Kenya, and to support activities to reduce the burden of tuberculosis.

B. Eligible Applicants

Single Source

Assistance will be provided only to the Ministry of Health (MOH) of the Country of Kenya. No other applications are solicited.

This announcement is restricted to the MOH or subservient agencies of the government of Kenya as they are the only legislated entity with the authority and responsibility to collect such data for the purpose of the control of HIV/AIDS, communicable disease and the maintenance of public health.

A. Availability of Funds

Funds are available under this announcement to fund two specific activities with funding amounts identified for each activity. These activities are:

1. HIV/AIDS Surveillance Activities including:

(a) Monitoring of Blood Safety

(b) Overall monitoring of HIV VCT and Mother to Child Transmission within Kenya—$500,000

2. Tuberculosis Surveillance and Control as it relates to HIV/AIDS—$1 million

Each component or program activity for which funds are requested should be specifically identified with Goals, Plan, Objectives, Activities, Method of Evaluation and budget provided. A summary budget by line item should be provided.

It is expected that the awards will begin on or about September 30, 2001 and will be made for a 12-month budget period within a project period of up to five (5) years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Antiretroviral Drugs

Funds received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection (with the exception nevirapine in PMTCT cases and with prior written approval), occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the activities including program management and operations and delivery of prevention services for which funds are requested.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

Needle Exchange

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

D. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To obtain business management technical assistance, contact: Dorimar Rosado, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number (770) 488–2782, E-mail address: dpr7@cdc.gov.

For program technical assistance, contact: Lawrence H. Marum, M.D., FAAP, MPH, CDC LIFE Initiative P.O. Box 30137, Nairobi, National AIDS/ASTD Control Programme (NASCOP), P.O. Box 30137, Nairobi, Kenya.

US Mail: Unit 64112, APO, AE 09831–4112, Telephone number: +254–72–721–781 or +254–2–729–549, Fax: +254–2–714–745, E-mail: Lmarum@nairobi.mimcom.net.

Dated: July 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–18285 Filed 7–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01191]

Human Immunodeficiency Virus Prevention Intervention Research Studies—Efficacy of Condom Skills Building Demonstrations for Human Immunodeficiency Virus (HIV)/Sexually Transmitted Disease (STD) Prevention Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for efficacy of condom skills building demonstrations for HIV/Sexually Transmitted Disease (STD) prevention. This program addresses the ''Healthy People 2010'' focus area of HIV.

The purpose of the program is to study condom use skills-building demonstrations for HIV/STD prevention.

Research Topic

This announcement seeks research applications aimed at developing and evaluating brief (30 minutes or less), condom skills-building interventions that can be conducted with groups of patients in waiting room settings. Refer to Attachment II in the application kit for additional background information on the research topic.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit and for-profit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit and for-profit organizations, State and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations, small, minority, women-owned businesses.

Additional Eligibility Requirements

Eligible applicants must demonstrate:

1. Access to a clinical laboratory capable of conducting urine-based nucleic acid amplification tests (NAATs) for gonorrhea and chlamydia.

2. For this study, the clinic(s) must have at least 180 incident cases of STD over six months among men and at least 180 incident cases of STD over six months among women. STDs among men include gonorrhea, chlamydia, non-gonococcal urethritis (NGU), cervicitis, trichomonas or syphilis. STDs among women include gonorrhea, chlamydia, NGU, cervicitis, trichomonas or syphilis.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $700,000 is available in FY 2001 to fund approximately two to three awards. It is expected that the average award will be $240,000 per year, ranging from $190,000 to $290,000. It is expected that the awards will begin on or about September 30, 2001 and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

1. Use of Funds

Funds are awarded for a specifically defined purpose and may not be used for any other purpose or program. Funds may be used to support personnel and to purchase equipment, supplies, and services directly related to project activities. Funds may not be used to supplant State or local funds available for HIV Prevention. Funds may not be used to provide direct medical care or prevention case management.

2. Funding Preferences

Funding preference may be given to achieve geographical diversity for condom use skills-building demonstrations in a variety of locations.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities:

a. Form a Coordinating Committee including all recipients, to design, implement and evaluate project activities, and wherever appropriate, include participation of State and local health departments.

b. Review the literature on (1) new condom technologies and (2) existing brief, waiting room interventions that have been used in STD/HIV prevention and other health-related areas (e.g., family planning, smoking cessation).

c. Based on existing research, conduct formative research that involves (1) brief, pilot studies to help develop a single condom-use skills-building intervention that can be conducted in a waiting room setting, and (2) brief, pilot studies developing new, less costly ways of following study participants for STD outcomes over time. Prior to implementation, pilot study proposals must be submitted to the local and CDC Institutional Review Boards (IRBs) for review and approval or deferral.

d. Based on the results recipient pilot studies, the Coordinating Committee will develop a single research study protocol, quality assurance mechanisms, training tools, data collection instruments and techniques, specimen collection protocols, and data management procedures that will be used across sites.

e. Identify, recruit, obtain informed consent, enroll, and follow for six months an adequate number of study participants as determined by the study protocol.

f. Perform brief data collection as determined by the study protocol. Possible outcomes might include measures such as reported condom use in participants and sex partner(s), and characteristics of sex partners.

g. Collaborate with one or more local clinical laboratories that have the capacity to conduct HIV tests and NAATs for detection of chlamydia and gonorrhea.

h. Conduct data analysis with all collaborators and present and publish research findings.

2. CDC Activities:

a. Provide technical assistance, as needed, in the design and conduct of the research study.

b. Submit the protocol to the CDC IRB for review and approval.

c. Assist, as needed, in developing specific systems such as a randomization scheme, quality assurance and training procedures, and a data management system, as applicable, a single data set for the collaborators to use for data analysis.

d. Collaborate, as needed, with investigators from the participating research sites to analyze, present and publish research findings.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to follow them in laying out your program plan. The narrative should be no more than 25 pages double-spaced, printed on one side, with one inch margins, and unreduced font.

The narrative should consist of, at a minimum, a Plan, Objectives, Methods, Evaluation and Budget.

F. Submission and Deadline

Submit the original and five copies of PHS–398 (OMB 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available in the application kit and at the following Internet address: www.cdc.gov/od/pgo/forminfo.htm

On or before August 27, 2001, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the Special Emphasis Panel. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and objectives (10 points): The degree to which the application includes a detailed review of the scientific and other literature pertinent to new condom technologies and condom skills-building and other single session skills-building demonstrations for use in waiting room settings. The literature review should discuss the strengths and limitations of previous research in this area, including discussion of pros and cons of various research designs. The degree to which the application also includes one or more potential condom skills-building demonstrations from the literature that are brief (30 minutes or less), feasible for use in waiting room settings, and acceptable for both men and women. Potential control conditions should also be described. Presentation of data on acceptability of the proposed intervention based on previous research, focus groups, or pilot studies would enhance the application.

2. Site selection (25 points): The extent to which the application includes a description of the clinic in which the demonstrations are anticipated to be conducted, including waiting room characteristics, size of the clinic population (e.g., number of men and women aged 15–34 years seen each month), and STD (gonorrhea, chlamydia, syphilis, NGU, cervicitis, or trichomonas) prevalence among men and women. Sufficient patient enrollment is estimated to be 60 to 80 STD-infected clients aged 15–34 years per month, of which at least 30 are women. Participant refusal should be taken into account. Previous research in STD clinic settings indicates that no more than 50% of eligible participants will enroll in a study with long-term follow-up for STD infection. Enrollment rates are typically lower for men than women; The extent to which the application also includes a description of the collaborating laboratory and its capabilities, including experience with new NAATs. The extent to which the application includes a description of the proposed investigators and their previous research in conducting brief, group interventions aimed at STD/HIV prevention, including condom-based interventions. Letters of support from cooperating organizations, including clinic, laboratory, and (if applicable) health department directors and other participating staff should be included, and these should detail the nature and extent of such cooperation. The letter from the clinic director should specifically address patient volume, STD control, and the number of patients that potentially could be enrolled in a specific time period.

3. Methods (30 points): The extent to which the goals and objectives for the proposed research study are clearly stated and include a detailed discussion of the intervention(s) and control conditions, description of an appropriate study design, estimated sample size for men and women, and follow-up requirements using existing STD information.

The extent to which the application includes a detailed description of: (a) One or more brief, waiting room interventions that involve condom use demonstrations that could potentially be studied; and (b) a control condition that could potentially be used.

The extent to which the proposed intervention condition(s) includes supporting data on: The appropriateness of the intervention for the clinic and for the intended audience (including men and women), brevity (preferably less than 30 minutes), use of new condom technologies and a variety of condom types, use of appropriate and effective intervention techniques (e.g., role play scenarios, skills-building demonstrations as opposed to information-only approaches), feasibility and appropriateness of the intervention for waiting room settings, simplicity to allow existing staff to conduct the intervention, ease of the intervention in fitting in with current waiting room and clinic patterns, and discussion about how the proposed intervention(s) could be transferred to other high risk populations.

The extent to which the application identifies potential barriers to implementing the intervention and how these will be overcome.

The extent to which the application includes detailed methods for implementing and evaluating the intervention using a controlled design that minimizes bias (e.g., randomized controlled trial using group-level or individual randomization). Sample size calculations should be presented, as

well as discussion of appropriateness of the sample size (separate evaluation for men and women).

The extent to which the application includes a description of the outcome measures planned including new NAATs for gonorrhea and chlamydia and use of other outcomes (e.g., behavioral outcomes such as condom appeal and correct and consistent use, and process outcomes including quality assurance plans).

In addition, applications will be evaluated on the degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The proposed justification when representation is limited or absent.

c. A statement as to whether the design of the study is adequate to measure differences when warranted.

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

4. Research Capacity (20 points): The extent to which the application includes a description of the capacity and experience of the research team in prior interventions, including clinical and prevention trials, condom use research, skills-building demonstrations, outcomes research (e.g., laboratory capacity for nucleic acid amplification testing). Curriculum vitae's and position descriptions for key staff and project participants should be included. (Note: Previous experience in testing of condom efficacy in laboratory or in vitro settings would not be considered relevant experience).

5. Evaluation Plan (15 points): The extent to which the application includes a detailed discussion of objectives for the pilot studies, and separate discussion for the intervention phase including enrollment and follow-up objectives. The extent to which plans for enrollment are clearly outlined, and discussion of means to reduce recidivism in follow-up is included. A detailed time-line should also be included.

6. Budget (not scored): The extent to which the budget is reasonable, clearly justified, and consistent with the intent of the announcement.

The 12 month budget should anticipate the organizational and operational needs of the study. The budget should include staff, supplies, and travel (including two trips per year for two members of the study team to meet with CDC staff and other investigators).

7. Human Subjects (not scored): Does the application adequately address the requirements of 45 CFR part 46 for the protection of human subjects? (Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.)

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original and two copies of:

1. Annual progress reports to be submitted with subsequent continuation applications;

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV Program Review Panel Requirements
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act sections 317 (42 U.S.C. 241(a) and 247b); 301 (42 U.S.C. 241); and 311 (42 U.S.C. 243), as amended. The Catalog of Federal Domestic Assistance number is 93.941.

J. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address http://www.cdc.gov Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documentation, business management technical assistance may be obtained from: Annie Camacho, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Mailstop E–15, Atlanta, GA 30341–4146, Telephone: (770) 488–2735, Email address: atc4@cdc.gov.

For program technical assistance, contact: Cassandra Walker, MPH, Acting Deputy Chief, Prevention Services Research Branch, Division of HIV/AIDS Prevention, Surveillance & Epidemiology, National Center for HIV, STD, TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road, Mailstop E–46, Atlanta, GA 30333, Telephone Number: (404) 639–6191, Email address: cwalker5@cdc.gov.

Dated: July 17, 2001.

John L. Williams,

Director, Procurement and Grants Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–18286 Filed 7–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01152]

Expansion of HIV/AIDS/STI/TB Surveillance and Laboratory Activities in the Federal Democratic Republic of Ethiopia; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for the expansion of communicable disease surveillance and laboratory activities in the Democratic Republic of Ethiopia.

The purpose of this cooperative agreement is to improve human immunodeficiency virus/Acquired Immuno-Deficiency Syndrome/other sexually transmitted infections/tuberculosis (HIV/AIDS/STI/TB) surveillance and to improve laboratory capacity to assist in the diagnosis of these and other diseases related to HIV infection and transmission in Ethiopia. This will be accomplished by cooperation between CDC and the Ethiopian Health and Nutrition Research Institute (EHNRI) in Addis Ababa, Ethiopia. These collaborative activities could profoundly change the focus and activities of the Ethiopian National AIDS Policy. Most importantly, having a better understanding of the association between specific behaviors and HIV/STI/TB prevalence will likely improve AIDS control programs and prevention efforts in Ethiopia and eventually throughout sub-Saharan Africa.

The U.S. Government seeks to reduce the impact of HIV/AIDS in specific countries within sub-Saharan Africa, Asia, and the Americas through its Leadership and Investment in Fighting an Epidemic (LIFE) initiative. Through this LIFE program, CDC has initiated its Global AIDS Program (GAP) to strengthen capacity and expand activities in the areas of (1) HIV primary prevention; (2) HIV care, support, and treatment; and (3) capacity and infrastructure development, especially for surveillance. Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. Government agencies are already active. Ethiopia is one of these targeted countries.

As a key partner in the U.S. Government's LIFE initiative, CDC is working in a collaborative manner with national governments and other agencies to develop programs of assistance to address the HIV/AIDS epidemic in LIFE initiative countries. In particular, CDC's mission in Ethiopia is to work with Ethiopian and international partners to develop and apply effective interventions to prevent HIV infection and associated illness and death from AIDS.

Ethiopia is among the world's countries most adversely affected by the HIV/AIDS epidemic and TB. With an estimated 3 million adults infected with HIV by end of 1999, Ethiopia has the third largest population of HIV-infected persons in the world, accounting for about 9 percent of the world's HIV/AIDS cases. The estimated percent of adults aged 15 to 49 infected with HIV is 10.6 percent, making Ethiopia sixteenth in the world in HIV prevalence. There have been over a million cumulative deaths due to AIDS, with 280,000 occurring in 1999 alone. UNAIDS estimated that 150,000 children are currently living with HIV and that 1.2 million children have been orphaned by AIDS, making Ethiopia third in the number of HIV orphans in the world. The principal routes of HIV transmission are heterosexual and mother-to-infant; HIV and other STIs are closely associated. WHO estimated a TB incidence rate of 260 per 100,000, prevalence rate of 367 per 100,000 and death rate of 82 per 100,000 for Ethiopia in 1997. This represents 156,000 new cases, 221,000 infections and 49,000 deaths for that year. TB cases have been increasing over the years coincident with HIV epidemic; HIV prevalence among TB patients is estimated at 40–50 percent. Data on STIs, however, are scant. These statistics suggest the need for the expansion and improvement of a range of surveillance, care, and prevention activities and services.

Accurate surveillance, as the mainstay of public health programs, provides essential information to focus prevention activities, allocate resources, and monitor effectiveness of programs. Improvement in laboratory capacity to assist in the diagnoses of these and other diseases related to HIV infection and transmission is essential to the HIV/AIDS prevention and control efforts of the Ethiopian people.

B. Eligible Applicants

Assistance will be provided only to the Ethiopian Health and Nutrition Research Institute (EHNRI), a government entity. No other applications are solicited.

EHNRI is the only appropriate and qualified organization to conduct a specific set of activities supportive of the CDC Global AIDS Program's technical assistance to Ethiopia because:

1. EHNRI is uniquely positioned, in terms of legal authority, ability, and credibility among Ethiopian citizens, to collect crucial data on HIV/AIDS prevalence and incidence, as well as other health information, among Ethiopian citizens.

2. EHNRI already has established mechanisms to access health information, enabling it to immediately become engaged in the activities listed in this announcement.

3. The purpose of the announcement is to build upon the existing framework of health information and activities that EHNRI itself has collected or initiated.

4. EHNRI has been mandated functionally by the Ethiopian government to serve as the National Reference Laboratory for HIV/STIs/TB, and to coordinate and implement laboratory diagnostic and quality assurance activities related to these diseases including supporting regional laboratories.

C. Availability of Funds

Approximately $500,000 is available in FY 2001 to fund this award. It is expected that the award will begin on or about September 30, 2001 and will be made for a 12-month budget period within a project period of up to five years. Annual funding estimates may change.

Continuation awards within the approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

Use of Funds

Funds received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection (with the exception nevirapine in PMTCT cases and with prior written approval), occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

No funds under this announcement shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the activities (including program management and operations and delivery of prevention services) for which funds are requested.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exception:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations

located outside the territorial limits of the United States or to international organizations regardless of their location.

D. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To obtain business management technical assistance, contact: Dorimar Rosado, Grants Management Specialist Grants Management Branch, Procurement and Grants Office Centers for Disease Control and Prevention 2920 Brandywine Road, Room 3000 MS–15 Atlanta, GA 30341–4146, Telephone number: (770) 488–2782, e-mail: dpr7@cdc.gov

For program technical assistance, contact: Tadesse Wuhib, MD, MPH CDC Ethiopia, U.S. Embassy, P.O. Box 1014, Entoto Road, Addis Ababa, Ethiopia, Telephone: 251–9–22–00–84 e-mail: tew7@cdc.gov

Dated: July 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease and Prevention (CDC).

[FR Doc. 01–18288 Filed 7–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01155]

Improving the Quality of HIV/AIDS Care in the Republic of Zimbabwe; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement with the University of Zimbabwe (UZ), School of Medicine, Clinical Epidemiology Unit(CEU) for improving the quality of health care services for HIV/AIDS and of related clinical preventive services in the Republic of Zimbabwe.

The U.S. Government seeks to reduce the impact of HIV/AIDS and related conditions in specific countries within sub-Saharan Africa, Asia, and the Americas through its Global AIDS Initiative. Through this initiative, CDC's Global AIDS Program (GAP) aims to strengthen capacity and expand activities in the areas of (1) HIV primary prevention; (2) HIV care, support, and treatment; and (3) capacity and infrastructure development, especially for surveillance. Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. Government agencies are already active. Zimbabwe is one of these targeted countries.

To carry out its activities in these countries, CDC is working in a collaborative manner with national governments, non governmental organizations (NGOs), other national and international agencies to develop programs of assistance to address the HIV/AIDS epidemic. CDC's program of technical assistance to Zimbabwe focuses on several areas including strengthening surveillance and laboratory measures, scaling up promising prevention and care strategies, supporting behavior change communication projects, promoting technology transfer, and other capacity building efforts.

Zimbabwe is experiencing one of the world's most severe AIDS crises that looms as a disaster of unprecedented proportions. Zimbabwe has one of the world's highest HIV prevalence rates among adults, life expectancy has declined from 63 years to 38 years in only a decade, and the proportion of children orphaned by AIDS is expected to reach 35 percent by 2010.

The need for appropriate, quality health care corresponding to the generalized epidemic of HIV/AIDS in Zimbabwe is enormous. Approximately 2 million of the 12 million Zimbabweans are infected with HIV. An estimated 60 percent of hospital inpatients in Zimbabwe suffer from HIV-related conditions, and more than 2,000 deaths per week result from AIDS. A recent burden of disease assessment in Zimbabwe found that nearly 45 percent of all lost disability-adjusted life years (DALYs) in Zimbabwe can be attributed to HIV/AIDS. Tuberculosis rates have increased 10-fold since the mid-1980s, and the World Health Organization(WHO) now lists Zimbabwe as having the highest estimated incidence rates of tuberculosis in the world at more than 500 new cases/100,000 population annually. Despite the tremendous stress on hospitals from the high proportion of patients suffering from HIV-related conditions, the majority of persons diagnosed with or suspected as suffering from HIV/AIDS related conditions in Zimbabwe have in fact been discharged to either self care or systems of ''community and home-based care,'' services that may range from quite helpful to being of very little help.

In response to HIV/AIDS, Zimbabwe has taken many positive steps. It was one of the first governments in the world to negotiate a large World Bank loan for AIDS prevention in 1992. In December 1999, the Government of Zimbabwe (GOZ) declared AIDS a national disaster, created a new ministerial-level multi-sectoral National AIDS Council (NAC), announced a new National AIDS Policy, and instituted an ''AIDS levy'' payroll tax to underwrite improved national AIDS prevention and care services.

The national response has also included many examples of creative programming and successful grassroots initiatives in the face of staggering adversity. Many of these grassroots initiatives were in the domain of home-based care and support for persons living with HIV/AIDS (PLWA). Several excellent evaluations of home-based care for PLWA have been conducted in Zimbabwe at specific points in time. However, no consistent focus or organizational entity has been established that is dedicated to systematically monitoring, evaluating, and attempting to improve the quality of care for HIV/AIDS across all levels of the health system and society, from central hospitals to community and home-based care programs. The AIDS and TB Unit of the Ministry of Health and Child Welfare (MOHCW), which is responsible for public sector health care for HIV/AIDS within the Ministry, has only one physician, who also oversees all health sector aspects of HIV/AIDS prevention and care, as well as all governmental programs for STDs and TB. Therefore, the MOHCW critically needs allied organizations that can assist in coordinating and implementing a broad range of activities to improve quality and coverage of care for HIV/AIDS and related conditions.

The Clinical Epidemiology Unit (CEU) at the University of Zimbabwe (UZ) School of Medicine was established in 1989, after training of an initial cadre of clinical epidemiologists in the United States and Australia. Supported through the International Clinical Epidemiology Network (INCLEN) by the Rockefeller Foundation (until 1992) and by Australia AID (from 1994 to 2001), the UZ CEU has trained 16 persons in clinical epidemiology (including 7 currently in training), 3 in Health Social Science, 3 in Biostatistics, 2 in Health Economics, and 3 in Pharmaco-epidemiology. This diversity and extent of training in clinical epidemiologic disciplines is superimposed on an underlying further diversity of clinical

specialties represented in the UZ CEU, including internal medicine, pediatrics, obstetricians, surgeons, laboratory scientists, health social scientists, biostatisticians, pharmacists, and others.

For the past 7 years, clinical epidemiology training at UZ has been supported by the University of Newcastle-Australia through technical assistance, distance learning curriculum, and teaching technology. Over the past several years, the CEU petitioned for and has received approval from the University of Zimbabwe to offer a local Masters training program in Clinical Epidemiology, beginning in 2001. The UZ CEU has been solicited by the World Health Organization (WHO) to offer this degree training program to qualified candidates from other countries in the Region, who will be supported by WHO to be trained at the UZ CEU. The UZ CEU is the only existing organizational entity in Zimbabwe with the overall mission, structure, and multidisciplinary capacity to develop the proposed Quality of HIV/AIDS Care Initiative, while simultaneously supporting it through a degree-granting training program in clinical epidemiology.

The purpose of this cooperative agreement is to contribute systematically and strategically to improving the quality of HIV/AIDS care in Zimbabwe, and related clinically-oriented prevention services (such as prevention of mother-to-child-transmission (PMTCT) of HIV infection), with a focus on care at the district hospital level and below. Since the needs for HIV/AIDS care and clinical prevention services will intensify over time, a second and related purpose is to train more clinical epidemiologists in Zimbabwe and support them to systematically address priority issues in HIV/AIDS clinical care that will inevitably arise over the coming decade. This will be accomplished through cooperation between CDC and the Clinical Epidemiology Unit, University of Zimbabwe School of Medicine, in collaboration with relevant policy-setting authorities such as the MOHCW and the National Drugs and Therapeutics Policy Advisory Committee (NDTPAC). These collaborative activities are expected to contribute meaningfully, immediately, and over the coming decade to assist Zimbabwe to develop tools needed to increase the quality and coverage of HIV/AIDS clinical services.

B. Eligible Applicants

Assistance will be provided only to the University of Zimbabwe, School of Medicine, Clinical Epidemiology Unit (CEU). No other applications are solicited.

The UZ/CEU is the only appropriate and qualified organization to fulfill the requirements set forth in this announcement because:

1. As an established inter-departmental unit organized around the cross-cutting discipline of clinical epidemiology, the CEU is uniquely positioned to bring together faculty of the School of Medicine (and other faculty within the University of Zimbabwe) to design and implement a systematic program of clinical epidemiologic investigation, systematic reviews, support for guidelines development, and related activities to support an initiative to improve the quality of HIV/AIDS care in Zimbabwe. The development of the CEU with its generalist focus on clinical epidemiology as a core discipline has now been successfully implemented, and has resulted in a committed, enthusiastic and capable faculty.

2. The UZ/CEU is the only entity in Zimbabwe, and one of the few in Africa, that offers training leading to a master degree in clinical epidemiology. Since the Quality of HIV/AIDS Care Initiative is a long-term endeavor that depends critically on building up human capacity in Zimbabwe for assessing and improving the quality of clinical care for HIV-related conditions, the CEU is the only potential applicant able to be responsive to this critical need to generate trained manpower in the domain of clinical epidemiology to address continually emerging issues in HIV/AIDS care that will confront Zimbabwe over the coming decade.

3. Candidates for the Master of Clinical Epidemiology degree all conduct investigations and write theses on some aspect related to quality, cost-effectiveness, or other properties of clinical care in Zimbabwe. To the extent that these trainees can be guided by a carefully derived, coordinated set of key health services questions related to increasing quality and coverage of HIV/AIDS care, and supported specifically by resources dedicated to addressing that agenda, this pool of Masters trainees, with their CEU mentors, constitutes an immediately available reservoir of human resources available to quickly begin addressing high priority issues in HIV/AIDS care.

C. Availability of Funds

Approximately $500,000 is available in FY 2001 to fund this agreement. It is expected that the award will begin on or about September 30, 2001 and will be made for a 12-month budget period within a project period of up to five years. Annual funding estimates may change. Continuation awards within the approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Direct Assistance

Direct provision of equipment and supplies (e.g., vehicles, computer hardware/software, specific consumables & supplies) may be requested as direct assistance in lieu of a portion of this financial assistance.

Use of Funds

Funds received from this announcement may not be used for the purchase of the direct purchase of drugs for the treatment of active TB disease. Funds may not be used for new construction, although limited renovation of existing space may be acceptable.

Funds received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection (with the exception nevirapine in PMTCT cases and with prior written approval), occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the activities (including program management and operations and delivery of prevention services for which funds are requested).

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from:

Dorimar Rosado, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office Centers for Disease Control and Prevention Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: (770) 488–2782, E-mail: dpr7@cdc.gov

For program technical assistance, contact:

Michael St. Louis, MD, Global AIDS Program (GAP), Zimbabwe Country Team, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), Zim-CDC AIDS Project Team, 38 Samora Machel Avenue, 2nd Floor, Harare, Zimbabwe, Tel: 263 4 796040, 796048, Fax: 263 4 796032 E-mail: stlouism@zimcdc.co.zw

Dated: July 17, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–18284 Filed 7–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Science and Program Review Subcommittee (SPRS) and the Advisory Committee for Injury Prevention and Control (ACIPC): Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee and committee meetings.

Name: Science and Program Review Subcommittee to ACIPC.

Time and Date: 1 p.m.–4:30 p.m., August 7, 2001.

Place: The Westin Atlanta Airport, 4736 Best Road, College Park, Georgia 30337.

Status: Open: 1 p.m.–1:30 p.m., August 7, 2001; Closed: 1:30 p.m.–4:30 p.m., August 7, 2001. Open to the public, limited only by the space available.

Purpose: The Subcommittee provides advice on the needs, structure, progress and performance of the National Center for Injury Prevention and Control's programs. The Subcommittee provides second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends approval of projects that merit further consideration for funding support. The Subcommittee also advises on priorities for research to be supported by contracts, grants, and cooperative agreements and provides concept review of program proposals and announcements.

Matters to be Discussed: Agenda items include status of program announcements for fiscal year 2002, schedule of monitoring workshops, general announcements and updates, and second-level scientific and programmatic review, discussion, and evaluation of grant applications relating to the support of injury control research centers, individual research grants, and Small Business Innovation Research.

Name: Advisory Committee for Injury Prevention and Control.

Time and Date: 4:45 p.m.–5:45 p.m., August 7, 2001.

Place: The Westin Atlanta Airport, 4736 Best Road, College Park, Georgia 30337.

Status: Open: 4:45 p.m.–5:10 p.m., August 7, 2001; Closed: 5:10 p.m.–5:45 p.m., August 7, 2001.

Purpose: The Committee advises and makes recommendations to the Secretary, the Assistant Secretary for Health, and the Director, CDC, regarding feasible goals for the prevention and control of injury. The Committee makes recommendations regarding policies, strategies, objectives, and priorities, and reviews progress toward injury prevention and control. The Committee provides advice on the appropriate balance of intramural and extramural research, and also provides guidance on the needs, structure, progress and performance of intramural programs, and on extramural scientific program matters. The Committee provides second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends approval of projects that merit further consideration for funding support. The Committee also recommends areas of research to be supported by contracts and cooperative agreements and provides concept review of program proposals and announcements.

Matters to be Discussed: Agenda items include an update from the Director, National Center for Injury Prevention and Control (NCIPC), format proposed for future ACIPC meetings, and consideration, discussion, and vote on SPRS funding recommendations regarding grant applications.

On August 7, 2001, from 1:30 p.m. to 4:30 p.m., the SPRS will convene in closed session, and from 5:10 p.m. to 5:45 p.m., the ACIPC voting members will convene in closed session to discuss and evaluate grant applications. These portions of the meetings will be closed to the public in accordance with provisions set forth in section 552(c)(4) and (6) title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Mr. Thomas E. Blakeney, Acting Executive Secretary, ACIPC, NCIPC, CDC, 4770 Buford Highway, NE., M/S K61, Atlanta, Georgia 30341–3724, telephone 770/488–1481.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: July 10, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–18287 Filed 7–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organizations, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organizations, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 66 FR 36790–36791, dated July 13, 2001) is amended to modify the mission statement for the Office of the Director, Division of Public Health Systems Development and Research, Public Health Practice Program Office.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete the mission statement for the *Office of the Director (CH51), Division of Public Health Systems Development and Research (CH5), Public Health Practice Program Office (CH),* and insert the following:

(1) Directs and coordinates the activities of the Division toward their achievement and evaluates results: (2) Develops long-range plans, sets annual objectives, and monitors progress; (3) Provides leadership and management oversight; (4) Serves as a focal point for development State and local public

health capacity, for providing core training to ensure competency of the State and local public health workforce and for assessing State and local health capacity to achieve Year 2010 health objectives; (5) Interacts with public, private, academic, and voluntary sectors of the public health community to foster consensus and adoption of health systems that ensure the capacity for effective response to the National health objectives; (6) Increases the collaboration and fosters the application of resources and capabilities of academic institutions and public health agencies to achieve priority public health goals; (7) Establishes information and knowledge management policies, data systems, and information resources required to support State, local, and Divisional needs; (8) Serves as an advisor to the Director, Public Health Practice Program Officer, on matters related to public health systems, health systems assessment, policy development and assurance, and health system capacity improvement; (9) Coordinates collaborative activities of the Division with other Centers, Institute, and Offices; other Federal agencies; States and local agencies; professional societies; and private health organizations.

Dated: July 13, 2001.

Jeffrey P. Koplan,

Director.

[FR Doc. 01–18211 Filed 7–20–01; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0006]

Agency Information Collection Activities; Announcement of OMB Approval; New Animal Drug Application, Form FDA 356 V

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''New Animal Drug Application, Form FDA 356 V,'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 8, 2001 (66 FR 23266), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0032. The approval expires on July 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: July 13, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–18222 Filed 7–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–0084]

Agency Information Collection Activities; Announcement of OMB Approval; Guidance for Industry on Special Protocol Assessment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Guidance for Industry on Special Protocol Assessment'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 9, 2000 (65 FR 6377), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0470. The approval expires on July 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: July 17, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–18344 Filed 7–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0051]

Agency Information Collection Activities; Announcement of OMB Approval; Adverse Event Pilot Program for Medical Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Adverse Event Pilot Program for Medical Devices'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 20, 2001 (66 FR 33099), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0471. The approval expires on July 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: July 17, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–18345 Filed 7–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–1515/1572]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Home Health Agency Survey and Deficiencies Report, Home Health Functional Assessment Instrument and Supporting Regulations in 42 CFR part 484.1–484.52; *Form No.:* HCFA–1515/1572 (OMB# 0938–0355); *Use:* In order to participate in the Medicare program as a Home Health Agency (HHA) provider, the HHA must meet Federal Standards. These forms are used to record information about patients' health and provider compliance with requirements; *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 6,997; *Total Annual Responses:* 13,994; *Total Annual Hours:* 13,994.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Attn.: HCFA 1572, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 13, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–18263 Filed 7–20–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

American Indians Into Psychology Program

AGENCY: Indian Health Service, HHS.

ACTION: Notice of competitive grant applications for American Indians Into Psychology Program.

SUMMARY: The Indian Health Service (IHS) announces that competitive grant applications are now being accepted for the American Indians Into Psychology Program. These grants are established under the authority of section 217 of the Indian Health Care Improvement Act, Pub. L. 94–437, as amended. This program is described at 93.970 in the Catalog of Federal Domestic Assistance. Costs will be determined in accordance with applicable Office of Management and Budget Circulars. Executive Order 12372 requiring intergovernmental review is not applicable to this program.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of *Healthy People 2010*, a PHS-led activity for setting priority areas. This program announcement is related to the priority area of Educational and Community-based programs. Potential applicants may obtain a copy of *Healthy People 2010,* summary report in print, Stock No. 017–001–00547–9, or via CD–ROM, Stock No. 017–001–00549–5, through the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7945, (202) 512–1800. You may access this information via the Internet at the following website: *www.health.gov/healthypeople/publication.*

Smoke Free Workplace: The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

DATES: a. Application Receipt Date—An original and two copies of the completed grant application must be submitted with all required documentation to the Grants Management Branch, Division of Acquisition and Grants Management, Twinbrook Metro Plaza, 12300 Twinbrook Parkway, Suite 100, Rockville, Maryland 20852, by close of business August 31, 2001.

Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline with hand carried applications received by close of business 5 p.m.; or (2) postmarked on or before the deadline and received in time to be reviewed along with all other applications. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Late applications not accepted for processing will be returned and will not be considered for funding.

b. Additional Dates:

1. Application Review: September 7, 2001. Field readers will conduct the review.

2. Applicants Notified: of Results on or about September 11, 2001 (approved), recommended for approval but not funded, or disapproved.)

3. Anticipated Start Date: September 12, 2001.

Contacts for Assistance: For American Indians Into Psychology program information, contact Dr. Marlene EchoHawk, Office of Public Health, Division of Clinical and Preventive Services, 12300 Twinbrook Parkway, Suite 605, Rockville, Maryland 20852, (301) 443–2038. For grant application and business management information, contact Ms. Martha Redhouse, Grants Management Branch, Indian Health Service, Twinbrook Metro Plaza, 12300 Twinbrook Parkway, Suite 100, Rockville, Maryland 20852, (301) 443–5204.

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program purpose, eligibility and documentation, program requirements, required affiliations, funds available, limitations, period of

support, and application procedures for FY 2001.

A. General Program Purpose

The purpose of the American Indians Into Psychology Program is to develop and maintain American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field.

B. Eligibility and Documentation

Public and non-profit private colleges and universities are eligible to apply for a grant, however, only one grant will be awarded and funded to a college or university per funding cycle.

C. Program Requirements

Each proposal must address the following objectives to be considered for funding:

1. Provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations that will be served by the program.
2. Incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program.
3. Provides summer enrichment programs to expose Indian students to the varied fields of psychology through research, clinical, and experiental activities.
4. Provides stipends to undergraduate and graduate students to pursue a career in clinical psychology. Stipends for individuals will not be funded during the first year of the project because the first year will involve recruiting individuals. Stipends must be included in the budget and narrative for the second and third years of the project.
5. Develops affiliation agreements with tribal community colleges, the IHS, university affiliated programs, and other appropriate entities to enhance the education of Indian students.
6. To the maximum extent feasible, utilizes existing university tutoring, counseling and student support services.
7. To the maximum extent feasible, employs qualified Indians in the program.

D. Required Affiliations

The grant applicant must submit official documentation indicating a tribe's cooperating with the support of the program within the schools on its reservation and its willingness to have a tribal representative serving on the program advisory board. Documentation must be in the form prescribed by the tribe's governing body, i.e., letter of support or tribal resolution. Documentation must be submitted from every tribe involved in the grant program.

E. Funds Available, Limitations and Period of Support

1. Funds available—It is anticipated that approximately $200,000 will be available for one award.
2. Limitations—Only one grant project will be awarded to a college or university.
3. Period of support—Project will be awarded for a budget term of 12 months, with a maximum project period of up to 3 years. Grant funding levels include both direct and indirect costs. Funding of succeeding years will be based on the FY 2001 level, continuing need for the program, satisfactory performance, and the availability of appropriations in those years.

F. Application Process

The IHS Grant Application Kit, Form PHS 5161–1 (Revised 7/00), OMB Approval No. 0920–0428, may be obtained by writing or calling the Division of Acquisition and Grants Management, Grants Management Branch, Indian Health Service, Twinbrook Plaza, 12300 Twinbrook Parkway, Suite 100, Rockville, Maryland 20852, telephone (301) 443–5204. (This is not a toll free number.)

G. Grant Application Requirements

All applications must be single-spaced, typewritten, and consecutively numbered pages using black type not smaller than 12 characters per one inch, with conventional one-inch border margins, on only one side of standard size 8½ × 11 paper that can be photocopied. The application narrative (not including the Appendix) must not exceed 5 typed pages as described above. An additional page may be used for each additional year of funding requested. All applications must include the following in the order presented:

—Standard Form 424, Application for Federal Assistance
—Standard Form 424A, Budget Information—Non-Construction Programs and instructions (pages 1–4)
—Project Narrative (5 pages)
1. Introduction and Potential Effectiveness of Project
2. Project Administration
3. Accessibility to Target Population
4. Relationship of Objectives to Manpower Deficiencies
5. Project Budget
—Brief Multi-Year Narratives and Budgets—Limited to one page for each additional year of funding
—Appendix

Once an application is approved for funding, the following documents *must* be submitted prior to award:

—SF 424B, Assurance—Non-Construction Programs
—Certifications (PHS–5161–1—pages 17–19)

H. Application Narrative Instructions, Application Standards (Evaluation Criteria) and Weights

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned each section are noted in parenthesis.

Narrative: Please describe the complete project in clear and succinct style. It should be organized as described in section 1–5 and not exceed 5 single spaced pages, and address the following:

1. Introduction and Potential Effectiveness of Project (30 pts)

a. Describe your legal status and organization.

b. State specific objectives of the project, which are measurable in terms of being quantified, significant to the needs of Indian people, logical, complete and consistent with the purpose of Section 217.

c. Describe briefly what the project intends to accomplish. Identify the expected results, benefits, and outcome or products to be derived from each objective of the project.

d. Provide a project specific work plan (milestone chart), which lists each objective, the tasks to be conducted in order to reach the objective, and the time frame needed to accomplish each task. Time frames should be projected in a realistic manner to assure that the scope of work can be completed within each budget period. (A work plan format is provided.)

e. In the case of proposed projects of identification of Indians with a potential for education or training, include a method of assessing the potential of interested Indians for undertaking necessary education or training.

f. State clearly the criteria by which the project's progress will be evaluated and by which the success of the project will be determined.

g. Explain the methodology that will be used to determine if the needs, goals, and objectives identified and discussed in the application are being met and if the results and benefits identified are being achieved.

h. Identify who will perform the evaluation and when.

2. Project Administration (20 pts.)

a. Provide an organizational chart and describe the administrative, managerial and organizational arrangement and the facilities and resources to be utilized to conduct the proposed project.

b. Provide the name and qualifications of the project director or other individuals responsible for the conduct of the project; the qualifications of the principal staff carrying out the project; and a description of the manner in which the applicant's staff is or will be organized and supervised to carry out the proposed project. Include biographical sketches of key personnel (or job descriptions if the position is vacant.)

c. Describe any prior experience in administering similar projects.

d. Discuss the commitment of the organization, i.e., although not required, the level of non-Federal support. List the intended financial participation, if any, of the applicant in the proposed project specifying the type of contribution such as cash or services, loans of full or part-time staff, equipment, space, materials or facilities or other contributions.

3. Accessibility to Target Population (20 pts.)

a. Describe the current and proposed participation of Indians (if any) in your organization.

b. Identify the target Indian population to be served by your proposed project and the relationship of your organization to that population.

c. Describe the methodology to be used to access the target population.

4. Relationship of Objectives to Manpower Deficiencies (20 pts.)

a. Provide data and supporting documentation to substantiate need for recruitment.

b. Indicate the number of potential Indian students to be contacted and recruited as well as potential cost per student recruited. Those projects that have the potential to serve a greater number of Indians will be given first consideration.

5. Project Budget (10 pts.)

a. Provide a budget for the budget period requested. The funds requested should be appropriate and necessary for the scope of the project.

b. The available funding level of $200,000 is inclusive of both direct and indirect costs. Because this project is for a training grant, the Department of Health and Human Services' policy limiting reimbursement of indirect cost to the lesser of the applicant's actual indirect costs or 8 percent of total direct costs (exclusive of tuition and related fees and expenditures for equipment) is applicable. This limitation applies to all institutions of higher education other than agencies of State and local government.

c. Projects requiring a second and third year must include a brief narrative and budget for each additional year of funding.

Appendix to include:

- Resumes and position descriptions for key staff
- Organizational chart
- Work Plan
- Tribal Resolution(s)/letters of support
- Application Receipt Card, PHS–3038–1 Rev. 5–90

I. Assurances

Assurances (SF–424B), and Certifications (PHS–5161–1—pages 17–19) need not be submitted with the application. They will be required prior to actual award if the application is approved for funding.

J. Reporting

1. Annual Progress Report—An annual progress report is due 60 days before the end of each budget period prior to the final budget period for all multi-year projects. This report will include a brief description of program accomplishments to the goals established, reasons for slippage, other pertinent information as required, and plans for the next budget period.

2. Final Progress Report—A final progress report is due 90 days after expiration of the project period. This report will include a description of program accomplishments to the goals established, reasons for slippage, and other pertinent information as required.

3. Financial Status Report—A final financial status report is due 90 days after expiration of the project period. Standard Form 269 (long form) will be used for financial reporting.

K. Grant Administration Requirements

Grants are administered in accordance with the following documents:

1.45 CFR part 92, HHS, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, or 45 CFR part 74, Administration of Grants to Non-profit Recipients.

2. PHS Grants Policy Statement, and

3. OMB Circular A–21, Cost Principles and Educational Institutions.

L. Application Consideration

1. Application Review

Application submitted by the closing date and verified by the postmark under this program announcement will undergo a review to determine that the applicant is eligible in accordance with the Eligibility and Documentation Section of this announcement; the application narrative, form and materials submitted are adequate to allow the reviewers to undertake an in-depth evaluation; and that the application complies with this announcement; otherwise it will be returned without consideration.

2. Competitive Review of Accepted Applications

Applications meeting eligibility requirements that are complete, responsive, and conform to this program announcement will be reviewed for merit by Reviewers appointed by the IHS. The review will be conducted in accordance with PHS review procedures. The review process ensures selection of quality projects in a national competition for limited funding. Applications will be evaluated and rated on the basis of the evaluation criteria listed above. These criteria are used to evaluate the quality of the proposed project, to assign a numerical score to each application, and to determine the likelihood of its success. Applications scoring below 60 points will not be funded.

3. Results of the Review

The results of the review are forwarded to the Division Director, Division of Health Professions Support (DHPS), for final review and approval. The Division Director will also consider the recommendations from the Grants Management Branch. After the decisions have been made on all applications, applicants are notified by September 11, 2001. Unsuccessful applicants will be notified in writing.

Successful applicants are notified through an official Notice of Grant Award (NGA) document. The NGA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, and the budget period.

Dated: July 16, 2001.

Michel E. Lincoln,

Deputy Director, Indian Health Service.

[FR Doc. 01–18291 Filed 7–20–01; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Indians Into Medicine Program

AGENCY: Indian Health Service, HHS.

ACTION: Extension of deadlines and change in funds availability for competitive grant applications for the Indians Into Medicine Program.

The Notice of funding availability for competitive grants for the Indians Into Medicine Program was published at 66 FR 27665 on May 18, 2001, and corrected at 66 FR 30219 on June 5, 2001.

The Indian Health Service announces the extension of dates for the following:

1. Application Receipt Date: August 1, 2001.
2. Application Review: August 13, 2001.
3. Applicants Notified of Results (approved, approved unfunded, or disapproved): August 27, 2001.

It is anticipated that approximately $220,100 will be available for one award. This is a change from the $400,000 previously announced and published on May 18, 2001. The available funding level of $220,100 is inclusive of both direct and indirect costs.

Applicants are notified in writing on or about August 27, 2001.

This extension provides applicants approximately five additional weeks to prepare and submit competitive applications.

All other information contained in the **Federal Register** announcements remains unchanged.

Dated: July 16, 2001.

Michel E. Lincoln,

Deputy Director.

[FR Doc. 01–18290 Filed 7–20–01; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute (NCI); Development of Therapeutic Antibodies and Vaccines From Tumor Associated Antigens in Human Lymphoma

AGENCY: National Cancer Institute, National Institutes of Health, PHS, DHHS.

ACTION: Notice of an opportunity for Cooperative Research and Development Agreement (CRADA).

An opportunity for a Cooperative Research and Development Agreement (CRADA) is available for collaboration with the NCI intramural Center for Cancer Research (CCR) to develop therapeutic antibodies and vaccines from novel tumor associated antigens in human lymphoma. This collaboration specifically excludes idiotype as the lymphoma antigen. Collaborative projects will focus upon cancer and/or areas of high public health significance and high national and international priority.

SUMMARY: Pursuant to the Federal Technology Transfer Act of 1986 (FTTA, 15 U.S.C. 3710 as amended; and Executive Order 12591 of April 10, 1987, the National Cancer Institute (NCI) of the National Institutes of Health (NIH) of the Public Health Service (PHS) of the Department of Health and Human Services (DHHS) seeks one Cooperative Research and Development Agreement (CRADA) with a pharmaceutical or biotechnology company to develop therapeutic antibodies and vaccines from tumor associated antigens in human lymphoma. The CRADA would have an expected duration of one (1) to five (5) years. The goals of the CRADA include the rapid publication of research results and timely commercialization of products, and/or methods of treatment or prevention that may result from the research. The CRADA Collaborator will have an option to negotiate the terms of an exclusive or non-exclusive commercialization license to subject inventions arising under the CRADA and which are the subject of the CRADA Research Plan.

ADDRESSES: Proposals and questions about this CRADA opportunity may be addressed to Jeffrey W. Thomas, Ph.D., Technology Transfer Branch, National Cancer Institute, Fairview Center, Room 502, Frederick, MD 21701 (phone: 301–846–5465; fax: 301–846–6820; email: jeffreyt@mail.nih.gov). Scientific inquires should be submitted to Larry W. Kwak, M.D., Ph.D., CCR, National Cancer Institute, Bldg. 567, Room 205, Frederick MD, 21702–1201 (phone: 301–846–1607; Fax: 301–846–6107; e-mail kwak@mail.ncifcrf.gov).

EFFECTIVE DATE: Inquiries regarding CRADA proposals and scientific matters may be forwarded at any time. Confidential, preliminary CRADA proposals, preferably two pages or less, must be submitted to the NCI on or before August 22, 2001. Guidelines for preparing final CRADA proposals will be communicated shortly thereafter to all respondents with whom initial confidential discussions will have established sufficient mutual interest. CRADA proposals may be accepted after the initial 30 day period if a CRADA Collaborator is not identified from the initial pool of respondents.

SUPPLEMENTARY INFORMATION:

Technology Available

The intramural CCR NCI is seeking a collaborative partner to develop therapeutic antibodies and vaccines from novel tumor associated antigens (TAAs) in human lymphoma. Identification of novel TAA proteins differentially expressed in human lymphoma samples may be useful targets for the development of such therapeutic antibodies and vaccines. This collaboration specifically excludes idiotype as the lymphoma antigen. The CCR has experience with collection and characterization of primary human lymphomas, understanding of basic lymphoma immunobiology, and unique reagents generated from patients who have undergone immunotherapy. As part of the proposed collaboration, the CCR will utilize its expertise to collect and characterize human lymphoma samples prior to protein and genetic analysis. Also, clinical data from well-characterized vaccinated patients will be available for clinical correlation. CCR is seeking a collaborative partner with experience in proteomics to identify TAAs differentially expressed in lymphoma samples that may have potential as therapeutic or diagnostic targets. For example, the partner may have expertise in liquid chromatography and mass spectrometry to identify proteins differentially expressed in lymphomas, compared to normal B lymphocytes. Additionally, the use of gene expression techniques to confirm the proteomics results is envisioned. Genetic analysis of the identified TAAs will be essential in the development of effective immunotherapies; thus, the collaborative partner must have a strong background in genetic analysis to understand the effects of variations (e.g. polymorphisms) and to recognize genetic components that could be used to develop effect vaccines and therapeutic antibodies. Thus, the potential collaborator must be a leader in proteomics, bioinformatics and genomics and have a demonstrated interest, expertise, or ability in the development of cancer vaccines.

NCI and Collaborator Responsibilities

The role of the National Cancer Institute in this CRADA will include, but not be limited to:

1. Providing intellectual, scientific, and technical expertise and experience to the research project.

2. Providing the Collaborator with human lymphoma samples suitable for proteomic and genomic analysis.

3. Planning research studies and interpreting research results.

4. Publishing research results.

The role of the CRADA Collaborator may include, but not be limited to:

1. Providing significant intellectual, scientific, and technical expertise or experience to the research project.

2. Providing essential research materials, such as enzymes or other reagents, extracts, compounds, hardware, software and access to databases.

3. Planning research studies and interpreting research results.

4. Providing technical expertise and/or financial support (e.g. facilities, personnel and expertise) for CRADA-related research as outlined in the CRADA Research Plan.

5. Publishing research results.

Selection criteria for choosing the CRADA Collaborator may include, but not be limited to:

1. The ability to collaborate with NCI on research and development of this technology involving the development of lymphoma vaccines. This ability can be demonstrated through experience, expertise, and the ability to contribute intellectually in this or related areas.

2. The demonstration of adequate resources to perform the research, development and commercialization of this technology (e.g. facilities, personnel and expertise) and accomplish objectives according to an appropriate timetable to be outlined in the CRADA Collaborator's proposal.

3. The willingness to commit best effort and demonstrated resources to the research, development and commercialization of this technology as defined above.

4. The demonstration of expertise in the commercial development, production, marketing and sales of antitumor products.

5. The willingness to cooperate with the National Cancer Institute in the timely publication of research results.

6. The agreement to be bound by the appropriate DHHS regulations relating to human subjects, PHS policies relating to the use and care of laboratory animals, and the dissemination of research tools according to NIH policy.

7. The willingness to accept the legal provisions and language of the CRADA with only minor modifications, if any. These provisions govern the equitable distribution of patent rights to CRADA inventions. Generally, the rights of ownership are retained by the organization that is the employer of the inventor, with (1) the grant of a license for research and other Government purposes to the Government when the CRADA Collaborator's employee is the sole inventor, or (2) the grant of an option to elect an exclusive or non-exclusive license to the CRADA Collaborator when the Government employee is the sole inventor.

Dated: July 11, 2001.

Kathleen Sybert,

Chief, Technology Transfer Branch, National Cancer Institute, National Institutes of Health.

[FR Doc. 01–18281 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Eye Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodation, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Eye Council.

Date: September 13, 2001.

Closed: 8:30 am to 1 pm.

Agenda: To review and evaluate grant applications.

Place: 6130 Executive Boulevard, Room G, Rockville, MD 20852

Open: 1 pm to 5 pm.

Agenda: Following opening remarks by the Director, NEI, there will be presentations by staff of the Institute and discussions concerning Institute programs and policies.

Place: 6130 Executive Boulevard, Room G, Rockville, MD 20852.

Contact Person: Lore Anne McNicol, Director, Division of Extramural Research, National Eye Institute, National Institutes of Health, Bethesda, MD 20892, 301–496–9110.

Information is also available on the Institute's/Center's home page: www.nei.nih.gov, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–18274 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposal, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: September 6, 2001.

Open: 8:30 am to 2 pm.

Agenda: For discussion of program policies and issues.

Place: National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: 2 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Edward M Donohue, Acting Director, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, NIH, Two Rockledge Center, Room 7100, 6701 Rockledge Drive, Bethesda, MD 20892, 301/435–0260.

Information is also available on the Institute's/Center's home page: www.nhlbi.nih.gov/meetings/index.htm, where an agenda and any addition information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Disease Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHD)

Dated: July 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–18275 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel.

Date: July 30, 2001.

Time: 12 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: NHGRI, 31 Center Drive, Bldg. 31, Conference Room B2B32, 9000 Rockville Pike, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rudy O Pozzatti, PhD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 402–0838.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: July 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–18276 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, REP–NIH–01–12—Research on the Inhalation Toxicology of Environmental Chemicals.

Date: August 13, 2001.

Time: 8:30 a.m. to 11 a.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS-East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research & Training, Nat. Institute of Environmental Hlth. Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: July 17, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–18269 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Instituted of Health

National Institute of Nursing Research; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Nursing Research Special Emphasis Panel, July 11, 2001, 8 a.m. to July 11, 2001, 5 p.m., Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD, 20852 which was published in the **Federal Register** on June 29, 2001, FR 66:34701–34702.

The meeting will be held on 7/30/2001 instead of 7/11/2001. The meeting is closed to the public.

Dated: July 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–18270 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: August 2, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hotel La Jolla, 7955 La Jolla Shores Drive, La Jolla, CA.

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: August 7, 2001.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: July 17, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–18271 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. the contract proposals and the discussions could disclose confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committe: Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: October 9, 2001.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700–B Rocklegde Dr., Bethesda, MD 20892–7616 (Telephone Conference Call).

Contact Person: Vassil S. Georgiev, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC, 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 17, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–18272 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 30, 2001.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, National Institute of Mental Health, DEA, National Institutes of Health, 6001 Executive Boulevard, Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1340, rweise@mail.nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 30, 2001.

Time: 2 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, National Institute of Mental Health, DEA, National Institutes of Health, 6001 Executive Boulevard, Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1340, rweise@mail.nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: July 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–18277 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 19, 2001, 9 a.m. to July 20, 2001, 4 p.m., St. James Hotel, 950 24th Street, NW., Washington, DC, 20037 which was published in the **Federal Register** on July 9, 2001, 66 FR 35803–35804.

The meeting will be one day only, July 19, 2001. The time and location remain the same. The meeting is closed to the public

Dated: July 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–18273 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: July 24, 2001.
Time: 12 pm to 2 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 435–0912, levinv@csr.nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: July 26, 2001.
Time: 2:30 pm to 4 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Prabha L Atreya, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435–8367.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 3, 2001.
Time: 12 pm to 2 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Martin L. Padarathsingh, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 6, 2001.
Time: 9 am to 4 pm.
Agenda: To review and evaluate grant applications.
Place: Courtyard By Marriott, 805 Russell Avenue, Gaithersburg, MD 20879.
Contact Person: Abubakar A. Shaikh, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 435–1042, shaikha@csr.nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 6, 2001.
Time: 11 am to 12:30 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Everett E. Sinnett, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, sinnett@nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 6, 2001.
Time: 2 pm to 3:30 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Sharon K. Pulfer, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 6, 2001.
Time: 12 pm to 1 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Cheri Wiggs, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 7, 2001.
Time: 9 am to 5:30 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Yvette M. Davis, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, (301) 435–0906.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 7, 2001.
Time: 1 pm to 3 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Alexander D. Politis, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892, (301) 435–1225, politisa@csr.nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306, 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–18278 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS and Related Research 6.
Date: July 19–20, 2001.
Time: 8 am to 1 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Sami A. Mayyasi, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435–1169.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: July 23, 2001.
Time: 1 pm to 2 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Robert Weller, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, (301) 435–0694.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: July 23, 2001.
Time: 3 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Victoria S. Levin, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 435–0912, levin@csr.nih.gov
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis panel.
Date: July 26, 2001.
Time: 10 am to 11 am.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Lee S. Mann, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, (301) 435–0677.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis panel.
Date: July 26, 2001.
Time: 11 am to 12 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Lee S. Mann, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, (301) 435–0677.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: July 26, 2001.
Time: 1 pm to 2:30 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Charles N. Rafferty, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, Bethesda, MD 20892, (301) 435–3562.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: July 26, 2001.
Time: 1 pm to 3 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Cheri Wiggs, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis panel.
Date: July 26, 2001.
Time: 12 pm to 1 pm
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Lee S. Mann, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, (301) 435–0677.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 1, 2001.
Time: 2 pm to 3 pm
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ellen K. Schwartz, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7770, Bethesda, MD 20892, (301) 435–0681, schwarte@csr.nih.gov
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 1, 2001.
Time: 2:30 pm to 3:45 pm
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Cheri Wiggs, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 2–3, 2001.
Time: 8:30 am to 5:30 pm
Agenda: To review and evaluate grant applications.
Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.
Contact Person: Eugene Vigil, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 2, 2001.
Time: 1 pm to 2:30 pm
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Jerrold Fried, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, (301) 435–1777.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 2, 2001.
Time: 2 pm to 4 pm
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Marcia Litwack, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: August 2, 2001.
Time: 3 pm to 4 pm
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Sharon K. Pulfer, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine,

93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 16, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–18279 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Therapeutic Blockage of ICER Synthesis To Prevent ICER-Mediated Inhibition of Immune Cell Activity

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in U.S. Patent Application No. 09/643,548 and International patent application entitled ''Therapeutic blockage of ICER synthesis to prevent ICER-mediated inhibition of immune cell activity'', to Virimmune Inc., having a place of business in Rockville, Maryland. The patent rights of these inventions have been assigned to the United States of America.

The prospective exclusive license territory will be worldwide and the field of use may be limited to the treatment of infectious disease and cancer.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before September 21, 2001 will be considered.

ADDRESSES: Requests for copies of the patent, inquiries, comment and other materials relating to the contemplated exclusive license should be directed to: Percy S. Pan, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone 301–496–7736, ext. 256; Facsimile 301–402–0220; E-mail *panp@od.nih.gov*.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: July 12, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–18280 Filed 7–20–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–49]

Notice of Submission of Proposed Information Collection to OMB; Low-Income Public and Indian Housing Financial Statements

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* August 22, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also list the following information:

Title of Proposal: Low-Income Public and Indian Housing Financial Statements.

OMB Approval Number: 2577–0067.

Form Numbers: HUD–52599.

Description of the Need for the Information and its Proposed Use: Public.

Housing Agencies (PHAs) report operating receipts and expenditures of projects under an Annual Contributions or Administrative Contract which have been in the operations period for all or a part of the fiscal year. Form HUD–52599 has been designed for use in reporting operating receipts and expenditures of the various types of Projects, such as (a) PHA-owned rental projects, (b) PHA-leased rental projects, (c) PHA-owned homeowner projects, and (d) PHA-leased homeownership projects.

Respondents: State, Local or Tribal Governments.

Frequency of Submission: Annually.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	3,300		1		1		3,300

Total Estimated Burden Hours: 3,300.
Status: Reinstatement, with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 17, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–18332 Filed 7–20–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4451–N–08]

Notice Terminating Funding Availability for Public Housing Drug Elimination Program Gun Buyback Violence Reduction Initiative

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice terminating funding availability for public housing drug elimination program gun buyback violence reduction initiative.

SUMMARY: On November 3, 1999, the Department of Housing and Urban Development (HUD) published in the **Federal Register** a Notice of Funding Availability (NOFA) announcing funding for its Gun Buyback Violence Reduction Initiative. On February 3, 2000, HUD amended and republished this NOFA. The purpose of the notice published today is to announce that HUD is terminating funding under its Gun Buyback Violence Reduction Initiative NOFA. HUD is also announcing that it will recapture and reprogram any PHDEP matching gun buyback funds that are not expended by Public Housing Authorities (PHAs) by the termination date of their grant agreements.

DATES: Termination of funding for the PHDEP Gun Buyback Violence Reduction Initiative is effective immediately.

FOR FURTHER INFORMATION CONTACT: Sonia Burgos, Director, Community Safety and Conservation Division, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4206, Washington, DC 20410, telephone (202) 708–1197 ext. 4227. Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On November 3, 1999, HUD published in the **Federal Register** (at 64 FR 60080) a Notice of Funding Availability (NOFA) for the Public Housing Drug Elimination Program Gun Buyback Violence Reduction Initiative. The NOFA provided funding information and program guidelines for gun buyback initiatives. The NOFA stated that Public Housing Agencies (PHAs) may reprogram a portion of their FY 1999 PHDEP grant dollars in order to devote such resources to gun buyback violence reduction initiatives. The Department through the NOFA also made an additional $4.5 million available for gun buyback initiatives to PHAs that reprogrammed PHDEP funds for gun buyback violence reduction initiatives. This $4.5 million was to be awarded on a basis of $43 for every $100 of FY 1999 PHDEP funds reprogrammed for gun buyback violence reduction initiatives.

On February 3, 2000, HUD published in the **Federal Register** (at 65 FR 5400) a Notice of Amendment and Republication of the NOFA for the PHDEP Gun Buyback Violence Reduction Initiative. The amendment made clear that while HUD's matching funds are to be drawn only from the FY 1999 PHDEP set-aside, PHA's expenditures were not restricted to FY 1999 grant funds, but may come from PHDEP grant funds regardless of fiscal year.

The notice published in today's **Federal Register**, announces that HUD is terminating funding under its Gun Buyback Violence Reduction Initiative NOFA and, consequently, will no longer accept applications for funding. HUD is also announcing that it will recapture and reprogram any PHDEP matching gun buyback funds that are not expended by Public Housing Authorities by the termination date of their Grant Agreements.

Basis for Termination

Despite their good intentions, gun buyback initiatives are limited in their effectiveness as a strategy to combat violent and gun-related crimes, particularly in public and assisted housing communities. Buyback initiatives are likely to have more impact on reducing the number of gun-related accidents and deaths in homes than gun violence in public and assisted housing communities. There are several reasons why buyback projects are ineffective in reducing gun-related violent crimes in these neighborhoods.

First, the most effective strategies to combat gun violence are locally developed solutions initiated by PHAs working in partnership with state and local law enforcement agencies. In light of the top-down nature of this gun buyback initiative, PHAs across the nation have shown little interest in applying for or reprogramming PHDEP funding for gun buyback activities. This is underscored by the fact that only 100 PHAs out of 1,000 have reprogrammed and used $2,256,029 in PHDEP funding set-aside for gun buyback purposes out of $10.5 million that was available. Additionally, only $970,192 of the $4.5 in PHDEP technical assistance funding was used for gun buybacks.

Second, as an effort targeted at public and assisted housing, the results of gun buybacks are minimal. The buyback initiatives that are open to the general public have no guarantee of decreasing the supply of guns available to criminals who commit gun violence and related crimes that adversely impact residents living in public and assisted housing communities. At best, these buybacks may marginally be effective in reducing the at-large supply of guns held by the public. However, in light of the sheer volume of guns available in the United States and the tactics criminal use to acquire firearms, buybacks remove generally no more than 1 or 2 percent of the guns estimated to be in the hands of citizens across the nation.

Moreover, studies show that lawbreakers rarely surrender their weapons to buyback programs and many people who sell their guns have other firearms at home, or soon purchase new ones. In general, the age and type of guns turned in as a part of buyback programs are older guns. For example, in 1999, more than half the 2,912 weapons bought by the District of Columbia police for $100 apiece were 15 years old. These are not the same firearms as those used by youth or adult offenders to commit violent or drug-related criminal activity. The guns of choice for young offenders are fast, firing 9 millimeter or .380 caliber semiautomatic pistols that more often show up in crime records than at sites

where buyback programs take place. According to the Bureau of Alcohol, Tobacco and Firearms, more than one-third, and it is estimated that possibly as many as one-half, of all guns seized from young adults nation-wide are new guns purchased legally within the previous 3 years.

Conclusion

HUD acknowledges the importance of raising awareness regarding gun safety and supporting law enforcement efforts to decrease gun-related violent crimes that impact the general public and, more particularly, public and assisted housing communities across the nation. However, the Department strongly believes other State and local resources and federally-supported gun control and crime-prevention efforts should be targeted toward getting guns out of the hands of criminals. Equally important, HUD believes the Department's limited appropriations should be targeted to more conventional drug elimination and crime prevention activities that are consistent with the core HUD mission and are more effective in reducing gun violence in neighborhoods surrounding public and assisted housing communities. As a result, HUD has decided to terminate the gun buyback initiative as a special set-aside under PHDEP.

Dated: June 29, 2001.

Paula O. Blunt,

Acting General Deputy Assistant, Secretary for Public and Indian Housing.

[FR Doc. 01–18331 Filed 7–20–01; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4558–N–05]

Mortgagee Review Board; Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with Section 202(c) of the National Housing Act, notice is hereby given of the cause and description of administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: D. Jackson Kinkaid, Secretary to the Mortgagee Review Board, 451 7th Street, SW., Washington, DC 20410, telephone: (202) 708–3041 extension 3574 (this is not a toll-free number). A Telecommunications Device for Hearing and Speech-Impaired Individuals (TTY) is available at 1 (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by Section 142 of the Department of Housing and Urban Development Reform Act of 1989, Public Law 101–235, approved December 15, 1989), requires that HUD ''publish a description of and the cause for administrative action against a HUD-approved mortgagee'' by the Department's Mortgagee Review Board. In compliance with the requirements of Section 202(c)(5), notice is hereby given of administrative actions that have been taken by the Mortgagee Review Board from June 1, 2000 through April 13, 2001.

1. 1st Republic Mortgage Bankers, Inc., Floral Park, NY

Action: Settlement Agreement signed 12/21/2000. Without admitting fault or liability, 1st Republic Mortgage Bankers, Inc. (''1st Republic'') agreed to an administrative payment to HUD of $50,000. 1st Republic also agreed to indemnify HUD for any losses incurred on 19 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: 1st Republic failed to identify and resolve falsified or conflicting documentation prior to approving HUD/FHA mortgagors; 1st Republic failed to reconcile incongruities within the Uniform Residential Appraisal report prepared by the appraiser; 1st Republic failed to adequately document the mortgagor's source of funds used for the down payment and/or closing costs; and 1st Republic submitted HUD–1 settlement statements to the Department that contained false or inaccurate information.

2. American City Mortgage Corporation, Carson, CA

Action: Settlement Agreement signed April 6, 2001. Without admitting fault or liability, American City Mortgage Corporation (''ACMC'') agreed to voluntarily withdraw from participation in all HUD programs and not to reapply for FHA mortgagee approval for three years. ACMC also agreed to pay a $50,000 civil money penalty.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: ACMC failed to provide quality control review reports during an on-site review; ACMC permitted false information to be used in originating four loans and obtaining HUD/FHA mortgage insurance; ACMC permitted loans to be submitted for HUD/FHA (single family) insurance on properties with more than four living units; ACMC permitted loan officers to originate loans on properties they owned either directly or indirectly and submit them for HUD/FHA mortgage insurance; ACMC failed to ensure that the borrower met the three percent minimum cash investment; and ACMC permitted loans to be approved without adequately analyzing the mortgagors' ability to make the mortgage payments.

3. American Investment Mortgage, Inc., Dallas, TX

Action: In a letter dated October 24, 2000, the Board withdrew American Investment Mortgage, Inc.' (''AIM'') HUD/FHA approval for five years.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: AIM was operating Branch Offices as ''doing business as'' companies—''d/b/a companies''—under the net arrangement and/or was allowing a Branch Office to submit loans for underwriting prior to being approved to originate FHA insured loans; AIM accepted and processed loan applications from people not employed exclusively by AIM; AIM failed to implement a quality control plan prior to November 1998 and the one it did put in place failed to meet HUD/FHA requirements; AIM failed to timely submit Mortgage Insurance Premiums for 103 loans; AIM submitted 20 loans for endorsement more than 60 days after closing and failed to comply with the requirements for late endorsement; AIM used false information in originating FHA loans; AIM used inaccurate income to qualify the mortgagors or failed to properly verify employment for the mortgagors; AIM omitted mortgagor liabilities and/or the liabilities of the non-purchasing spouse were not considered in loan qualification; AIM failed to verify the source of funds, had insufficient documentation and submitted incomplete gift letters; AIM failed to perform underwriting within HUD/FHA established guidelines; AIM used non-traditional credit documentation to qualify mortgagors that did not meet HUD/FHA guidelines; AIM failed to provide dollar for dollar reduction to the sales price for inducement to purchase and/or make revisions to the maximum mortgage amount based on the actual closing costs paid by the mortgagor; AIM charged borrowers' fees that were not disclosed and/or were unallowable; AIM failed to clarify or document important file discrepancies;

and AIM failed to perform pre-approval field reviews.

4. American SkyCorp, Inc., Timonium, MD

Action: In a letter dated November 17, 2000, the Board withdrew American SkyCorp, Inc.'s (''ASI'') HUD/FHA approval for five years. The Board also voted to impose a civil money penalty in the amount of $220,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: ASI permitted borrowers to receive seller contributions for down payment and closing costs that were disguised as gifts or grants in four loans; ASI used falsified documentation in originating loans and obtaining mortgage insurance in one loan; ASI approved loans with ratios that exceeded HUD/FHA guidelines without noting significant compensating factors in 15 loans; ASI failed to ensure that borrowers qualified for the FHA insured mortgages in 12 loans; ASI failed to adequately document and analyze income that was used to qualify the borrower in 8 loans; ASI failed to properly verify the source and adequacy of funds for the down payment and/or closing costs in 20 loans; ASI failed to reconcile conflicting information concerning the Uniform Residential Appraisal Report in one loan; ASI failed to obtain and analyze the terms and conditions of the real estate transaction and to consider the acquisition cost of recently acquired properties in the underwriting of one loan; ASI failed to ensure that all charges and credits to the borrower were reflected on the HUD–1 settlement statement in one loan; and ASI employed a loan officer who was not an exclusive employee.

5. Approved Home Mortgage Corp., Pembroke Pines, FL

Action: Settlement Agreement signed 12/18/2000. Without admitting fault or liability, Approved Home Mortgage Corp. (''Approved'') agreed to a civil money penalty of $3,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Approved failed to implement its quality control plan; Approved failed to file annual loan origination reports for 1997 and 1998 which supplements the requirements of the Home Mortgage Disclosure Act; Approved failed to adopt, maintain and implement a Quality Control Plan that meets HUD guidelines; Approved failed to maintain complete origination files; and Approved charged an unacceptable fee.

6. Assurety Mortgage Group, Inc., Decatur, GA

Action: In a letter dated October 24, 2000, the Board withdrew Assurety Mortgage Group, Inc.'s (''AMGI'') HUD/FHA approval for five more years. This was in addition to the three years imposed by the Board in its February 15, 2000 Notice to AMGI (see 65 FR at 53731, September 5, 2000). The Board also voted to impose a further civil money penalty of $150,000, which was in addition to the $45,500 penalty previously determined in the February 15, 2000 Notice.

Cause: Follow up by Departmental Enforcement Center staff to the February 15, 2000 withdrawal notice revealed that AMGI violated HUD/FHA requirements, prudent lending practices and engaged in business practices that did not conform with accepted practices of an approved lender by the following: AMGI originated and/or provided underwriting approval for 90 loans in order to obtain HUD/FHA insurance after AMGI had been withdrawn by the Board; and AMGI opened 8 branches and added 14 loan correspondents to originate and/or underwrite HUD/FHA insured loans after being withdrawn by the Board.

7. Avstar Mortgage Corporation, Blue Bell, PA

Action: In a letter dated August 3, 2000, the Board withdrew Avstar Mortgage Corporation's (''Avstar'') HUD/FHA approval for eight years. The Board also voted to impose a civil money penalty in the amount of $192,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Avstar failed to conduct a face-to-face interview with the mortgagors; Avstar failed to document the mortgagors' source of funds used for down payment or closing costs; Avstar failed to document two full years of employment for the mortgagors; Avstar knowingly approved loans with an ineligible borrower; Avstar used falsified documentation or conflicting information in originating loans and obtaining HUD/FHA mortgage insurance; Avstar failed to ensure that the borrowers met their minimum required investment; Avstar failed to provide lender credits in accordance with the Mortgage Credit Analysis Worksheet; Avstar approved loans where the verification forms passed through the hands of an interested third party; Avstar failed to use HUD assigned fee personnel in cases where the seller was an employee; Avstar charged a higher document preparation fee than permitted by HUD field offices having jurisdiction where the loans were originated; and Avstar failed to maintain a Quality Control Plan in compliance with HUD requirements.

8. Bankers Choice Mortgage Corp., Miami, FL

Action: Settlement Agreement signed 2/7/2001. Without admitting fault or liability, Bankers Choice Mortgage Corp. (''BCMC'') agreed to a civil money penalty of $12,000. BCMC also refunded mortgagors in cases where unallowable fees were charged.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: BCMC failed to file an annual loan origination report for 1998 which supplements the requirements of the Home Mortgage Disclosure Act; BCMC failed to establish and maintain a Quality Control Plan for the origination of HUD/FHA insured mortgages; BCMC failed to address a conflict of interest issue in four loans; BCMC charged unacceptable fees in three loans; and BCMC failed to maintain complete origination files in seven cases.

9. Budget Mortgage Bankers, Ltd., Lake Success, NY

Action: Settlement Agreement signed 11/28/2000. Without admitting fault or liability, Budget Mortgage Bankers, Ltd. (''Budget'') agreed to a civil money penalty of $15,000. Budget agreed to indemnify HUD for any losses incurred on 9 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Budget failed to maintain and implement a Quality Control Plan in compliance with HUD requirements; Budget failed to ensure falsified or conflicting documentation was not used to approve HUD/FHA mortgagors in 2 loans; Budget closed a loan that was overinsured by $867.35; Budget failed to properly underwrite a loan with a non-occupying co-borrower; Budget failed to properly verify income in 3 loans; and Budget failed to properly verify the source and adequacy of funds for the down payment and/or closing in 7 loans.

10. Capitol Mortgage Bankers, Inc., Millersville, MD

Action: In a letter dated August 3, 2000, the Board withdrew Capitol Mortgage Bankers, Inc.''s (''Capitol'') HUD/FHA approval for five years. The Board also voted to impose a civil money penalty in the amount of $280,500.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: In 36 loans, Capitol relied upon inadequate and invalid compensating factors for loan approval in circumstances of excessive debt-to-income ratios; Capitol failed to identify and/or resolve false or conflicting documentation prior to approving HUD/FHA mortgages; Capitol failed to obtain required documentation in lieu of Verifications of Deposit; Capitol failed to properly verify the source and adequacy of funds for the down payment and/or closing; Capitol failed to close the loans in compliance with the loan approval; Capitol failed to adequately analyze income that was used to qualify the borrower; Capitol failed to ensure that the mortgagors' credit profile used to underwrite the loan met HUD/FHA requirements; and Capitol obtained endorsement for HUD/FHA insurance on an ineligible loan.

11. Community Home Mortgage Corporation, Melville, NY

Action: Settlement Agreement signed January 15, 2001. Without admitting fault or liability, Community Home Mortgage Corporation (''CHMC'') agreed to a civil money penalty of $120,000. CHMC agreed to indemnify HUD for any losses incurred on 17 loans. [See 65 FR at 53732, September 5, 2000, for a prior notice of the proposed settlement.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: CHMC failed to maintain and implement a compliant quality control plan; CHMC failed to file annual loan origination reports since 1991 which supplement the requirements of the Home Mortgage Disclosure Act; CHMC failed to ensure 203(k) rehabilitation work was complete prior to release of escrow funds on 14 loans; CHMC failed to ensure 203(k) rehabilitation completion within 6 months of closing on seven loans; CHMC failed to ensure verification forms did not pass through the hands of an interested third party on one loan; CHMC failed to ensure that mortgagors met minimum required investment requirements on two loans; CHMC failed to adequately document source of funds for downpayment and/or closing costs on two loans; CHMC charged improper fees on one loan; and CHMC failed to properly document two full years of employment on one loan.

12. DMR Financial Services, Inc., Farmington Hills, MI

Action: In a letter dated September 29, 2000, the Board withdrew DMR Financial Services, Inc.''s HUD/FHA approval for three years.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: DMR Financial Services, Inc. (''DMR'') failed to make timely payment of Upfront Mortgage Insurance Premiums (''UMIPs'') for 30 loans; DMR failed to include payment of UMIPs as a requirement of DMR's Quality Control Plan.

13. Executive Funding Services, Camp Springs, MD

Action: Settlement Agreement signed April 6, 2001. Without admitting fault or liability, Executive Funding Services (''EFS'') agreed to a civil money penalty of $10,000. [See 65 FR at 53732, September 5, 2000, for a prior notice of the proposed settlement.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: EFS failed to maintain a Quality Control Plan; EFS failed to report Home Mortgage Disclosure data for 1996, 1997, and 1998; EFS failed to meet specific requirements that apply to office facilities; EFS allowed the approving underwriter to be paid origination commission on the same transaction; EFS used falsified documentation or conflicting information in originating loans and obtaining HUD/FHA mortgage insurance; EFS closed loans that exceeded HUD/FHA maximum allowable mortgage amounts; EFS failed to properly verify the source and/or adequacy of funds for the downpayment and/or funds to close; EFS failed to maintain all records pertaining to the mortgage loan; EFS approved loans where the ratios exceeded HUD guidelines without compensating factors; EFS failed to adequately verify child support income; EFS failed to document two full years of employment; EFS approved loans where the verification forms passed through the hands of an interested third party; EFS failed to adequately document the satisfaction of collection accounts and judgments; and EFS failed to include all liabilities when calculating the mortgagor's total fixed payment to income ratio.

14. Farmers Bank, Greenwood, Arkansas

Action: Settlement Agreement signed November 28, 2000. Without admitting fault or liability, Farmers Bank (''Farmers'') agreed to a civil money penalty of $40,000. Farmers agreed to indemnify HUD for any losses incurred on 9 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Farmers failed to ascertain whether the water supply was safe before submitting the loan for insurance in 1 loan; Farmers failed to establish that borrowers had sufficient funds to close in 6 loans; Farmers failed to include all borrowers' debts in the loan analysis in 2 loans; Farmers failed to consider contingent liability in 1 loan; Farmers failed to provide complete verification of employment documentation in 2 loans; Farmers failed to evidence whether required repairs to property had been completed in 1 loan; Farmers failed to establish the adequacy of a borrower's income in 1 loan; Farmers failed to consider a history of derogatory credit in approving one loan; and Farmers failed to follow HUD/FHA's late endorsement procedures in 3 loans.

15. FFS Mortgage Corporation, Miami Lakes, FL

Action: Settlement Agreement signed 10/14/2000. Without admitting fault or liability, FFS Mortgage Corporation (''FFSMC'') agreed to a civil money penalty of $2000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: FFSMC failed to file an annual loan origination report for 1998 which supplements the requirements of the Home Mortgage Disclosure Act; FFSMC failed to establish, maintain and implement a Quality Control Plan for the origination of HUD/FHA insured mortgages; and FFSMC charged unallowable fees.

16. Fidelity Home Mortgage Corporation, Timonium, MD

Action: Settlement Agreement signed 2/16/2001. Without admitting fault or liability, Fidelity Home Mortgage Corporation (''Fidelity'') agreed to a civil money penalty of $27,500. Fidelity agreed to indemnify HUD for any losses incurred on one loan. (See 65 FR at 53732, September 5, 2000, for a prior notice of the proposed settlement.)

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Fidelity failed to file annual loan origination reports for 1993 through 1998 which supplements the requirements of the Home Mortgage Disclosure Act; Fidelity failed to maintain separate accounts for MIP/escrow payments; Fidelity failed to maintain and implement an adequate Quality Control Plan; Fidelity failed to provide loan origination files and documents for review for 11 loan files; Fidelity used falsified or conflicting documentation to approve mortgagors in one loan; and Fidelity failed to properly

verify income to approve mortgagors in 2 loans.

17. Financial Funding Services, Inc., Coral Gables, FL

Action: Settlement Agreement signed 10/14/2000. Without admitting fault or liability, Financial Funding Services, Inc. (''FFSI'') agreed to a civil money payment of $2,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: FFSI failed to file an annual loan origination report for 1998 which supplements the requirements of the Home Mortgage Disclosure Act; FFSI failed to develop, implement, and maintain a Quality Control Plan for the origination of HUD/FHA insured mortgages; FFSI failed to use complete gift letters; FFSI failed to retain documents originating mortgagees are required to maintain; and FFSI failed to address a conflict of interest issue.

18. First United Mortgage Company, Kenilworth, NJ

Action: Settlement Agreement signed 2/7/2001. Without admitting fault or liability, First United Mortgage Company (''FUMC'') agreed to a civil money penalty of $50,000. FUMC agreed to indemnify HUD for any losses on three loans. In addition, FUMC agreed to refund commitment fees, plus interest, to 16 mortgagors. (For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53733, September 5, 2000.)

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: FUMC failed to file timely annual loan origination reports for 1994 through 1997 which supplements the requirements of the Home Mortgage Disclosure Act; FUMC failed to properly calculate a mortgagor's principal loan amount; FUMC released funds on a 203 (k) rehabilitation loan prior to the work being completed; FUMC used false documentation or conflicting information to approve HUD/FHA mortgagors for three loans; FUMC improperly charged commitment fees in 16 loans; and FUMC failed to maintain an adequate Quality Control Plan.

19. GAMA Mortgage Corporation, New Orleans, LA

Action: Settlement Agreement signed June 8, 2000. Without admitting fault or liability, GAMA Mortgage Corporation agreed to a civil money penalty of $1,000. (For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53733, September 5, 2000.)

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: GAMA Mortgage Corporation failed to file an annual loan origination report which supplements the requirements of the Home Mortgage Disclosure Act.

20. Gateway Funding Diversified Mortgage Services, Conshohocken, PA

Action: Settlement Agreement signed January 22, 2001. Without admitting fault or liability, Gateway Funding Diversified Mortgage Services (''Gateway Funding'') agreed to a civil money penalty of $25,000. In addition, Gateway Funding paid HUD $2,095 to buy down the overinsured amounts for two loans. (For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53733, September 5, 2000.)

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Gateway Funding failed to implement and maintain a Quality Control Plan in compliance with HUD/FHA requirements; Gateway Funding failed to ensure that mortgagors met their minimum required investment; and Gateway Funding charged mortgagors fees that were not specifically permitted.

21. Greater Chicago Mortgage Corp., Tinley Park, IL

Action: In a letter dated November 21, 2000, the Board withdrew Greater Chicago Mortgage Corp.'s HUD/FHA approval for three years.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Greater Chicago Mortgage Corp. (''GCMC'') failed to have, implement, and maintain an adequate Quality Control Plan that meets HUD guidelines; GCMC failed to maintain complete origination files in 6 loans; and GCMC failed to ensure loan documents did not pass through the hands of an interested third party in one loan.

22. Hanover Capital Mortgage Corporation, Edison, NJ

Action: Settlement Agreement signed 8/8/2000. Without admitting fault or liability, Hanover Capital Mortgage Corporation agreed to a civil money payment of $5,000.

Cause: HUD's legal services contractor reported that Hanover Capital Mortgage Corporation failed to disclose on the mortgagee certificate a negotiated agreement in which the mortgagor of the multifamily housing project agreed to pay extension fees for late completion of the project. This violated HUD requirements that the mortgagee disclose the financial terms of the agreement for HUD approval.

23. Heartland Mortgage, Inc., Tucson, AZ

Action: In a letter dated 2/1/2001, the Board withdrew Heartland Mortgage, Inc.'s (''Heartland'') HUD/FHA approval for three years. The Board also voted to impose a civil money penalty in the amount of $33,000. This action resulted from the Department's inability to finalize a settlement agreement proposed at the March 13, 2000 Mortgagee Review Board meeting, as noted in 65 FR at 53733 (September 5, 2000).

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Heartland failed to implement its quality control plan; Heartland failed to file annual loan origination reports for 1997 and 1998 which supplements the requirements of the Home Mortgage Disclosure Act; Heartland employed two loan officers who were also real estate agents/brokers; Heartland failed to properly document gift letters in two loans; Heartland failed to properly document liabilities in one loan; and Heartland failed to maintain complete loan origination files in 7 loans.

24. Hollywood Mortgage, Inc., Palmdale, CA

Action: Settlement Agreement signed February 7, 2001. Without admitting fault or liability, Hollywood Mortgage, Inc. (''Hollywood'') agreed to a civil money penalty of $40,000. The Department rescinded its Notice of Proposed Withdrawal dated April 3, 2000. [For the prior **Federal Register** notice on the proposed withdrawal, see 65 FR at 53733, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Hollywood failed to implement and maintain a quality control plan; Hollywood failed to report rejected and withdrawn loans under the Home Mortgage Disclosure Act (HMDA); Hollywood operated also as a real estate office using its office space and staff; and Hollywood allowed employees to work for more than one company involved in the real estate finance business at the same time.

25. Home Mortgage Company, Gardendale, AL

Action: Settlement Agreement signed December 18, 2000. Without admitting fault or liability, Home Mortgage Company (''HMC'') agreed to a payment to HUD of $7,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Home Mortgage Company (''HMC'') failed to file an annual loan origination report for 1998 which supplements the requirements of the Home Mortgage Disclosure Act; HMC failed to establish, maintain, and implement a Quality Control Plan for the origination of HUD/FHA insured mortgages; and HMC allowed non-employees to process loans to be insured by FHA.

26. Irwin Mortgage Corporation, Indianapolis, IN

Action: Settlement Agreement signed June 8, 2000. Without admitting fault or liability, Irwin Mortgage Corporation (''Irwin'') agreed to indemnify HUD for any losses incurred in 16 loans. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53734, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Irwin failed to follow HUD required procedures in calculating maximum mortgage amounts, thereby originating HUD/FHA loans that exceeded HUD limits; Irwin failed to reconcile discrepancies between its files and the Uniform Residential Appraisal Report; Irwin failed to conduct face-to-face interviews with prospective borrowers as certified on the Uniform Residential Loan Application (''URLA''); Irwin failed to properly verify the source and adequacy of the funds used for the down payment and/or closing costs; Irwin failed to adequately document income that was used to qualify the borrower; Irwin accepted a Power of Attorney signature for all documentation and failed to obtain the signature of the borrower on the draft or final URLA; Irwin failed to resolve conflicting file information; Irwin failed to obtain required signatures on origination documents; and Irwin failed to re-access CAIVRS when making more loans to a Section 203 (k) investor.

27. Island Mortgage Network, Inc., Melville, NY

Action: Immediately suspended by letter dated August 3, 2000. [Note, this is a separate action from the immediate withdrawal noted at 65 FR at 53734, September 5, 2000. The immediate nature of the withdrawal was resolved by a Settlement Agreement and the issue of withdrawal and civil money penalties are pending an administrative appeal.]

Cause: On June 30, 2000, the New York State Banking Department suspended Island Mortgage Network, Inc.'s (IMN) license and issued a Notice of Hearing and Statement of Charges for IMN's license revocation. By allowing its license to be suspended, IMN failed to comply with HUD/FHA approval requirements.

28. Liberty Mortgage Corporation, Birmingham, AL

Action: Settlement Agreement signed August 8, 2000. Without admitting fault or liability, Liberty Mortgage Corporation (''LMC'') agreed to a civil money penalty of $1,000. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53734, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: LMC failed to file annual loan origination reports for 1995 through 1999 which supplement the requirements of the Home Mortgage Disclosure Act; LMC failed to develop a Quality Control Plan in compliance with HUD/FHA requirements; and LMC failed to implement a Quality Control program in compliance with HUD/FHA requirements.

29. Madison Home Equities, Inc., Lake Success, NY

Action: Settlement Agreement signed July 7, 2000. Without admitting fault or liability, Madison Home Equities, Inc. (''MHE'') agreed to a civil money penalty of $71,500. MHE agreed to voluntarily withdraw from participation in all HUD programs and not to reapply for HUD/FHA mortgagee approval for five years. [For the prior **Federal Register** notice concerning an immediate withdrawal, see 65 FR at 53734, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MHE falsely certified that it did not have a financial interest in Better Homes Depot, Inc.; MHE's President violated underwriting requirements prohibiting interested third parties from performing processing/review functions of borrowers' credit reports and verification forms; MHE used false documentation and failed to resolve conflicting information in HUD/FHA loan origination; in underwriting a loan, MHE ignored the borrower's substantial liability that was attributable to the borrower's home improvement loan that MHE's affiliate entity made to the borrower during the same period of time; MHE relied upon inadequate compensating factors for loan approval in circumstances of excessive debt-to-income ratios; MHE failed to adhere to HUD/FHA credit requirements for mortgage loan approval; MHE failed to ensure that the borrower met the requirements to purchase a three-unit property; MHE, by ignoring discrepancies between appraisal reports and sales contracts failed to ensure that the appraisals were reliable; and MHE failed to ensure that appraisals met the existing requirements of HUD/FHA for inclusion of at least one conventional comparable.

30. Mann Financial, Inc., d/b/a Mann Mortgage Financial Services, Kalispell, MT

Action: Settlement Agreement signed 12/18/2000. Without admitting fault or liability, Mann Financial (''Mann'') agreed to a civil money penalty of $75,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Mann engaged in improper ''net branching'' practices; and Mann had not implemented a quality control plan in compliance with HUD requirements.

31. Mark 1 Mortgage, Glendale, CA

Action: Settlement Agreement signed 10/14/2000. Without admitting fault or liability, Mark 1 Mortgage (''M1M'') agreed to a civil money penalty of $7,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: M1M failed to file annual loan origination reports for 1997 and 1998 which supplement the requirements of the Home Mortgage Disclosure Act; M1M failed to maintain an acceptable Quality Control Plan for the origination of HUD/FHA insured mortgages; M1M failed to ensure that its employees performing quality control reviews have no direct loan processing or underwriting responsibilities; and M1M allowed one of its loan officers to also work for another real estate business while employed with M1M.

32. Merit Mortgage Corporation, Boise, Idaho

Action: Settlement Agreement signed 9/25/2000. Without admitting fault or liability, Merit Mortgage Corporation (''MMC'') agreed to a civil money penalty of $2000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MMC failed to file annual loan origination reports for the years 1993–1999 which supplement the requirements of the Home Mortgage Disclosure Act; and MMC failed to maintain and implement a Quality

Control Plan in compliance with HUD requirements.

33. Milestone Mortgage Corporation, LaPalma, CA

Action: In a letter dated January 23, 2001, the Board withdrew Milestone Mortgage Corporation's (''MMC'') HUD/FHA approval for five years. The Board also voted to impose a civil money penalty of $88,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MMC used fraudulent documents, when it knew or had reason to know the documents used were false, in the origination of HUD/FHA insured loans; MMC allowed non-employees to take FHA loan applications; MMC failed to ensure that the mortgagors met their minimum required investment; MMC permitted ''strawbuyers'' to qualify for HUD/FHA insured mortgages; and MMC allowed mortgagors to sign documents in blank.

34. Molton, Allen & Williams Corporation, Birmingham, AL

Action: Settlement Agreement signed June 8, 2000. Without admitting fault or liability, Molton, Allen & Williams Corporation (''MAW'') agreed to a civil money penalty of $20,000. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53735, September 5, 2000.] MAW agreed to indemnify HUD for any losses incurred in 15 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MAW failed to initiate timely contact with delinquent mortgagors; MAW failed to conduct pre-foreclosure reviews prior to approving foreclosure; MAW failed to evaluate all loss mitigation techniques when three full monthly installments were past due on the mortgage; MAW failed to notify all mortgagors of record of the mortgage default; MAW failed to meet the Department's monthly default reporting requirements; and MAW failed to implement and maintain an adequate Quality Control Plan for the servicing of HUD/FHA insured mortgages.

35. Morgan Home Funding Corporation, Rockville, MD

Action: In a letter dated 2/12/2001, the Board withdrew Morgan Home Funding Corporation's (''MHF'') HUD/FHA approval for three years. The Board also voted to impose a civil money penalty of $25,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: MHF failed to implement a quality control plan; MHF failed to file annual loan origination reports for the years 1994–1998 which supplement the requirements of the Home Mortgage Disclosure Act; MHF failed to notify HUD when patterns of fraud were discovered; MHF used falsified documentation or conflicting information to originate loans and obtain HUD/FHA mortgage insurance; and MHF failed to provide loan origination files and documentation for review.

36. Mortgage Lending of America, Inc., Huntington Station, NY

Action: In a letter dated August 17, 2000, the Board withdrew Mortgage Lending of America, Inc.'s (MLA) HUD/FHA approval for five years. The Board also voted to impose a civil money penalty of $533,500.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements relating to 97 loans with a nonprofit mortgagor: MLA failed to require the mortgagor to make the total investment noted on each HUD–1 settlement statement; MLA failed to reduce the sales price on all transactions by the amount of recent non-arms-length property sales; MLA failed to determine the source of funds for the mortgagor's total investment noted on each HUD–1 settlement statement; MLA failed to provide true and accurate underwriter and mortgagee certifications; MLA failed to conduct the required application interview with the mortgagor for each transaction; MLA failed to adjust the sales price on each purchase transaction for known incentive payments made to the mortgagor; MLA failed to exclude a participant that was on the List of Parties Excluded from Federal Procurement and Non-procurement Programs; MLA failed to determine that minimum repair escrow eligibility requirements were met; MLA failed to obtain accurate appraisals; MLA failed to approve true and accurate construction draw requests; MLA failed to provide true and accurate HUD–1 settlement statements; MLA allowed the loan proceeds to be disbursed inaccurately; MLA failed to properly monitor the progress of rehabilitation work; and MLA failed to maintain an arms-length transaction with the closing agent.

37. National Charter Mortgage Corporation, Gardena, CA

Action: In a letter dated September 29, 2000, the Board withdrew the HUD/FHA approval of National Charter Mortgage Corporation (''NCMC'') for 3 years. The Board also voted to impose a civil money penalty of $100,000. This action resulted from the Department's inability to finalize a settlement agreement with NCMC as noted in 65 FR at 53736, September 5, 2000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: NCMC failed to conduct Quality Control reviews and to maintain an adequate written Quality Control Plan for origination of HUD/FHA insured mortgages; NCMC failed to comply with the HUD/FHA reporting requirements of the Home Mortgage Disclosure Act (HMDA); and NCMC failed to remit Up Front Mortgage Insurance Premiums within 15 days of loan closing, and to submit these loans for endorsement within 60 days of loan closing.

38. Northstar Mortgage Corporation, Dallas, TX

Action: Settlement Agreement signed 4/6/2001. Without admitting fault or liability, Northstar Mortgage Corporation (''NMC'') agreed to a civil money penalty of $8,000. NMC agreed to indemnify HUD on any losses incurred on two loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: NMC failed to properly address derogatory credit information in two loans; NMC failed to properly verify the borrowers' effective income in one loan; NMC failed to properly verify the borrowers' source of funds for the down payment and/or closing costs in two loans; NMC filed to resolve inconsistencies on property appraisal reports in two loans; NMC failed to screen a borrower through the Credit Alert Interactive Voice Response System in one loan; NMC failed to complete loan documentation in three loans; and NMC used gift letters that did not meet HUD/FHA requirements in three loans.

39. Ocwen Federal Bank, FSB, West Palm Beach, FL

Action: Settlement Agreement signed 12/18/2000. Without admitting fault or liability, Ocwen Federal Bank, FSB (''OFB'') agreed to an administrative payment of $50,000. OFB will include certain miscellaneous expenses as essential when calculating income available for payment.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: OFB failed to comply with the terms of the Loan Sale Agreement regarding forbearance agreements; and OFB failed

to provide HUD with sufficient information to respond to complaints.

40. Pacific Charter Mortgage Corporation, Los Alamitos, CA

Action: Settlement Agreement signed January 18, 2001. Without admitting fault or liability, Pacific Charter Mortgage Corporation (''PCMC'') agreed to a civil money penalty of $100,000. PCMC agreed to indemnify HUD for any losses incurred on two loans. (For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53736, September 5, 2000.)

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: PCMC failed to timely remit Up-Front Mortgage Insurance Premiums; PCMC failed to submit loans to HUD/FHA for endorsement in a timely manner; PCMC failed to segregate escrow funds; PCMC failed to implement and maintain a Quality Control Plan for Title I and Title II loan originations; PCMC failed to properly verify and/or document effective income; PCMC failed to document the source of funds; PCMC failed to properly evaluate mortgage credit risk; PCMC failed to include all liabilities in underwriting; PCMC operated as a real estate office, PCMC allowed non-employees to originate loans; and PCMC employed ineligible participants.

41. Republic Bank, d/b/a Capitol Mortgage, St. Petersburg, FL

Action: Settlement Agreement signed 12/18/2000. Without admitting fault or liability, Republic Bank, d/b/a Capitol Mortgage agreed to the indemnification of one loan.

Cause: HUD's Quality Assurance Division found that Republic Bank failed to provide requested 203(k) rehabilitation documentation for review.

42. Republic Mortgage Corp., now known as Old Kent Mortgage Company, Salt Lake City, UT

Action: Settlement Agreement signed 4/6/2001. Without admitting fault or liability, Old Kent Mortgage Company agreed to a payment to HUD of $206,000. Old Kent Mortgage Company agreed to indemnify HUD for any losses incurred on up to 3 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Republic Mortgage Corp. operated branch offices under a net branch arrangement and accepted loans originated by entities not approved to do HUD business; Republic Mortgage Corp. allowed non-FHA approved entities to originate and process FHA loans using its lender ID number; Republic Mortgage Corp. accepted loans from FHA approved mortgagees who allowed non-approved entities the use of their FHA approval to originate, process, and close FHA insured loans using Republic Mortgage Corp.'s ID number, or an approved loan correspondent's ID number; Republic Mortgage Corp. failed to provide evidence that properties met FHA eligibility criteria; Republic Mortgage Corp. failed to retain the entire case file pertaining to loan origination; Republic Mortgage Corp. used language on a Trust Deed Note requiring mortgagors to pay interests on advances of escrow account balances on no-cost streamline refinances; and Republic Mortgage Corp. charged fees of $50, $300, and $350 in four loans which were not in compliance with HUD guidelines.

43. Rhode Island Housing and Mortgage Finance Corporation, Providence, RI

Action: Settlement Agreement signed June 8, 2000. Without admitting fault or liability, Rhode Island Housing and Mortgage Finance Corporation (''RIHMFC'') agreed to a civil money penalty of $16,500. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53736, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements RIHMFC failed to conduct Quality Control reviews and failed to have a written Quality Control Plan; RIHMFC failed to properly document loss mitigation efforts; RIHMFC failed to conduct property inspections timely or at all; RIHMFC failed to initiate management reviews of forbearance, deed-in-lieu and foreclosure recommendations; RIHMFC failed to issue ''How to Avoid Foreclosure'' pamphlets in a timely manner or at all; RIHMFC failed to identify the reason for default; RIHMFC failed to provide acceptable methods of forbearance relief; RIHMFC failed to adequately contact delinquent borrowers by telephone; RIHMFC failed to accurately report defaulted loans to HUD/FHA; and RIHMFC failed to comply with HUD's policies regarding paid-in-full loans.

44. Security National Mortgage Company, Murray, UT

Action: Settlement Agreement signed 11/28/2000. Without admitting fault or liability, Security National Mortgage Company (''SNMC'') agreed to a civil money penalty of $75,000. SNMC agreed to indemnify HUD for any losses incurred on 18 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: SNMC failed to comply with its own policy and procedures pertaining to discontinuing impermissible net branch arrangements outlined in a July 17, 1997 letter to the Department; SNMC accepted loans originated by personnel not employed by or not exclusively employed by SNMC; SNMC accepted loans originated by non-HUD approved entities; SNMC paid fees/compensation to unauthorized entities or individuals in connection with FHA insured mortgages; SNMC certified to inaccurate HUD–1 settlement statements; SNMC failed to require complete gift letters; SNMC failed to retain the entire case file pertaining to loan origination; and SNMC closed a loan in excess of the maximum allowable resulting in an over-insured mortgage.

45. Shore Financial Group, Fresno, CA

Action: Settlement Agreement signed 2/7/2001. Without admitting fault or liability, Shore Financial Group (''SFG'') agreed to a civil money penalty of $6,000. In addition SFG paid HUD $38,237.87 for losses incurred on one loan.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: SFG failed to maintain and implement a quality control plan in compliance with HUD requirements; SFG failed to file annual loan origination reports for the years 1995 through 1999, which supplement the requirements of the Home Mortgage Disclosure Act; SFG allowed non-employees to originate HUD/FHA mortgage loans; SFG used false information in originating FHA loans and obtaining HUD/FHA mortgage insurance; and SFG failed to maintain complete origination files.

46. SimCorp Mortgage Corporation, Aliquippa, PA

Action: Settlement Agreement signed December 18, 2000. Without admitting fault or liability, SimCorp Mortgage Corporation (''SMC'') agreed to a civil money penalty of $1,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: SMC failed to have, implement, and maintain an adequate Quality Control Plan that meets HUD guidelines.

47. SMN Mortgage Corp., Rio Piedras, Puerto Rico

Action: In a letter dated 9/21/2000, the Board withdrew SMN Mortgage Corp's HUD/FHA approval for three years.

Cause: HUD's Quality Assurance Division found that SMN Mortgage Corp. violated HUD/FHA requirements by failing to ensure that mortgage brokers not approved by HUD/FHA did not participate in the origination and processing of 41 loans insured by the Department.

48. Somerset Investors Corp., Ozone Park, NY

Action: Settlement Agreement signed 11/28/2000. Without admitting fault or liability, Somerset Investors Corp. (''Somerset'') agreed to a civil money penalty of $3,000. Somerset agreed to indemnify HUD for any losses incurred on 3 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Somerset failed to file annual loan origination reports for the years 1996, 1997, and 1998, which supplement the requirements of the Home Mortgage Disclosure Act; Somerset failed to properly verify the source and adequacy of funds for the down payment and/or closing costs in 2 loans; Somerset failed to adequately verify the income used to qualify the borrowers in 1 loan; Somerset failed to resolve conflicting information contained in the property appraisal and other documents in the file in 1 loan; and Somerset failed to have, implement and maintain an adequate Quality Control Plan that meets HUD guidelines.

49. Southern Mortgage Investment Corp., Marietta, GA

Action: Settlement Agreement signed 11/28/2000. Without admitting fault or liability, Southern Mortgage Investment Corp. (''SMIC'') agreed to a civil money penalty of $1000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: SMIC failed to develop, implement, and maintain a Quality Control Plan.

50. Specialty Mortgage Corporation, Hialeah, FL

Action: In a letter dated February 5, 2001, the Board withdrew Specialty Mortgage Corporation's (''SMC'') HUD/FHA approval for three years. In addition, the Board voted to impose a civil money penalty of $8,000.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: SMC failed to establish, maintain and implement a Quality Control Plan; SMC used false documents to originate HUD/FHA mortgages; and SMC failed to maintain complete origination files in 11 loans.

51. Summit Mortgage Corporation, Houston, TX

Action: Settlement Agreement signed December 18, 2000. Without admitting fault or liability, Summit Mortgage Corporation (''Summit'') agreed to a civil money penalty of $75,000. Summit agreed to indemnify HUD for any losses on 19 loans. [For the prior **Federal Register** notice on the proposed settlement agreement, see 65 FR at 53736, September 5, 2000.]

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: Summit falsely certified mortgagors' income and/or number of dependents to the HUD-funded HOME and/or State Program to obtain unwarranted grants for downpayments; Summit used false information in originating FHA loans and obtaining HUD/FHA mortgage insurance; Summit falsely certified that Verifications of Employment were sent directly to the applicants' employers and/or provided false verbal employment certifications; Summit provided false Traditional and/or Non-Traditional credit documentation to qualify mortgagors and/or accepted Non-Traditional credit documentation that does not meet FHA guidelines; Summit failed to verify the source of funds required for closing; Summit failed to provide a dollar-for-dollar reduction to the sales price for an inducement to purchase; Summit used inaccurate income to qualify a mortgagor; Summit failed to clarify or document major file discrepancies; Summit failed to perform Direct Endorsement underwriting within HUD/FHA established guidelines; Summit failed to perform pre-approved field reviews; and Summit failed to require complete gift letters.

52. Sunstate Mortgage, Inc., d/b/a Sun America Mortgage, Daytona Beach, FL

Action: Immediately suspended by letter dated December 13, 2000.

Cause: On October 25, 2000, the State of Rhode Island Department of Business Regulation issued an Emergency Order Suspending the Lender License of Sunstate Mortgage (''SM''). On October 26, 2000, the State of Rhode Island issued an Emergency Order withdrawing SM's approval to conduct lending activity. By allowing its license to be suspended and withdrawn, SM failed to comply with HUD/FHA approval requirements.

53. SunTrust Mortgage, Inc., f/k/a Crestar Mortgage Company, Richmond, VA

Action: Settlement Agreement signed 2/7/2001. Without admitting fault or liability, SunTrust Mortgage, Inc. (''SunTrust'') agreed to a civil money penalty of $25,000. SunTrust also agreed to indemnify HUD for any losses incurred on 19 loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: SunTrust failed to ensure that repairs were completed prior to the release of escrow funds in 7 loans; SunTrust failed to ensure that contractors obtained the required building permits in 8 loans; SunTrust failed to provide adequate descriptions of each work item in the 203(k) plans in 22 loans; SunTrust failed to acquire prior approval of the mortgagor and underwriter prior to allowing contingency reserves to be used in 23 loans; SunTrust failed to document the stability of income in one loan; SunTrust failed to verify the source of funds used for the down payment and/or closing costs in one loan; and SunTrust failed to provide different choices to mortgagors regarding the selection of 203(k) consultants and/or general contractors in 5 loans.

54. Union Planters Bank, Cordova, TN

Action: Settlement Agreement signed 12/21/2000. Without admitting fault or liability, Union Planters Bank (''UPB'') agreed to a payment of $30,000. UPB indemnified HUD $21,308.59 for losses incurred in one loan. In addition, UPB agreed to indemnify HUD for any losses incurred on eight other loans.

Cause: HUD's Quality Assurance Division made the following findings of violations of HUD/FHA requirements: UPB failed to adequately document the sufficiency and/or source of funds required to close loan transactions; UPB failed to adequately document the liabilities of a non-purchasing spouse; UPB failed to calculate the applicant's income properly and omitted liabilities in the loan analysis resulting in an excessive debt to income ratio; UPB failed to clarify or document an important file discrepancy and approved a loan with an unpaid judgment on a borrower who was a questionable credit risk; UPB failed to resolve discrepancies related to paid earnest money deposits; and UPB failed to follow HUD's guidelines in verifying a borrower's employment.

55. Whitehall Funding Inc., Indianapolis, IN

Action: In a letter dated December 20, 2000, the Board withdrew Whitehall Funding, Inc.'s (''Whitehall'') HUD/FHA approval for five years. In addition, the Board voted to impose a civil money penalty of $5,500.00.

Cause: HUD acquired information that revealed the following serious violation of HUD/FHA requirements: Whitehall diverted and misappropriated reserve for replacement funds held on behalf of HUD Project No. 071–36627, Waterford Estates.

Dated: July 2, 2001.

John C. Weicher,

Assistant Secretary for Housing-Chairman, Mortgagee Review Board.

[FR Doc. 01–18330 Filed 7–20–01; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[5420–D024; IDI–33416]

Disclaimer of Interest in Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: An application has been filed by the City of Coeur d'Alene, Idaho, for a recordable disclaimer of interest in certain land by the United States.

DATES: Comments should be received by October 22, 2001.

ADDRESSES: Comments or objections should be sent to: Eric Thomson, Field Manager, BLM Coeur d'Alene Field Office, 1808 N. Third St., Coeur d'Alene, ID 83814.

FOR FURTHER INFORMATION CONTACT: Scott Forssell, BLM Coeur d'Alene, Field Office, 1808 N. Third St., Coeur d'Alene, ID 83814. Phone (208) 769–5044.

SUPPLEMENTARY INFORMATION: Pursuant to Section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), the City of Coeur d'Alene has filed an application requesting the United States to issue a recordable disclaimer of interest in the following described land: Boise Meridian, Idaho T. 50 N., R. 4 W., section 14, lot 48, containing 20 acres more or less, (including that portion of lot 48 encumbered by right-of-way serial number IDI–1335, issued to the Coeur d'Alene and Spokane Railroad Co., Ltd., on May 8, 1903) as described in the official survey record approved October 28, 1904.

The above described land was conveyed to the City of Coeur d'Alene by an Act of Congress on April 28, 1904. However, the survey completed in 1904 erroneously portrayed the railroad right-of-way as a separate parcel. A recordable disclaimer of interest will be issued to remove the ambiguity created by the survey, allowing the City ownership of the entire parcel subject to outstanding rights that may have been in place at the time the Act was passed.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed disclaimer may present their views in writing to the undersigned officer at the above address. Accordingly, a recordable disclaimer of interest will be issued no sooner than 90 days after the date of this publication.

Dated: July 2, 2001.

Eric R. Thomson,

Field Manager.

[FR Doc. 01–18267 Filed 7–20–01; 8:45 am]

BILLING CODE 4310–66–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(ID–957–1020–BJ)]

Idaho: Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of the following described lands were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., on the dates specified: The supplemental plat to correct certain inadvertently depicted distances on the line between corners 1 and 2 of the SBMS–2 millsite, as noted on the plat accepted March 4, 1992, T. 13 N., R. 15 E., Boise Meridian, Idaho, and was accepted March 19, 2001. The plat was prepared to meet certain administrative needs of the Bureau of Land Management.

The supplemental plat to correct the bearing between traverse point Nos. 23 and 24, inadvertently depicted as S.0°38′ W., on the plat accepted April 14, 1998, T. 17 N., R. 23 E., Boise Meridian, Idaho, and was accepted March 19, 2001. The plat was prepared to meet certain administrative needs of the Bureau of Land Management.

The plat representing the dependent resurvey of a portion of the First Standard Parallel South on the south boundary of T. 6 S., R. 39 E., Boise Meridian, Idaho, was accepted May 25, 2001. The plat was prepared to meet certain administrative needs of the Bureau of Land Management. The plat representing the dependent resurvey of a portion of the First Standard Parallel South on the south boundary of T. 6 S., R. 40 E., and a portion of the subdivisional lines, and the subdivision of section 5, T. 7 S., R. 40 E., Boise Meridian, Idaho, was accepted May 25, 2001. The plat was prepared to meet certain administrative needs of the Bureau of Land Management. The plat representing the dependent resurvey of a portion of the subdivisional lines of T. 5 S., R. 8 E., Boise Meridian, Idaho, was accepted May 25, 2001. The plat was prepared to meet certain administrative needs of the Bureau of Land Management.

The plat representing the dependent resurvey and corrective dependent resurvey of portions of the east boundary (west boundary of T. 6 S., R. 13 E.), portions of the subdivisional lines, and portions of the subdivision of certain sections, and the dependent resurvey of portions of the west boundary and Lot 1, section17 in T. 6 S., R. 12 E., Boise Meridian, Idaho, was accepted June 6, 2001. The plat was prepared to meet certain administrative needs of the Bureau of Land Management.

FOR FURTHER INFORMATION CONTACT: Duane Olsen, Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657, 208–373–3980.

Dated: July 2, 2001.

Jeff A. Lee,

Acting Chief, Cadastral Surveyor for Idaho.

[FR Doc. 01–18268 Filed 7–20–01; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NMNM 103686]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; NM

AGENCY: Bureau of Land Management (BLM), Interior

ACTION: Notice.

SUMMARY: The United States Forest Service has filed an application to withdraw approximately 80 acres of National Forest System land for protection of the Davenport Electronic Site located on the Magdalena Ranger District on the Cibola National Forest. This notice segregates the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to all other uses which may be made of National Forest System lands.

DATES: Comments and requests for meeting should be received on or before October 22, 2001.

ADDRESSES: Comments and meeting requests should be sent to the Forest Supervisor, Cibola National Forest, 2113 Osuna Road NE., Suite A, Albuquerque, NM 87113.

FOR FURTHER INFORMATION CONTACT: Sue McHenry, Cibola National Forest, Recreation and Lands Staff, 2113 Osuna Road NE., Suite A, Albuquerque, NM 87113.

SUPPLEMENTARY INFORMATION: On May 3, 2001, the Forest Service filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws, subject to valid existing rights:

New Mexico Principal Meridian

Cibola National Forest

T. 1 N., R. 10 W.,
Sec. 29, S½NW¼.

The area described contains approximately 80 acres in Socorro County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Forest Supervisor of the Cibola National Forest.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Forest Supervisor of the Cibola National Forest within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300. For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

Dated: May 29, 2001.

Kate Padilla,

Field Manager.

[FR Doc. 01–18265 Filed 7–20–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NMNM 103685]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: The United States Forest Service has filed an application to withdraw approximately 851.72 acres of National Forest System lands for protection of the Langmuir Principal Research Site located on the Magdalena Ranger District on the Cibola National Forest. This notice segregates the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to all other uses which may be made of National Forest System lands.

DATES: Comments and requests for meeting should be received on or before October 22, 2001.

ADDRESSES: Comments and meeting requests should be sent to Forest Supervisor, Cibola National Forest, 2113 Osuna Road NE., Suite A, Albuquerque, NM 87113.

FOR FURTHER INFORMATION CONTACT: Sue McHenry, Cibola National Forest, Recreation and Lands Staff, 2113 Osuna Road NE, Suite A, Albuquerque, NM 87113.

SUPPLEMENTARY INFORMATION: On April 12, 2001, the Forest Service filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws, subject to valid existing rights:

New Mexico Principal Meridian
Cibola National Forest
T. 4 S., R. 3 W.,
Sec. 5, lot 2, and W½SW¼;
Sec. 6, lots 5 and 6, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, NE¼, E½NW¼, and N½SE¼;
Sec. 8, W½NW¼ and NW¼SW¼.

The area described contains approximately 851.72 acres in Socorro County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Forest Supervisor of the Cibola National Forest.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Forest Supervisor of the Cibola National Forest within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300. For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are all land uses permitted by the Forest Service under existing laws and regulations including, but not limited to, construction and operation of the research site.

Dated: May 29, 2001.

Kate Padilla,

Field Manager.

[FR Doc. 01–18266 Filed 7–20–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Central Gulf of Mexico, Oil and Gas Lease Sale 178, Part 2

AGENCY: Minerals Management Service, Interior.

ACTION: Final Notice of Sale 178, Part 2.

SUMMARY: This Final Notice of Sale 178, Part 2, offers for lease only those blocks in the Central Gulf of Mexico that are beyond the United States Exclusive Economic Zone (in the area formerly known as the Northern Portion of the Western Gap) (in the Amery Terrace Area (NG15–09)), except for those blocks or portions of blocks which are in the 1.4 nautical mile buffer zone north of the continental shelf boundary between the United States and Mexico.

On August 22, 2001, the Minerals Management Service will open and publicly announce bids received for blocks offered in Sale 178, Part 2, Central Gulf of Mexico, pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1356, as amended) and the regulations issued thereunder (30 CFR Part 256). Bidders can obtain a ''Final Notice of Sale 178, Part 2 Package'' containing this Notice of Sale and

several supporting and essential documents referenced herein, from the MMS Gulf of Mexico Region's Public Information Unit, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, (504) 736–2519 or (800) 200-GULF, or via the MMS Gulf of Mexico Region's Internet site at http://www.gomr.mms.gov. The ''Final Notice of Sale 178, Part 2 Package'' contains information essential to bidders, and bidders are charged with the knowledge of the documents contained in the package.

LOCATION AND TIME: Public bid reading for this sale will begin after the public bid reading for Western Gulf Sale 180 (which begins at 9 a.m.), Wednesday, August 22, 2001, in the Hyatt Regency Conference Center (Cabildo Rooms), 500 Poydras Plaza, New Orleans, Louisiana. All times referred to in this document are local New Orleans time.

FILING OF BIDS: Bidders must submit sealed bids to the Regional Director, MMS Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, between 8 a.m. and 4 p.m., prior to the Bid Submission Deadline of 10 a.m., Tuesday, August 21, 2001. If the bids are mailed, mark on the envelope containing all the sealed bids the following: *Attention:* Mr. John Rodi, Contains Sealed Bids for Sale 178, Part 2.

If the RD receives bids later than the time and date specified above, he will return the bids unopened to bidders. Bidders may not modify or withdraw their bids unless the RD receives a written modification or written withdrawal request prior to 10 a.m., Tuesday, August 21, 2001. In the event of widespread flooding or other natural disaster, the MMS Gulf of Mexico Regional Office may extend the bid submission deadline. Bidders may call (504) 736–0557 for information about the possible extension of the bid submission deadline due to such an event.

AREAS OFFERED FOR LEASING: The MMS is offering for leasing all blocks and partial blocks listed as offered below. All of these blocks are shown on the following Official Protraction Diagram (which may be purchased from the MMS Gulf of Mexico Regional Office Public Information Unit).

Outer Continental Shelf Official Protraction Diagram

(This diagram sells for $2.00)
NG15–09 Amery Terrace (revised October 25, 2000)

See the map titled ''Lease Terms and Economic Conditions, Deferred Blocks, Sale 178, Part 2, Final'' included in this Sale Notice Package.

Note: A CD–ROM (in ARC/INFO and Acrobat (.pdf) formats) containing all of the Gulf of Mexico Leasing Maps and Official Protraction Diagrams, except for those not yet revised to digital format, is available from the MMS Gulf of Mexico Regional Office Public Information Unit for a price of $15.00. The Leasing Maps and Official Protraction Diagrams are also available on our Internet site. See also 66 FR 28002, published on May 21, 2001, for the current status of Central and Western Gulf of Mexico Leasing Maps and Official Protraction Diagrams.

The blocks and partial blocks offered in this sale are beyond the United States Exclusive Economic Zone (formerly known as the Western Gap). Not offered in this sale are those blocks or portions of blocks which are in the 1.4 nautical mile buffer zone north of the continental shelf boundary between the United States and Mexico. Both the zone, in which leasing is prohibited for ten years, and the boundary were established by the ''Treaty Between The Government Of The United States Of America And The Government Of The United Mexican States On The Delimitation Of The Continental Shelf In The Western Gulf Of Mexico Beyond 200 Nautical Miles'' signed by the United States and Mexico on June 9, 2000; the U.S. Senate gave advice and consent to ratification on October 18, 2000, and the Mexican Senate gave its approval on November 28, 2000. The provisions of the treaty entered into force upon exchange of the instruments of ratification of the treaty on January 17, 2001.

The following blocks or partial blocks are offered in this sale:

Amery Terrace (Area NG15–09) Blocks
133 through 135
177 through 184
221 through 238
265 through 279
309 through 317

The portions of the following blocks lying within the 1.4 nautical mile buffer zone are deferred from this sale:

Amery Terrace (Area NG15–09) Blocks
235 through 238
273 through 279
309 through 317

The available Federal acreage of all whole and partial blocks in this sale is given in the document ''List of Blocks Available for Leasing, Sale 178, Part 2'' included in the Sale Notice Package. The available acreage for all blocks in this sale with deferred portions lying within the 1.4 nautical mile buffer zone is provided in the document, ''Available Unleased Acreage of Blocks with Irregular Portions Deferred'' which is included in the Final Sale Notice Package. Also, Supplemental Official OCS Block Diagrams for these blocks and for blocks which contain the ''U.S. 200 Nautical Mile Limit'' line and the ''U.S.-Mexico Maritime Boundary'' line are available from the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 736–2519. All these SOBDs can also be found on the MMS Homepage Address on the Internet: http://www.mms.gov. For additional information, please call Mr. Charles Hill (504) 736–2795.

Note: In addition to the previously noted partially deferred blocks, the following blocks of the former Western Gap are wholly within the 1.4 nautical mile buffer zone and are *not* offered in this sale:

Amery Terrace (Area NG15–09) Blocks
280, 281
318 through 320
355 through 359

Leasing Terms and Conditions: Primary lease terms, minimum bids, annual rental rates, royalty rates, and royalty suspension areas for leases resulting from this sale are:

Primary lease terms: 10 years;

Minimum bids: $37.50 per acre or fraction thereof;

Annual rental rates: $7.50 per acre or fraction thereof, to be paid on or before the first day of each lease year until a discovery in paying quantities of oil or gas is made, then at the expiration of each lease year until the start of royalty-bearing production;

Royalty rates: 12½ percent royalty rate, except during periods of royalty suspension, to be paid monthly on the last day of the month next following the month in which the production is obtained;

Minimum royalty: After the start of royalty-bearing production: $7.50 per acre or fraction thereof per year, to be paid at the expiration of each lease year;

Royalty Suspension Areas: Leases are being offered in this sale subject to the regulations in 30 CFR Part 260, published in the **Federal Register** at 66 FR 11512 on February 23, 2001. Deep water oil and gas royalty suspension will apply to all blocks; see the document contained within the Sale 178, Part 2, Final Notice Package titled ''Royalty Suspension Provisions (Sale 178, Part 2)'' for the specific details regarding royalty suspension eligibility and implementation. In addition to those provisions, the royalty payment stipulation included at the end of this Notice will be made a part of any lease resulting from this sale.

Rounding: The following procedure must be used to calculate minimum bid, rental, and minimum royalty on blocks with fractional acreage: Round up to the next whole acre and multiply by the applicable dollar amount to determine the correct minimum bid, rental, or minimum royalty.

Note: For the minimum bid only, if the calculation results in a decimal figure, round up to the next whole dollar amount (see next paragraph). The minimum bid calculation, including all rounding, is shown in the document ''List of Blocks Available for Leasing in Central Gulf of Mexico OCS Oil and Gas Sale 178, Part 2'' included in the Sale Notice Package.

Method of Bidding: For each block bid upon, a bidder must submit a separate signed bid in a sealed envelope labeled ''Sealed Bid for Oil and Gas Lease Sale 178, Part 2, not to be opened until 9 a.m., Wednesday, August 22, 2001.'' The total amount bid must be in a whole dollar amount; any cent amount above the whole dollar will be ignored by the MMS. Details of the information required on the bid(s) and the bid envelope(s) are specified in the document ''Bid Form and Envelope'' contained in the Sale Notice Package.

The MMS published a list of restricted joint bidders, which applies to this sale, in the **Federal Register** at 66 FR 17731, on April 3, 2001. Bidders must execute all documents in conformance with signatory authorizations on file in the MMS Gulf of Mexico Regional Office. Partnerships also must submit or have on file a list of signatories authorized to bind the partnership. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, e.g., 33.33333 percent. The MMS may require bidders to submit other documents in accordance with 30 CFR 256.46. The MMS warns bidders against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders. Bidders are advised that the MMS considers the signed bid to be a legally binding obligation on the part of the bidder(s) to comply with all applicable regulations, including paying the ⅕th bonus on all high bids. A statement to this effect must be included on each bid (see the document ''Bid Form and Envelope'' contained in the Sale Notice Package).

BID Deposit: Submitters of high bids must deposit the ⅕th bonus by using electronic funds transfer procedures, following the detailed instructions contained in the document ''Instructions for Making EFT Bonus Payments'' included in the Sale Notice Package. All payments must be electronically deposited into an interest-bearing account in the U.S. Treasury (account specified in the EFT instructions) during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

Note: Certain bid submitters (i.e., those that do NOT currently own or operate an OCS mineral lease OR those that have ever defaulted on a ⅕th bonus payment (EFT or otherwise)) are required to guarantee (secure) their ⅕th bonus payment. For those who must secure the EFT ⅕th bonus payment, one of the following options may be used: 1. Provide a third-party guaranty; 2. Amend Development Bond Coverage; 3. Provide a Letter of Credit; or 4. Provide a lump sum payment via EFT prior to the submission of bids. The EFT instructions specify the requirements for each option.

Withdrawal of Blocks: The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

Acceptance, Rejection, or Return of Bids: The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block will be awarded to any bidder, unless the bidder has complied with all requirements of this Notice, including the documents contained in the associated Sale Notice Package and applicable regulations; the bid is the highest valid bid; and the amount of the bid has been determined to be adequate by the authorized officer. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, and other applicable regulations may be returned to the person submitting that bid by the RD and not considered for acceptance. To ensure that the Government receives a fair return for the conveyance of lease rights for this sale, high bids will be evaluated in accordance with MMS bid adequacy procedures. A copy of the current procedures, ''Modifications to the Bid Adequacy Procedures'' (64 FR 37560 of July 12, 1999), effective July 1, 1999, is available from the MMS Gulf of Mexico Regional Office Public Information Unit and is also on our Internet site.

Successful Bidders: As required by MMS, each company that has been awarded a lease must execute all copies of the lease (Form MMS–2005 (March 1986) as amended), pay by EFT the balance of the cash bonus bid along with the first year's annual rental for each lease issued in accordance with the requirements of 30 CFR 218.155, and satisfy the bonding requirements of 30 CFR 256, Subpart I, as amended. Each bidder in a successful high bid must have on file, in the MMS Gulf of Mexico Regional Office Adjudication Unit, a currently valid certification (Debarment Certification Form) certifying that the bidder is not excluded from participation in primary covered transactions under Federal nonprocurement programs and activities. A certification previously provided to that office remains currently valid until new or revised information applicable to that certification becomes available. In the event of new or revised applicable information, the MMS will require a subsequent certification before lease issuance can occur. Persons submitting such certifications should review the requirements of 43 CFR, Part 12, Subpart D. A copy of the Debarment Certification Form is contained in the Sale Notice Package.

Affirmative Action: The MMS *requests* that the certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form MMS–2033 (June 1985), and the Affirmative Action Representation Form, Form MMS–2032 (June 1985), be on file in the MMS Gulf of Mexico Regional Office Adjudication Unit prior to bidding. In any event, these forms are *required* to be on file in the MMS Gulf of Mexico Regional Office Adjudication Unit prior to execution of any lease contract. Bidders must also comply with the requirements of 41 CFR 60.

INFORMATION TO LESSEES: The Sale Notice Package contains a document titled ''Information to Lessees.'' These Information to Lessees items provide information on various matters of interest to potential bidders.

STIPULATION: There is only one stipulation applicable to leases resulting from this sale.

Law of the Sea Convention Royalty Payment Stipulation

The following stipulation will apply to all available blocks in this sale; these blocks are beyond the United States Exclusive Economic Zone in the area formerly known as the Western Gap:

If the U.S. becomes a party to the 1982 Law of the Sea Convention (Convention) prior to or during the life of a lease issued by the U.S. on a block or portion of a block located beyond the U.S. EEZ and subject to such conditions that the Senate may impose through its constitutional role of advice and consent, then the following royalty payment lease provisions will apply to

the lease so issued, consistent with Article 82 of the Convention:

1. The Convention requires payments annually by coastal States party to the Convention with respect to all production at a site after the first five years of production at that site. Any such payments will be made by the U.S. government and not the lessee.

2. For the purpose of this stipulation regarding payments by the lessee to the U.S., a site is defined as an individual lease whether or not the lease is located in a unit.

3. For the purpose of this stipulation, the first production year begins on the first day of commercial production (excluding test production). Once a production year begins it shall run for a period of 365 days whether or not the lease produces continuously in commercial quantities. Subsequent production years shall begin on the anniversary date of first production.

4. If total lease production during the first five years following first production exceeds the total royalty suspension volume(s) provided in the lease terms, or through application and approval of relief from royalties, the following provisions of this stipulation will not apply. If after the first five years of production but prior to termination of this lease, production exceeds the total royalty suspension volume(s) provided in the lease terms, or through application and approval of relief from royalties, the following provisions of this stipulation will no longer apply effective the day after the suspension volumes have been produced.

5. If, in any production year after the first five years of lease production, due to lease royalty suspension provisions or through application and approval of relief from royalties, no lease production royalty is due or payable by the lessee to the U.S., then the lessee will be required to pay, as stipulated in paragraph 9 below, Convention-related royalty in the following amount so that the required Convention payments may be made by the U. S. government as provided under the Convention:

a. In the sixth year of production, one percent of the value of the sixth year's lease production saved, removed, or sold from the leased area;

b. After the sixth year of production, the Convention-related royalty payment rate shall increase by one percent for each subsequent year until the twelfth year and shall remain at seven percent thereafter until lease termination.

6. If the U.S. becomes a party to the Convention after the fifth year of production from the lease, and a lessee is required, as provided herein, to pay Convention-related royalty, the amount of the royalty due will be based on the above payment schedule as determined from first production. For example, U.S. accession to the Convention in the tenth year of lease production would result in a Convention-related royalty payment of five percent of the value of the tenth year's lease production, saved, removed, or sold from the lease. The following year, a payment of six percent would be due, and so forth as stated above, up to a maximum of seven percent per year.

7. If, in any production year after the first five years of lease production, due to lease royalty suspension provisions or through application and approval of relief from royalties, lease production royalty is paid but is less than the payment provided for by the Convention, then the lessee will be required to pay to the U.S. government the Convention-related royalty in the amount of the shortfall.

8. In determining the value of production from the lease if a payment of Convention-related royalty is to be made, the provisions of the lease and applicable regulations shall apply.

9. The Convention-related royalty payment(s) required under paragraphs 5 through 7 of this stipulation, if any, shall not be paid monthly but shall be due and payable to MMS on or before 30 days after the expiration of the relevant production lease year.

10. The lessee will receive royalty credit in the amount of the Convention-related royalty payment required under paragraphs 5 through 7 of this stipulation, which will apply to royalties due under the lease for which the Convention-related royalty accrued in subsequent periods as non-Convention related royalty payments become due.

11. Any lease production for which the lessee pays no royalty other than a Convention-related requirement, due to lease royalty suspension provisions or through application and approval of relief from royalties, will count against the lease's applicable royalty suspension or relief volume.

12. The lessee will not be allowed to apply or recoup any unused Convention-related credit(s) associated with a lease that has been relinquished or terminated.

Approved: July 13, 2001.

Thomas R. Kitsos,

Acting Director, Minerals Management Service.

Approved: July 13, 2001.

Piet deWitt,

Acting Assistant Secretary, Land and Minerals Management.

[FR Doc. 01–18399 Filed 7–20–01; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Request for Comments on the Draft Proposed 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2002–2007

AGENCY: Minerals Management Service, Interior.

ACTION: Notice and request for comments.

SUMMARY: Minerals Management Service (MMS) requests comments on the Draft Proposed 5-year OCS Oil and Gas Leasing Program for 2002–2007. This is the first proposal for a new program to succeed the current program that expires on June 30, 2002.

Section 18 of the OCS Lands Act (43 U.S.C. 1344) specifies a multi-step process of consultation and analysis that must be completed before the Secretary of the Interior may approve a new 5-year program. The required steps following this notice include the development of a proposed program, a proposed final program, and Secretarial approval. Pursuant to the National Environmental Policy Act, MMS also will prepare an Environmental Impact Statement (EIS) for the new 5-year program.

DATES: Please submit comments and information to the MMS on or before September 21, 2001.

ADDRESSES: Respondents should mail comments and information to: Ralph V. Ainger, Minerals Management Service (MS–4010), Room 2324, 381 Elden Street, Herndon, Virginia 20170. MMS will accept hand deliveries at 1849 C Street, NW., Room 4230, Washington, DC. Envelopes or packages should be marked ''Comments on the Draft Proposed 5-Year OCS Oil and Gas Leasing Program for 2002–2007.'' When submitting any privileged or proprietary information, respondents should mark the envelope, ''Contains Proprietary Information.''

MMS will accept comments submitted by electronic mail. Send e-mail comments to MMS5-year.document@mms.gov. The draft proposed program decision document may be downloaded from the MMS internet website at www.mms.gov, and copies of all comments received will be posted at that website after the comment period closes.

Public Comment Procedures

Our practice is to make comments, including the names and home addresses of respondents, available for public review. An individual commenter may ask that we withhold

name, home address, or both from the public record, and we will honor such a request to the extent allowable by law. If you submit comments and wish us to withhold such information, you must state so prominently at the beginning of your submission.

We will not consider anonymous comments, and we will make available for inspection in their entirety all comments submitted by organizations and businesses or by individuals identifying themselves as representatives of organizations and businesses.

FOR FURTHER INFORMATION CONTACT: Ralph V. Ainger at (703) 787–1215.

SUPPLEMENTARY INFORMATION: MMS requests comments from States, local governments, Native groups, tribes, the oil and gas industry, Federal Agencies, environmental and other interest organizations, and all other interested parties to assist in the preparation of a 5-year OCS oil and gas leasing program for 2002–2007 and applicable EIS.

Background

Section 18 of the OCS Lands Act requires the Secretary of the Interior to prepare and maintain a schedule of proposed OCS oil and gas lease sales determined to ''best meet national energy needs for the 5-year period following its approval or reapproval.'' This draft proposed program is the first proposed schedule of OCS lease sales for the 2002–2007 timeframe. Before the new 5-year program may be approved and implemented, MMS must accept and consider comments on the draft program and then issue for public review a proposed program and draft EIS, as well as a proposed final program and final EIS.

Summary of the Draft Proposed Program

In developing the draft proposed program for 2002–2007, MMS considered leasing only in the areas of the OCS that have not been withdrawn from disposition by leasing through June 30, 2012, under section 12 of the OCS Lands Act. The program proposes sales in the available offshore areas that have the highest oil and gas resource values and highest industry interest while recognizing concerns relating to potential environmental impacts and competing uses of ocean and coastal areas. The proposed schedule also is consistent with the recommendations of affected state and local governments.

The draft program proposes a total of 20 OCS lease sales in 8 areas (5 off Alaska and 3 in the Gulf of Mexico). Maps A and B show the areas proposed for leasing, and Table A lists the location and timing of the proposed lease sales.

Alaska Region

In the Alaska Region, the draft proposed program schedules multiple lease sales in the Beaufort Sea and Cook Inlet/Shelikof Strait Planning Areas, which are the two areas of most interest to the oil and gas industry. Multiple offerings are consistent with the Governor of Alaska's recommendations and the state's administration of its offshore oil and gas program. Portions of these areas that have been excluded from previous OCS programs and sales are excluded as recommended by the Governor. In addition, the Chukchi Sea and Hope Basin Planning Areas are combined for leasing as they have been in previous programs. Two lease sales are proposed to pursue the high resource potential of the Chukchi Sea area in conjunction with potential natural gas resources extending into the adjacent Hope Basin area.

The Norton Basin Planning Area is included on the schedule as a potential source of natural gas for local residents and businesses, and it would be offered under a new approach to OCS leasing. The Norton Basin sale is proposed for 2003, but before MMS proceeds, it will issue a request for nominations and comments and will move forward only if environmentally acceptable blocks are nominated by industry. If this does not occur, the sale will be postponed and a request for nominations and comments will be issued again the following year (and so on through the 5-year schedule until the sale is held or the schedule expires).

Gulf of Mexico Region

In the Central and Western Gulf of Mexico Planning Areas, which are the two areas of highest resource potential and interest, the draft proposed program would continue the long-running policy of scheduling annual areawide lease sales to which the industry has become accustomed. In the Eastern Planning Area, the program proposes two lease sales in a portion of the area that was identified for Sale 181 in the 5-year program for 1997–2002. That original Sale 181 area is the only part of the Eastern Planning Area not withdrawn under section 12. The portion of that area proposed for leasing in this draft proposed program consists of 256 blocks in deeper waters adjacent to the Central Gulf Planning Area. Selection of this area reflects the Secretary's decision in the proposed Notice of Sale for Sale 181 to exclude areas in the original Sale 181 area to address concerns expressed by the State of Florida and to minimize potential conflicts with military operations.

Maps A and B show the areas proposed for leasing consideration in the new program. Table A is a summary of the proposed schedule of lease sales for the new program. Individual planning area maps are included in the draft proposed program decision document.

TABLE A.—DRAFT PROPOSED PROGRAM FOR 2002–2007—LEASE SALE SCHEDULE

Sale No.	Area	Year
184	Western Gulf of Mexico	2002
185	Central Gulf of Mexico	2003
186	Beaufort Sea	2003
187	Western Gulf of Mexico	2003
188	Norton Basin	2003
189	Eastern Gulf of Mexico	2003
190	Central Gulf of Mexico	2004
191	Cook Inlet/Shelikof Strait	2004
192	Western Gulf of Mexico	2004
193	Chukchi Sea/Hope Basin	2004
194	Central Gulf of Mexico	2005
195	Beaufort Sea	2005
196	Western Gulf of Mexico	2005
197	Eastern Gulf of Mexico	2005
198	Central Gulf of Mexico	2006

TABLE A.—DRAFT PROPOSED PROGRAM FOR 2002–2007—LEASE SALE SCHEDULE—Continued

Sale No.	Area	Year
199	Cook Inlet/Shelikof Strait	2006
200	Western Gulf of Mexico	2006
201	Central Gulf of Mexico	2007
202	Beaufort Sea	2007
203	Chukchi Sea/Hope Basin	2007

Assurance of Fair Market Value

Section 18 of the OCS Lands Act requires receipt of fair market value for OCS oil and gas leases and the rights they convey. The draft proposed program provides for setting minimum bid levels by individual lease sale based on market conditions and for continuing to use a two-phase bid evaluation process.

Information Requested

We request all interested and affected parties to comment on the size, timing, and location of leasing and the procedures for assuring fair market value that are proposed in the Draft Proposed 5-Year OCS Oil and Gas Leasing Program for 2002–2007. Respondents who submitted information in response to the December 12, 2000, **Federal Register** notice requesting comments on preparing the 5-year program for 2002–2007 may wish to reference that information, as appropriate, rather than repeating it in their comments on the draft proposed program. We also invite comments and suggestions on how to proceed with the section 18 analysis for the next draft of the new program, the proposed program.

Section 18(g) authorizes confidential treatment of privileged or proprietary information that is submitted. In order to protect the confidentiality of such information respondents should include it as an attachment to other comments submitted and mark it appropriately. On request MMS will treat such information as confidential from the time of its receipt until 5 years after approval of the new leasing program, subject to the standards of the Freedom of Information Act. MMS will not treat as confidential any aggregate summaries of such information, the names of respondents, and comments not containing such information.

Next Steps in the Process

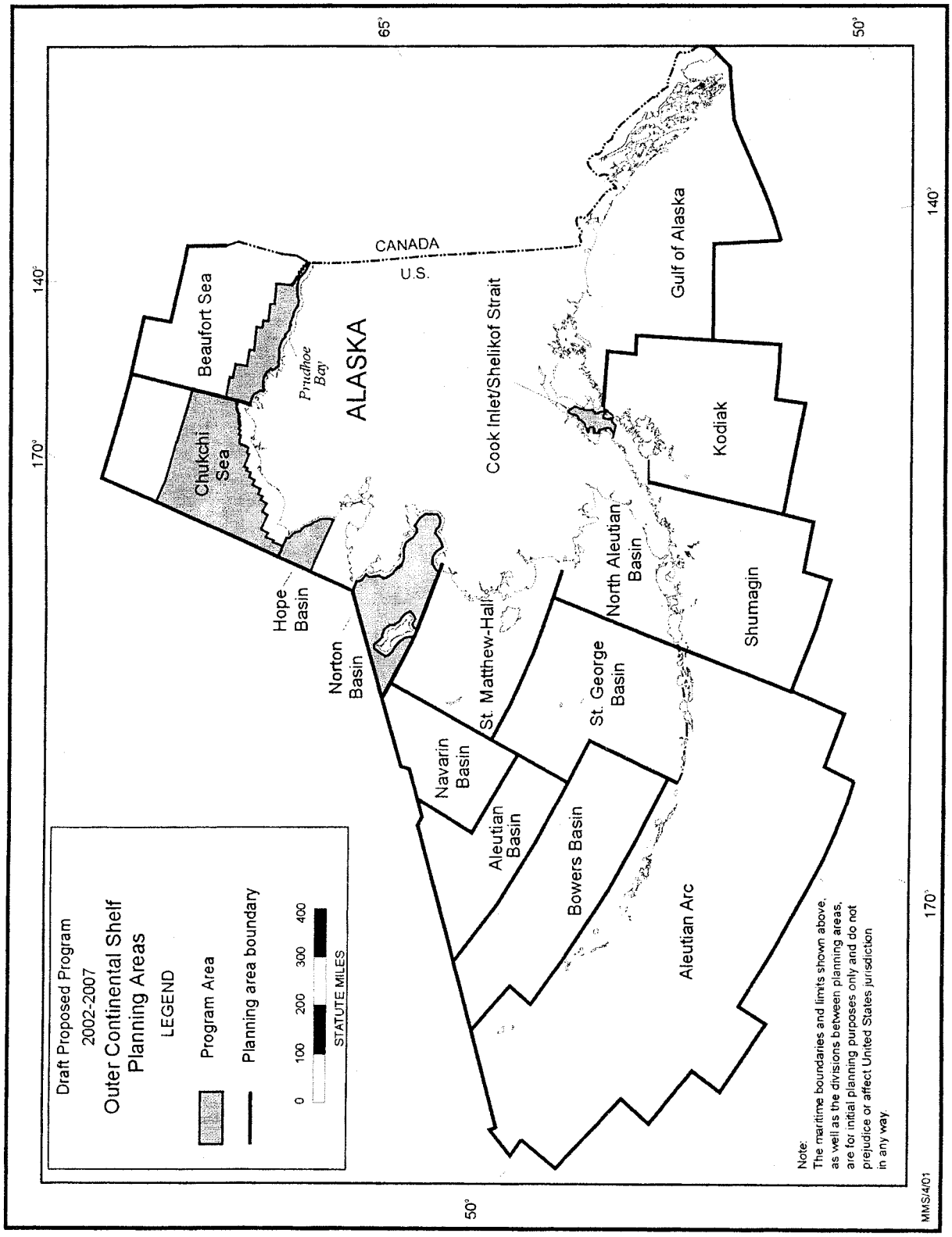
MMS plans to issue the proposed program and draft EIS in autumn 2001 for a 90-day comment period. We plan to issue the proposed final program and final EIS in spring 2002. The Secretary may approve the new 5-year program 60 days later to go into effect as of July 1, 2002.

Dated: July 16, 2001.

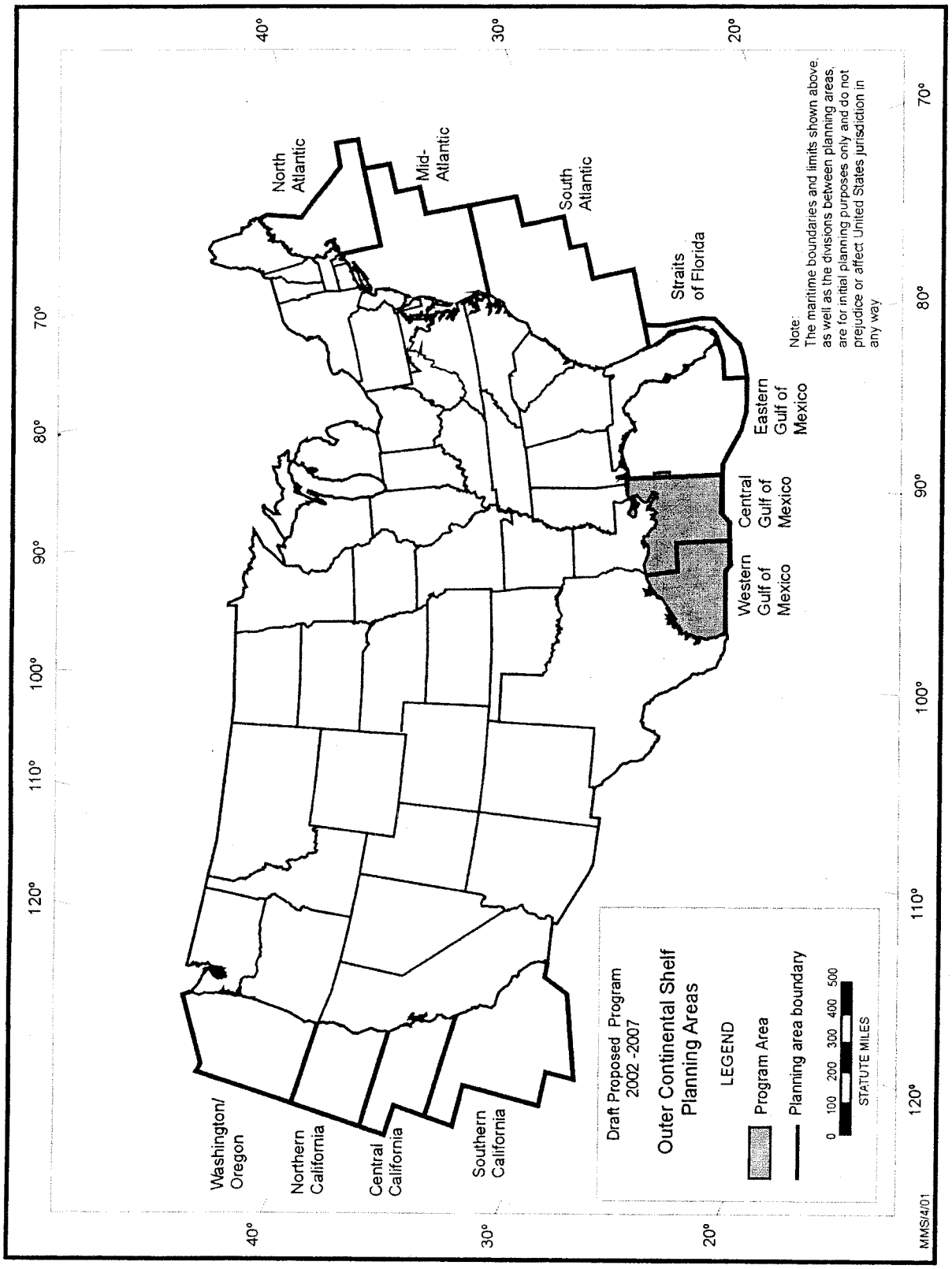
Thomas R. Kitsos,

Acting Director, Minerals Management Service.

BILLING CODE 4310–MR–U


Draft Proposed Program
2002-2007
Outer Continental Shelf
Planning Areas
LEGEND
Program Area
Planning area boundary
0 100 200 300 400
STATUTE MILES
Beaufort Sea
Chukchi Sea
Prudhoe Bay
ALASKA
CANADA
U.S.
Cook Inlet/Shelikof Strait
Gulf of Alaska
Kodiak
Shumagin
North Aleutian Basin
St. George Basin
St. Matthew-Hall
Hope Basin
Norton Basin
Navarin Basin
Aleutian Basin
Bowers Basin
Aleutian Arc
Note:
The maritime boundaries and limits shown above, as well as the divisions between planning areas, are for initial planning purposes only and do not prejudice or affect United States jurisdiction in any way.
MMS/4/01
65°
50°
140°
170°

Map A. Alaska



Map B. Lower 48 States

[FR Doc. 01–18118 Filed 7–20–01; 8:45 am]

BILLING CODE 4310–MR–C

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Western Gulf of Mexico, Oil and Gas Lease Sale 180

AGENCY: Minerals Management Service, Interior.

ACTION: Final notice of sale 180.

SUMMARY: On August 22, 2001, the Minerals Management Service will open and publicly announce bids received for blocks offered in Sale 180, Western Gulf of Mexico, pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1356, as amended) and the regulations issued thereunder (30 CFR Part 256). Bidders can obtain a ''Final Notice of Sale 180 Package'' containing this Notice of Sale and several supporting and essential documents referenced herein, from the MMS Gulf of Mexico Region's Public Information Unit, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, (504) 736–2519 or (800) 200–GULF, or via the MMS Gulf of Mexico Region's Internet site at http://www.gomr.mms.gov. The MMS also maintains a 24-hour Fax-on-Demand Service at (202) 219–1703. The ''Final Notice of Sale 180 Package'' contains information essential to bidders, and bidders are charged with the knowledge of the documents contained in the package.

Location and Time: Public bid reading will begin at 9 a.m., Wednesday, August 22, 2001, in the Hyatt Regency Conference Center (Cabildo Rooms), 500 Poydras Plaza, New Orleans, Louisiana. All times referred to in this document are local New Orleans time.

Filing of Bids: Bidders must submit sealed bids to the Regional Director, MMS Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, between 8 a.m. and 4 p.m., prior to the Bid Submission Deadline at 10 a.m., Tuesday, August 21, 2001. If the bids are mailed, mark on the envelope containing all the sealed bids the following:

Attention: Mr. John Rodi
Contains Sealed Bids for Sale 180

If the RD receives bids later than the time and date specified above, he will return the bids unopened to bidders. Bidders may not modify or withdraw their bids unless the RD receives a written modification or written withdrawal request prior to 10 a.m., Tuesday, August 21, 2001. In the event of widespread flooding or other natural disaster, the MMS Gulf of Mexico Regional Office may extend the bid submission deadline. Bidders may call (504) 736–0557 for information about the possible extension of the bid submission deadline due to such an event.

Areas Offered for Leasing: The MMS is offering for leasing all the blocks and partial blocks listed in the document ''List of Blocks Available for Leasing, Sale 180'' included in the Sale Notice Package. All of these blocks are shown on the following Leasing Maps and Official Protraction Diagrams (which may be purchased from the MMS Gulf of Mexico Regional Office Public Information Unit).

Outer Continental Shelf Leasing Maps—Texas, Nos. 1 through 8. These 16 maps sell for $2.00 each:

TX1 South Padre Island Area (revised November 1, 2000)
TX1A South Padre Island Area, East Addition (revised November 1, 2000)
TX2 North Padre Island Area (revised November 1, 2000)
TX2A North Padre Island Area, East Addition (revised November 1, 2000)
TX3 Mustang Island Area (revised November 1, 2000)
TX3A Mustang Island Area, East Addition (revised November 1, 2000)
TX4 Matagorda Island Area (revised November 1, 2000)
TX5 Brazos Area (revised November 1, 2000)
TX5B Brazos Area, South Addition (November 1, 2000)
TX6 Galveston Area (revised November 1, 2000)
TX6A Galveston Area, South Addition (revised November 1, 2000)
TX7 High Island Area (revised November 1, 2000)
TX7A High Island Area, East Addition (revised November 1, 2000)
TX7B High Island Area, South Addition (revised November 1, 2000)
TX7C High Island Area, East Addition, South Extension (revised November 1, 2000)
TX8 Sabine Pass Area (revised November 1, 2000)

Outer Continental Shelf Official Protraction Diagrams. These diagrams sell for $2.00 each:

NG14–03 Corpus Christi (revised November 1, 2000)
NG14–06 Port Isabel (revised November 1, 2000)
NG15–01 East Breaks (revised November 1, 2000)
NG15–02 Garden Banks (revised November 1, 2000)
NG15–04 Alaminos Canyon (revised November 1, 2000)
NG15–05 Keathley Canyon (revised November 1, 2000)
NG15–08 Sigsbee Escarpment (revised November 1, 2000)

Note: A CD–ROM (in ARC/INFO and Acrobat (.pdf) formats) containing all of the Gulf of Mexico Leasing Maps and Official Protraction Diagrams, except for those not yet revised to digital format, is available from the MMS Gulf of Mexico Regional Office Public Information Unit for a price of $15.00. The Leasing Maps and Official Protraction Diagrams are also available on our Internet site. See also 66 FR 28002, published on May 21, 2001, for the current status of Central and Western Gulf of Mexico Leasing Maps and Official Protraction Diagrams.

Acreage of all blocks is shown on these Leasing Maps and Official Protraction Diagrams. The available Federal acreage of all whole and partial blocks in this sale is shown in the document ''List of Blocks Available for Leasing, Sale 180'' included in the Sale Notice Package. Some of these blocks may be partially leased, or transected by administrative lines such as the Federal/State jurisdictional line, or partially included in the Flower Garden Banks National Marine Sanctuary (in accordance with the President's June 1998 withdrawal directive, portions of blocks lying within National Marine Sanctuaries are no longer available for leasing). Information on the unleased portions of such blocks, including the exact acreage, is found in the document titled ''Western Gulf of Mexico Lease Sale 180—Unleased Split Blocks and Available Unleased Acreage of Blocks with Aliquots and Irregular Portions Under Lease or Deferred,'' included in the Sale Notice Package.

Areas not Available for Leasing: The following blocks in the Western Gulf of Mexico Planning Area are not available for leasing:

Blocks currently under lease; and the following unleased block:

High Island Area Block 170 (which is currently under appeal); and

High Island Area, East Addition, South Extension, Blocks A–375 and A–398 (at the Flower Garden Banks), and the portions of other blocks within the boundary of the Flower Garden Banks National Marine Sanctuary; portions of High Island Area, East Addition, South Extension, Blocks A–367 and A–401; High Island Area, South Addition, Block A–513; and Garden Banks Area Block 135; and

Mustang Island Area Blocks 793, 799, and 816 (blocks located off Corpus Christi which have been identified by

the Navy as needed for testing equipment and training mine warfare personnel).

Blocks or portions of blocks beyond the United States Exclusive Economic Zone (in the area formerly known as the Western Gap) which are in the 1.4 nautical mile buffer zone north of the continental shelf boundary between the United States and Mexico. Both the zone, in which leasing is prohibited for ten years, and the boundary were established by the ''Treaty Between The Government Of The United States Of America And The Government Of The United Mexican States On The Delimitation Of The Continental Shelf In The Western Gulf Of Mexico Beyond 200 Nautical Miles'' signed by the United States and Mexico on June 9, 2000; the U.S. Senate gave advice and consent to ratification on October 18, 2000, and the Mexican Senate gave its approval on November 28, 2000. The provisions of the treaty entered into force upon exchange of the instruments of ratification of the treaty on January 17, 2001.

The following blocks lie wholly within the 1.4 nautical mile buffer zone and are deferred from this sale:

Sigsbee Escarpment (Area NG15–08) Blocks

11, 57, 103, 148, 149, 194, 239, 284
331 through 341

The portions of the following blocks lying within the 1.4 nautical mile buffer zone are deferred from this sale:

Keathley Canyon (Area NG15–05) Blocks

978 through 980

Sigsbee Escarpment (Area NG15–08) Blocks

12 through 14
58 through 60
104 through 106
150, 151, 195, 196, 240, 241
285 through 298
342 through 349

The available acreage in these blocks with deferred portions lying within the 1.4 nautical mile buffer are provided in the ''Unleased Split Blocks and Available Unleased Acreage of Blocks with Aliquots and Irregular Portions Under Lease or Deferred'' document included in the Final Sale Notice Package. Also, Supplemental Official OCS Block Diagrams for these blocks are available from the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 736–2519. The SOBDs are also available for blocks which contain the ''U.S. 200 Nautical Mile Limit'' line and the ''U.S.-Mexico Maritime Boundary'' line. These diagrams can also be found on the MMS Homepage Address on the Internet: http://www.mms.gov. For additional information, please call Mr. Charles Hill (504) 736–2795.

Leasing Terms and Conditions: Primary lease terms, minimum bids, annual rental rates, royalty rates, minimum royalty, and royalty suspension areas are shown on the map ''Lease Terms and Economic Conditions, Sale 180, Final'' for leases resulting from this sale:

Primary lease terms: 5 years for blocks in water depths of less than 400 meters; 8 years for blocks in water depths of 400 to 799 meters; and 10 years for blocks in water depths of 800 meters or deeper;

Minimum bids: $25 per acre or fraction thereof for blocks in water depths of less than 800 meters and $37.50 per acre or fraction thereof for blocks in water depths of 800 meters or deeper;

Annual rental rates: $5 per acre or fraction thereof for blocks in water depths of less than 200 meters and $7.50 per acre or fraction thereof for blocks in water depths of 200 meters or deeper, to be paid on or before the first day of each lease year until a discovery in paying quantities of oil or gas is made, then at the expiration of each lease year until the start of royalty-bearing production;

Royalty rates: 16⅔ percent royalty rate for blocks in water depths of less than 400 meters and a 12½ percent royalty rate for blocks in water depths of 400 meters or deeper, except during periods of royalty suspension, to be paid monthly on the last day of the month next following the month in which the production is obtained;

Minimum royalty: After the start of royalty-bearing production: $5 per acre or fraction thereof per year for blocks in water depths of less than 200 meters and $7.50 per acre or fraction thereof per year for blocks in water depths of 200 meters or deeper, to be paid at the expiration of each lease year;

Royalty Suspension Areas: Leases are being offered in this sale subject to the regulations in 30 CFR Part 260, published in the **Federal Register** at 66 FR 11512 on February 23, 2001. Royalty suspension will apply for blocks in water depths less than 200 meters where new deep gas (15,000 feet or greater subsea) is drilled and commences production within the initial primary 5-year lease term, and in water depths of 800 meters or deeper (for oil and gas); see the map titled ''Lease Terms and Economic Conditions, Sale 180, Final'' for specific areas. See the document contained within the Sale 180, Final Notice Package titled ''RoyaltySuspension Provisions (Sale 180)'' for the specific details regarding royalty suspension eligibility and implementation. For blocks beyond the U.S. EEZ, see Stipulation 4 in the document ''Lease Stipulations for Oil and Gas Lease Sale 180'' contained in the Sale Notice Package.

The map titled ''Stipulations and Deferred Blocks, Sale 180, Final'' depicts the blocks where the Topographic Features, Military Areas, Naval Mine Warfare Area, and Law of the Sea Convention Royalty Payment stipulations apply. The texts of the lease stipulations are contained in the document ''Lease Stipulations for Oil and Gas Lease Sale 180, Final'' included in the Sale Notice Package. Also shown on this map are the deferred blocks noted above.

Rounding: The following procedure must be used to calculate minimum bid, rental, and minimum royalty on blocks with fractional acreage: Round up to the next whole acre and multiply by the applicable dollar amount to determine the correct minimum bid, rental, or minimum royalty.

Note: For the minimum bid only, if the calculation results in a decimal figure, round up to the next whole dollar amount (see next paragraph). The minimum bid calculation, including all rounding, is shown in the document ''List of Blocks Available for Leasing, Sale 180'' included in the Sale Notice Package.

Method of Bidding: For each block bid upon, a bidder must submit a separate signed bid in a sealed envelope labeled ''Sealed Bid for Oil and Gas Lease Sale 180, not to be opened until 9 a.m., Wednesday, August 22, 2001.'' The total amount bid must be in a whole dollar amount; any cent amount above the whole dollar will be ignored by the MMS. Details of the information required on the bid(s) and the bid envelope(s) are specified in the document ''Bid Form and Envelope'' contained in the Sale Notice Package.

The MMS published a list of restricted joint bidders, which applies to this sale, in the **Federal Register** at 66 FR 17731, on April 3, 2001. Bidders must execute all documents in conformance with signatory authorizations on file in the MMS Gulf of Mexico Regional Office. Partnerships also must submit or have on file a list of signatories authorized to bind the partnership. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, e.g., 33.33333 percent. The MMS may require bidders to submit other documents in accordance with 30 CFR 256.46. The MMS warns bidders against

violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders. Bidders are advised that the MMS considers the signed bid to be a legally binding obligation on the part of the bidder(s) to comply with all applicable regulations, including paying the ⅕ bonus on all high bids. A statement to this effect must be included on each bid (see the document ''Bid Form and Envelope'' contained in the Sale Notice Package).

Bid Deposit: Submitters of high bids must deposit the ⅕ bonus by using electronic funds transfer procedures, following the detailed instructions contained in the document ''Instructions for Making EFT Bonus Payments'' included in the Sale Notice Package. All payments must be electronically deposited into an interest-bearing account in the U.S. Treasury (account specified in the EFT instructions) during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

Note: Certain bid submitters (i.e., those that do not currently own or operate an OCS mineral lease OR those that have ever defaulted on a ⅕ bonus payment (EFT or otherwise)) are required to guarantee (secure) their ⅕ bonus payment. For those who must secure the EFT ⅕ bonus payment, one of the following options may be used: 1. Provide a third-party guaranty; 2. Amend Development Bond Coverage; 3. Provide a Letter of Credit; or 4. Provide a lump sum payment via EFT prior to the submission of bids. The EFT instructions specify the requirements for each option.

Withdrawal of Blocks: The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

Acceptance, Rejection, or Return of Bids: The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block will be awarded to any bidder, unless the bidder has complied with all requirements of this Notice, including the documents contained in the associated Sale Notice Package and applicable regulations; the bid is the highest valid bid; and the amount of the bid has been determined to be adequate by the authorized officer. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, and other applicable regulations may be returned to the person submitting that bid by the RD and not considered for acceptance. To ensure that the Government receives a fair return for the conveyance of lease rights for this sale, high bids will be evaluated in accordance with MMS bid adequacy procedures. A copy of the current procedures, ''Modifications to the Bid Adequacy Procedures'' (64 FR 37560 of July 12, 1999), is available from the MMS Gulf of Mexico Regional Office Public Information Unit and is also on our Internet site.

Successful Bidders: As required by MMS, each company that has been awarded a lease must execute all copies of the lease (Form MMS–2005 (March 1986) as amended), pay by EFT the balance of the cash bonus bid along with the first year's annual rental for each lease issued in accordance with the requirements of 30 CFR 218.155, and satisfy the bonding requirements of 30 CFR 256, Subpart I, as amended. Each bidder in a successful high bid must have on file, in the MMS Gulf of Mexico Regional Office Adjudication Unit, a currently valid certification (Debarment Certification Form) certifying that the bidder is not excluded from participation in primary covered transactions under Federal nonprocurement programs and activities. A certification previously provided to that office remains currently valid until new or revised information applicable to that certification becomes available. In the event of new or revised applicable information, the MMS will require a subsequent certification before lease issuance can occur. Persons submitting such certifications should review the requirements of 43 CFR, Part 12, Subpart D. A copy of the Debarment Certification Form is contained in the Sale Notice Package.

Affirmative Action: The MMS *requests* that the certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form MMS–2033 (June 1985), and the Affirmative Action Representation Form, Form MMS–2032 (June 1985) be on file in the MMS Gulf of Mexico Regional Office Adjudication Unit prior to bidding. In any event, these forms are required to be on file in the MMS Gulf of Mexico Regional Office Adjudication Unit prior to execution of any lease contract. Bidders must also comply with the requirements of 41 CFR 60.

Information to Lessees: The Sale Notice Package contains a document titled ''Information to Lessees.'' These Information to Lessees items provide information on various matters of interest to potential bidders.

Thomas R. Kitsos,

Acting Director, Minerals Management Service.

Dated: July 13, 2001.

Piet deWitt,

Acting Assistant Secretary, Land and Minerals Management.

[FR Doc. 01–18398 Filed 7–20–01; 8:45 am]

BILLING CODE 4310–MR–P

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 January 18, 2001, Applied Science Labs, Division of Alltech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of 4-Bromo-2, 5-dimethoxyphenethylamine (7392), a basic class of controlled substance listed in Schedule I.

The firm plans to manufacture small quantities of the listed controlled substance for reference standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance 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 September 21, 2001.

Dated: July 13, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–18213 Filed 7–20–01; 8:45 am]

BILLING CODE 4410–09–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 January 4, 2001, High Standard Products Corp., 14441 Beach Boulevard, #225, Westminster, California 92683, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Lysergic acid diethylamide (7315).	I
Tetrahydrocannabinols (7370)	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Heroin (9200)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Morphine (9300)	II
Fentanyl (9801)	II

The firm plans to manufacture analytical reference standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance 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 September 21, 2001.

Dated: July 13, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–18216 Filed 7–20–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated November 14, 2000, and published in the **Federal Register** on November 28, 2000 (65 FR 70937), ISP Freetown Chemicals, Inc., 238 South Main Street, Freetown, Massachusetts 02702, 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
2,5-Dimethoxyamphetamine (7396)	I
Amphetamine (1100)	II
Phenylacetone (8501)	II

The firm plans to block manufacture amphetamine for a customer and to bulk manufacture the phenylacetone for the manufacture of the amphetamine. the bulk 2,5-Dimethoxyamphetamine will be used for conversion into a Non-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 ISP Freetown Chemicals, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated ISP Freetown 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 O.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 a basic classes of controlled substances listed above is granted.

Dated: July 13, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–18212 Filed 7–20–01; 8:45 am]

BILLING CODE 4410–09–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 December 12, 2000, Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Difenoxin (9168)	I
Propriam (9649)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Anileridine (9020)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Morphine (9300)	II
Thebaine (9333)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture the listed controlled substances in bulk to supply final dosage from manufacturers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comment 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 (60 days from publication).

Dated: July 13, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–18218 Filed 7–20–01; 8:45 am]

BILLING CODE 4410–09–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 March 7, 2001, Abbott Laboratories, DBA Knoll Pharmaceutical Company, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Dihydromorphine (9145)	I
Hydromorphone (9150)	II

The firm plans to produce bulk product and finished dosage units for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comment 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 September 21, 2001.

Dated: July 13, 2001.

Laura M. Nagel,

Deputy Assitant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–18214 Filed 7–20–01; 8:45 am]

BILLING CODE 4410–09–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 December 7, 2000, Lifepoint, Inc., 1205 S. Dupont Street, Ontario, California 91761, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Benzoylecgonine (9180)	II
Morphine (9300)	II

The firm plans to use gram quantities of the listed controlled substances to manufacture drug abuse test kits.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance 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 September 21, 2001.

Dated: July 13, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administrator.

[FR Doc. 01–18217 Filed 7–20–01; 8:45 am]

BILLING CODE 4410–09–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 January 4, 2001, Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Gamma hydroxybutyric acid (2010).	I
Amphetamine (1100)	II
Phenylaceton (8501)	II

The firm plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance 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 September 21, 2001.

Dated: July 13, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–18219 Filed 7–20–01; 8:45 am]

BILLING CODE 4410–09–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 April 18, 2000, Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The institute will manufacture small quantities of cocaine derivatives and marihuana derivatives for use by their customers primarily in analytical kits, reagents and standards.

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 September 21, 2001.

Dated: July 13, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–18220 Filed 7–20–01; 8:45 am]

BILLING CODE 4410–09–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 January 9, 2001, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II

The firm plans to manufacture bulk controlled substances for distribution to its customers.

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 September 21, 2001.

Dated: July 13, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–18215 Filed 7–20–01; 8:45 am]

BILLING CODE 4410–09–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2000–9 CARP DTRA1&2]

Digital Performance Rights in Sound Recordings and Ephemeral Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Initiation of arbitration and announcement of the schedule for the proceeding.

SUMMARY: The Copyright Office of the Library of Congress is announcing the initiation of and schedule for the 180-day arbitration period to set the rates and terms for two compulsory licenses. One license allows certain eligible nonsubscription services to perform sound recordings publicly by means of digital audio transmissions and the other allows a transmitting organization to make an ephemeral recording of a sound recording for the purpose of making a permitted public performance.

EFFECTIVE DATE: July 23, 2001.

ADDRESSES: All hearings and meetings for the proceeding to set rates and terms for the sections 112 and 114 licenses shall take place in the James Madison Memorial Building, Room LM–414, First and Independence Avenue, S.E., Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Gina Giuffreda, CARP Specialist, P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

Background

This notice fulfills the requirement of 37 CFR 251.64 and 17 U.S.C. 803(a)(1). Section 251.64 of the CARP rules, 37 CFR provides that:

> After the end of the 45-day precontroversy discovery period, and after the Librarian has ruled on all motions and objections filed under § 251.45, the Librarian will determine the sufficiency of the petition, including, where appropriate, whether one or more of the petitioners' interests are ''significant.'' If the Librarian determines that a petition is significant, he or she will cause to be published in the **Federal Register** a declaration of a controversy accompanied by a notice of initiation of an arbitration proceeding.

On November 27, 1998, the Library of Congress published a notice, pursuant to 17 U.S.C. 112(e)(4) and 114(f)(2)(A), initiating a voluntary negotiation period for the purpose of establishing rates and terms for the digital public performance of sound recordings license (as it pertains to webcasters) under section 114 and for the making of ephemeral copies in furtherance of a digital public performance under section 112 for the period beginning on October 28, 1998, and ending on December 31, 2000. 63 FR 65555 (November 27, 1998). No voluntary agreements were reached. On July 23, 1999, the Recording Industry of America, Inc. (''RIAA'') filed a petition in accordance with 17 U.S.C. 112(e)(5) and 114(f)(2)(B) to convene a Copyright Arbitration Royalty Panel (''CARP'') for the purpose of setting rates and terms for these licenses.

After the filing of the petition, the Library requested the filing of notices of intent to participate in the proceeding and set the schedule for the 45-day precontroversy discovery period. 64 FR 52108 (September 27, 1999). After the filing of notices of intent to participate and upon a party's request to extend the filing date for direct cases, the Library vacated the schedule set forth in the September 27, 1999, notice. See Order, Docket No. 99–6 CARP DTRA (December 22, 1999).

During the pendency of the proceeding, the Library published a notice, in accordance with 17 U.S.C. 112(e)(6) and 114(f)(2)(C)(i)(II), initiating a voluntary negotiation period for the purpose of establishing rates and terms for the two licenses for the period 2001 and 2002. 65 FR 2194 (January 13, 2000). On August 8, 2000, the RIAA again filed a petition to convene a CARP to set these rates. RIAA asserted that it has a significant interest in such a proceeding because it has ''established a collective that is comprised of more than 200 different recording labels and artists, including all of the major record companies in the United States * * * [and its] members own the copyrights in approximately 90% of the legitimate sound recordings sold in the United States.'' Petition at 2.

Prior to the establishment of a new precontroversy discovery schedule for the 1998–2000 proceeding and the establishment of a precontroversy discovery schedule for the 2001–2002 proceeding, the Library consolidated the two proceedings before a single CARP and assigned a single docket number applicable to both proceedings. Order, Docket Nos. 99–6 CARP DTRA and 2000–3 CARP DTRA2 (December 4, 2000).

The Library has conducted a precontroversy discovery period under § 251.45 of the rules. See 65 FR 77394 (December 11, 2000); Orders, Docket No. 2000–9 CARP DTRA1&2 (January 18, 2001, and March 16, 2001). While the 45-day precontroversy discovery period is complete, a few motions are pending before the Library. However, the disposition of these motions will in no way affect the Librarian's determination regarding the sufficiency of the petitions filed in this proceeding; and the motions will be ruled upon in advance of July 30, 2001, the beginning of the 180-day arbitration period. Consequently, the Librarian is announcing the initiation of this proceeding at this time so that the schedule of the proceeding may be published in the **Federal Register** within seven calendar days of the first meeting as required by § 251.11(b) of the rules.

Determination of Petitioner's Significant Interest in Proceeding

The Librarian has considered the petitions of the RIAA and determines that RIAA has a significant interest in the CARP proceedings to establish the rates and terms of the section 112 and 114 licenses for the periods 1998–2000 and 2001–2002. RIAA has set up a collective comprised of more than 200 different recording labels and artists, including all of the major record companies in the United States, and its members own the copyrights in approximately 90% of the legitimate sound recordings sold in the United States. Petition at 2 (August 8, 2000). Further, the former Copyright Royalty Tribunal recognized that RIAA had a significant interest in copyright compulsory license rate proceedings affecting the recording industry. See *Recording Industry Association of America* v. *Copyright Royalty Tribunal,* 662 F.2d 1 (D.C. 1981) (17 U.S.C. 115 license). Consequently, the Librarian determines that RIAA has a significant interest in this proceeding within the meaning of 17 U.S.C. 803(a)(1).

Selection of Arbitrators

In accordance with § 251.6 of the CARP rules, the arbitrators have been selected for this proceeding. They are:

The Honorable Eric E. Van Loon (Chairperson)
The Honorable Jeffrey S. Gulin
The Honorable Curtis E. von Kann

Initiation of the Proceeding

Pursuant to § 251.64 of the CARP rules, the Librarian is formally announcing the existence of a controversy as to the establishment of rates and terms for the digital public performance of sound recordings license (as it pertains to webcasters) under 17 U.S.C. 114 and for the making of ephemeral copies in furtherance of a digital public performance under 17 U.S.C. 112 and is initiating an arbitration proceeding under chapter 8 of title 17 of the United States Code to set the rates and terms for these licenses. The arbitration proceeding commences on July 30, 2001, and runs for a period of 180 days. The arbitrators shall file their written report with the Librarian by January 28, 2002, the end of the 180-day period, in accordance with § 251.53 of the rules.

Schedule for Proceeding

Section 251.11(b) of the regulations governing the Copyright Arbitration Royalty Panels (''CARPs''), 37 CFR subchapter B, provides that:

At the beginning of each proceeding, the CARP shall develop the original schedule of the proceeding which shall be published in the **Federal Register** at least seven calendar days in advance of the first meeting. Such announcement shall state the times, dates, and place of the meetings, the testimony to be heard, whether any of the meetings, or any portion of a meeting, is to be closed, and if so, which ones, and the name and telephone number of the person to contact for further information.

This notice fulfills the requirements of § 251.11(b) for the proceeding to set rates and terms for the digital public performance of sound recordings license (as it pertains to webcasters) under 17 U.S.C. 114 and for the making of ephemeral copies in furtherance of a digital public performance under 17 U.S.C. 112.

On June 25, 2001, the parties to this proceeding met with the arbitrators for the purposes of discussing the mechanism for payment of the arbitrators and of setting a schedule for this proceeding. At that meeting, the parties and the arbitrators agreed to the following schedule:

Opening Statements: July 30, 2001.

Presentation of Direct Cases: July 31-September 13, 2001.

Witnesses for the Copyright Owners and Performers: [1]

July 31–August 2, 2001: Cary Sherman, Hilary Rosen, David Altschul, Linda McLaughlin, Paul Katz, Charles Ciongoli.

August 6–10, 2001: James Griffin, Ronald Wilcox, Paul Vidich, LaVerne Evans, Jay Samit, Lawrence Kenswil, Anthony Pipitone, Gregory Hessinger, Gary Himelfarb.

August 13–16, 2001: Jennifer Warnes, Kevin Dorsey, Harold Bradley, Steven Marks, Thomas Nagle, Robert Yerman, Steven Wildman.

Witnesses for Broadcasters/ Webcasters;[2] DMX Music, Inc.; AEI Music Network; and National Public Radio (''NPR''):

For Broadcasters: Dan Halyburton (Susquehanna Radio Corp.), Stephen F. Fisher (Entercom Communication Corp.), Dan Mason (Infinity Broadcasting Corp.), James Patrick Donahue (Clear Channel Radio Group), Joe Davis (Salem).

For Webcasters: Scott Mills (BET Interactive), Joe Lyons (Comedy Central), Michael Peterson (Coollink Broadcast Network), Tuhin Roy (Echo Networks, Inc.), Robert D. Roback (Launch Media, Inc.), David Goldberg (Launch Media, Inc.), Rob Reid (Listen.com, Inc.), John O. Jeffrey (Live365, Inc.), Brad Porteus (MTVi Radio of the MTVi Group, Inc.), Quincy McCoy (MTVi Group), Robert Ohlweiler (MusicMatch, Inc.), David Bean (MusicMatch, Inc.), David Pakman (Myplay, Inc.), Michael Wise (NetRadio Corp.), Charlie Moore (RadioActive Media Partners, Inc.), Nathan W. Pearson, Jr. (RadioWave.com, Inc.), Fred McIntyre (AOL Music/ Spinner), Diego Ruiz (Univision Online, Inc.), Clifton Gardiner (Westwind Media.com, Inc.), David Juris (XACT Radio LLC), David Fagin (singer, songwriter, recording and performing artist), Alanis Morissette (singer, songwriter, recording and performing artist).

For Background Music: [3] Barry Knittel (AEI Music Network, Inc.)

Experts: William W. Fisher III, Jonathan Zittrain, Adam B. Jaffe, Michael Fine, Paul William Kempton, Michael Mazis.

For NPR: Kenneth P. Stern (NPR), Dr. Jane Murdoch (Charles River Associates), Dr. John Woodbury (Charles River Associates).

Filing of Written Rebuttal Testimony: October 4, 2001.

Presentation of Rebuttal Cases: October 15–20, 22–25, 2001.

Filing of Proposed Findings of Fact and Conclusions of Law: November 14, 2001.

Filing of Replies to Proposed Findings of Fact and Conclusions of Law: December 3, 2001.

Oral Argument: December 7, 2001.

Close of 180-day period: January 28, 2002.

Opening statements will begin at 1 p.m. on July 30. Thereafter, all hearings will begin at 9:00 a.m.

At this time, the parties have not moved to close any portion of the proceeding to the public. Further refinements to the schedule will be announced in open meetings and issued as orders to the parties participating in the proceeding. All changes will be noted in the docket file of the proceeding, as required by the Copyright Office regulations governing the administration of CARP proceedings. 37 CFR 251.11(c).

[1] ''Copyright Owners and Performers'' consist of the Recording Industry Association of America, the American Federation of Television and Radio Artists, the American Federation of Musicians of the United States and Canada, and the Association for Independent Music.

[2] ''Broadcasters/Webcasters'' consist of Clear Channel Communications, Inc.; the National Religious Broadcasters Music License Committee; Salem Communications Corp.; Bet.com; Comedy Central; Infinity Broadcasting Corp.; Launch Media, Inc.; Listen.com; Live365.com; the MTVi Group LLC; MusicMatch, Inc.; Myplay, Inc.; Netradio Corp; RadioActive Media Partners, Inc.; Radiowave.com, Inc.; Spinner Networks, Inc.; Susquehanna Radio Corp.; Univision Online; Westwind; and XACT Radio Network, LLC.

[3] ''Background Music'' consist of AEI Music Network, Inc. and DMX Music, Inc.

Dated: July 18, 2001.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 01–18338 Filed 7–20–01; 8:45 am]

BILLING CODE 1410–33–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewed clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; 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.

DATES: Written comments should be received by September 21, 2001 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to splimpto@nsf.gov.

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Title of Collection: Survey of Industrial Research and Development

OMB Control No.: 3145–0027.

Expiration Date of Approval: December 31, 2001.

1. Abstract

The proposed continuing information collection involves the estimation of the expenditures on research and development performed within the United States by industrial firms. A mail survey, the Survey of Industrial Research and Development, has been conducted annually since 1953. Industry accounts for over 70 percent of total U.S. R&D each year and since its inception, the survey has provided continuity of statistics on R&D expenditures by major industry groups and by source of funds. The survey is the industrial component of the NSF statistical program that seeks to ''provide a central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and technical resources in the United states, and to provide a source of information for policy formulation by other agencies of the Federal government'' as mandated in the National Science Foundation Act of 1950. Statistics from the survey are published in NSF's annual publication series Research and Development in Industry. The proposed collection will continue the survey for three years.

2. Expected Respondents

The survey will be mailed to a statistical sample of approximately 24,200 companies to collect information on the amount and sources of funds for and character of R&D performed and contracted out by industrial firms, and information on sales and employment of the firms themselves.

3. Burden on the Public

To minimize burden, over 90-percent of the companies selected for the Survey of Industrial Research and Development are asked to respond to the Form RD–1A, the abbreviated version of the basic survey questionnaire, Form RD–1. Further, only companies with five paid employees or more are asked to participate in the survey and extensive use is made of the descriptive codes and information on the establishment list that is the source of the survey sample to avoid sampling firms in industries that traditionally do not perform R&D. NSF, with input from the Bureau of the Census, the collection and compiling agent for the survey, estimates that the average annual reporting and record keeping burden on each Form RD–1A respondent will be 1 hour and on Form RD–1 respondents will be 18 hours. The total annual burden is estimated at 51,400 hours, calculated as follows:

RD–1A respondents: 22,600 respondents × 1 response × 1 burden Hour = 22,600 hours/year.

RD–1 respondents: 1,600 respondents × 1 response × 18 burden hours=28,800 hours/year.

All respondents: 22,600 + 28,800 = 51,400 burden hours/year during 2002, 2003, and 2004.

Dated: July 17, 2001.

Suzanne H. Plimpton,

NSF Reports Clearance Officer.

[FR Doc. 01–18223 Filed 7–20–01; 8:45 am]

BILLING CODE 7555–01–M

NORTHEAST DAIRY COMPACT COMMISSION

Notice of meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of Meeting.

SUMMARY: The Compact Commission will hold its regular monthly meeting to consider matters relating to administration and enforcement of the price regulation. This meeting will be held in Mystic, Connecticut, continuing the Commission's program of holding a meeting in each of the Compact states. In addition to receiving reports and recommendations of its standing Committees, the Commission will receive a number of informational reports about the impact of the over-order price regulation in Connecticut.

DATES: The meeting will begin at 10 a.m. on Wednesday, August 8, 2001.

ADDRESSES: The meeting will be held at the Best Western Hotel, 9 Whitehall Avenue, Mystic, Connecticut 06355.

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission, 64 Main Street, Room 21, Montpelier, VT 05602. Telephone (802) 229–1941.

Authority: 7 U.S.C. 7256.

Dated: July 17, 2001.

Daniel Smith,

Executive Director.

[FR Doc. 01–18289 Filed 7–20–01; 8:45 am]

BILLING CODE 1650–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, and 50–287]

Duke Energy Corporation; Oconee Nuclear Station, Units 1, 2, and 3; Exemption

1.0 Background

The Duke Energy Corporation (the licensee) is the holder of Facility Operating License Nos. DPR–38, DPR–47, and DPR–55, which authorize operation of the Oconee Nuclear Station, Units 1, 2, and 3 (ONS). The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of three pressurized water reactors located in Seneca County in South Carolina.

2.0 Request/Action

By letter dated July 26, 2000, Duke Energy Corporation, licensee for the ONS, requested an exemption from certain requirements of 10 CFR 50.44, 10 CFR part 50, Appendix A, General Design Criterion 41, and 10 CFR part 50, Appendix E, Section VI pertaining to the hydrogen control system requirements (*i.e.,* recombiners and containment post-accident hydrogen monitors) and the removal of these requirements from the ONS design basis.

Regulatory requirements for the hydrogen control system are specified in 10 CFR 50.44 and 10 CFR part 50, Appendix A, (General Design Criteria 41, 42, and 43). Additional staff guidance is provided in Regulatory Guide (RG) 1.7. Staff review and acceptance criteria are specified in Section 6.2.5 of the Standard Review Plan. With regard to combustible gas control system requirements, ONS is subject to the requirements of 10 CFR 50.44(g).

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

For this exemption, these special circumstances include consideration that the quantity of hydrogen prescribed by 10 CFR 50.44(d) and RG 1.7 which necessitated the need for hydrogen recombiners would be bounded by the hydrogen generated during a severe accident. As shown in the attached safety evaluation, the staff has found that the relative importance of hydrogen combustion for large, dry containments with respect to containment failure is quite low. This finding supports the argument that the hydrogen recombiners are not risk significant from a containment integrity perspective and that the risk associated with hydrogen combustion is not from design basis accidents but from severe accidents. Studies have shown that the majority of risk to the public is from accident sequences that lead to containment failure or bypass, and that the contribution to risk from accident sequences involving hydrogen combustion is actually quite small for large, dry containments such as Oconee's. This is true despite the fact that the hydrogen produced in these events is substantially larger than the hydrogen production postulated by 10 CFR 50.44(d) and RG 1.7. Hydrogen combustion sequences that could lead to early containment failure typically involve up to 75 percent core metal-water reaction. Hydrogen combustion sequences that could lead to late containment failure involve additional sources of hydrogen due to the interaction of corium and the concrete basemat after vessel breach. Although the recombiners are effective in maintaining the RG 1.7 hydrogen concentration below the lower flammability limit of 4 volume percent, they are overwhelmed by the larger quantities of hydrogen associated with severe accidents that would typically be released over a much shorter time period (*e.g.,* 2 hours). However, NUREG/CR–4551 states that hydrogen combustion in the period before containment failure is considered to present no threat to large, dry containments. Table A.4–5 of NUREG/CR–4551 shows that the contribution of hydrogen combustion to late containment failure is also very small. Therefore, the relative importance of hydrogen combustion for large, dry containments with respect to containment failure has been shown to be quite low.

The recombiners can, however, prevent a subsequent hydrogen burn if needed due to radiolytic decomposition of water and corrosion in the long term. Analysis performed in accordance with the methodology of RG 1.7 shows that the hydrogen concentration will not reach 4 volume percent for 15 days after initiation of a design basis Loss of Coolant Accident (LOCA). Additionally, as described in the attached safety evaluation, hydrogen concentrations on the order of 6 percent or less are bounded by hydrogen generated during a severe accident and would not be a threat to containment integrity since there is ample time between burns to reduce elevated containment temperatures using the installed containment heat removal systems. The ONS Individual Plant Examination (IPE) concluded that containment survival is almost certain following hydrogen combustion when the Reactor Building Cooling Units and the Reactor Building Spray System are operating.

The underlying purpose of 10 CFR 50.44 is to show that, following a LOCA, an uncontrolled hydrogen-oxygen recombination would not take place, or that the plant could withstand the consequences of uncontrolled hydrogen-oxygen recombination without loss of safety function. Based on the analysis, which includes the staff's evaluation of the risk from hydrogen combustion, resolution of Generic Issue 121, ''Hydrogen Control for PWR Dry Containments,'' and the ONS IPE, the plant could withstand the consequences of uncontrolled hydrogen-oxygen recombination without loss of safety function without credit for the hydrogen recombiners for not only the design basis case, but the more limiting severe accident with up to 100 percent metal-water reaction. Therefore, the requirements for hydrogen recombiners as part of the ONS design basis are unnecessary and their removal from the design basis is justified. Additionally, elimination of the hydrogen recombiners from the Emergency Operating Instructions would simplify operator actions in the event of an accident and, therefore, would be a safety benefit. Consequently, pursuant to 10 CFR 50.12(a)(2)(ii), application of the regulation is not necessary to achieve the underlying purpose of the rule.

In the submittal, the licensee also requested an exemption from the functional requirement for hydrogen monitoring as promulgated in part 50, Appendix E, Section VI, ''Emergency Response Data System (ERDS),'' or any commitments made in regard to NUREG–0737, Item II.F.1, Attachment 6, ''Containment Hydrogen Monitor.'' In the Statement of Considerations for Appendix E to part 50, the Commission stated that the ERDS data (which includes the continuous hydrogen monitors) provides the data required by the NRC to perform its role during an emergency. This conclusion is still valid

for not only the staff but licensees. The major vendors' core damage assessment methodologies continue to include continuous hydrogen monitoring. Core damage assessment methodologies were reviewed by the staff in response to NUREG–0737, Item II.B.3(2)(a). Continuous hydrogen monitoring is needed to support a plant's emergency plan as described in 50.47(b)(9). Implementing documents such as Regulatory Guide (RG) 1.101, Revision 2, which endorsed NUREG–0654, and RG 1.101, Revision 3, which endorsed NEI–NESP–007, Revision 2 define the highest Emergency Action Level, a General Emergency, as a loss of any two barriers and potential loss of the third barrier. Potential loss of a third barrier depends on whether or not an explosive mixture exists inside containment. The continuous hydrogen monitors are used for determining whether an explosive mixture exists inside containment. Therefore, the licensee's request for exemption from the functional requirements for hydrogen monitoring is not approved.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption pertaining to the recombiners is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, pursuant to 10 CFR 50.12(a)(2)(ii), special circumstances are present. Therefore, the Commission hereby grants Duke Energy Corporation an exemption from the recombiner requirements of 10 CFR 50.44 and 10 CFR part 50, appendix A, General Design Criterion 41 for the Oconee Nuclear Station, Units 1, 2, and 3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 37073).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 17th day of July 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–18326 Filed 7–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–400]

Carolina Power & Light Company; Shearon Harris Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from 10 CFR 55.59(a) for Facility Operating License No. NPF–63, issued to Carolina Power & Light Company (the licensee), for operation of the Shearon Harris Nuclear Power Station, Unit 1 (HNP), located in Wake and Chatham Counties, North Carolina. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow the licensed operator requalification examinations for HNP to be rescheduled. The requested exemption would extend the completion date for the examinations from December 31, 2001, to March 31, 2002.

The proposed action is in accordance with the licensee's application dated January 19, 2001, as supplemented by letter dated May 7, 2001.

The Need for the Proposed Action

The proposed action would extend the current HNP requalification program from December 31, 2001, to March 31, 2002. HNP is scheduled to be in extended shutdown for refueling, steam generator replacement, and power uprate modifications during the end period of the current requalification cycle and when the full annual examination (comprehensive written examination and annual operating test) would need to be given. The licensee has stated that based on the training required for the new site procedures, modifications of the simulator to support outage modifications, training prior to the outage, and the implementation of the extended outage, the ability to complete the full annual examination within the 24-month requalification cycle is not possible.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there are no environmental impacts associated with the extension of the operator requalification examinations from December 31, 2001, to March 31, 2002. The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types or amounts of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for HNP.

Agencies and Persons Consulted

On June 29, 2001, the staff consulted with the North Carolina State official, Mr. Johnny James, of the Division of Radiation Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 19, 2001, as supplemented by letter dated May 7, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike

(first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 13th day of July 2001.

For the Nuclear Regulatory Commission.

N. Kalyanam,

Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–18327 Filed 7–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–266 and 50–301]

Nuclear Management Company, LLC; Point Beach Nuclear Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License Nos. DPR–24 and DPR–27, issued to Nuclear Management Company, LLC, (NMC, or the licensee, formerly Wisconsin Electric Power Company), for operation of the Point Beach Nuclear Plant, Units 1 and 2 (PBNP), respectively, located in Manitowoc County, Wisconsin.

Environmental Assessment

Identification of the Proposed Action

The proposed action would be a full conversion from the current technical specifications (CTS) to a set of improved technical specifications (ITS) based on NUREG–1431, ''Standard Technical Specifications for Westinghouse Plants,'' Revision 1, dated April 1995. The proposed action is in accordance with the licensee's application dated November 15, 1999, as supplemented by letters dated March 15, June 15, June 19, July 28, August 17, September 14, October 19 and December 21, 2000, February 6, February 23, March 19, May 11 and June 13, 2001.

The Need for the Proposed Action

The NRC staff has recognized that nuclear safety in all plants would benefit from improvement and standardization of technical specifications (TSs). The ''NRC Interim Policy Statement on Technical Specification Improvements for Nuclear Power Reactors'' (52 FR 3788) contained proposed criteria for defining the scope of TSs. Later, the ''NRC Final Policy Statement on TS Improvement for Nuclear Power Reactors'' (58 FR 39132) incorporated lessons learned since publication of the interim policy statement and formed the basis for a revision to 10 CFR 50.36. The ''Final Rule'' (60 FR 36953) codified criteria for determining the content of TSs. To facilitate the development of standard TSs, each reactor vendor owners group and the NRC staff developed standard TSs (STS). The NRC Committee to Review Generic Requirements reviewed the STS, made note of their safety merits, and indicated its support of conversion by operating plants to the STS. For Point Beach Nuclear Plant, Units 1 and 2, the STS are NUREG–1431, Revision 1, ''Standard Technical Specifications, Westinghouse,'' dated April 1995. This document formed the basis for the Point Beach Nuclear Plant, Units 1 and 2, conversion.

Description of the Proposed Change

The proposed changes to the CTS are based on NUREG–1431, and guidance provided in the Final Policy Statement. The objective of this action is to completely rewrite, reformat, and streamline the CTS (*i.e.,* to convert the CTS to ITS). Emphasis is placed on human factors principles to improve clarity and understanding. The Bases section has been significantly expanded to clarify and better explain the purpose and foundation of each specification. In addition to NUREG–1431, portions of the CTS were also used as the basis for the development of the Point Beach Nuclear Plant, Units 1 and 2 ITS. Plant-specific issues (unique design features, requirements, and operating practices) were discussed at length with the licensee.

The proposed changes from the CTS can be grouped into four general categories. These groupings are characterized as administrative changes, technical changes—relocations, technical changes—more restrictive, and technical changes—less restrictive. They are described as follows:

Administrative changes are those that involve restructuring, renumbering, rewording, interpretation, and complex rearranging of requirements and other changes not affecting technical content or substantially revising an operating requirement. The reformatting, renumbering and rewording process reflects the attributes of NUREG–1431 and does not involve technical changes to the existing TS. The proposed changes include: (a) Identifying plant-specific wording for system names, etc., (b) changing the wording of specification titles in the CTS to conform to STS, (c) splitting up requirements that are currently grouped, or combining requirements that are currently in separate specifications, (d) deleting specifications whose applicability has expired, and (e) wording changes that are consistent with the CTS but that more clearly or explicitly state existing requirements. Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocation changes are those involving relocation of requirements and surveillances for structures, systems, components, or variables that do not meet the criteria for inclusion in TS. Relocated changes are those CTS requirements that do not satisfy or fall within any of the four criteria specified in the Commission's regulation, 10 CFR 50.36 and may be relocated to appropriate licensee-controlled documents.

The licensee's application of the screening criteria to PBNP is described in Attachment 6 to the November 15, 1999, submittal. The affected structures, systems, components, or variables are not assumed to be initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirements and surveillances for these affected structures, systems, components, or variables, will be relocated from the TSs to administratively controlled documents such as the Final Safety Analysis Report, the ITS Bases, or other licensee-controlled documents. Once these items have been relocated to other licensee-controlled documents, the licensee may revise them under the provisions of 10 CFR 50.59 or other NRC-approved control mechanisms, which provide appropriate procedural means to control changes by the licensee.

More restrictive changes are those involving more stringent requirements compared to the CTS for operation of the facility. These more stringent requirements do not result in operation that will alter assumptions relative to the mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems, and components described in the safety analyses.

Less restrictive changes are those where CTS requirements are relaxed, relocated or eliminated, or new plant

operational flexibility is provided. The more significant ''less restrictive'' requirements are justified on a case-by-case basis. When requirements have been shown to provide little or no safety benefit, their removal from the TSs may be appropriate. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of (a) generic NRC actions, (b) new NRC staff positions that have evolved from technological advancements and operating experience, or (c) resolution of the Owners Groups' comments on the Improved Standard Technical Specifications. Generic relaxations contained in NUREG–1431 were reviewed by the staff and found to be acceptable because they are consistent with current licensing practices and NRC regulations. Each less restrictive change in the Point Beach conversion was justified by the licensee in a Discussion of Change and reviewed by the NRC staff.

In addition, there are eighteen changes that are different from the requirements in both the CTS and NUREG–1431, or that are beyond the changes that are needed to meet the overall purpose of the conversion. These changes are as follows:

1. Adopts more restrictive action requirements for the emergency safety feature actuation system (ESFAS). The more restrictive action requirements pertain to instrumentation channels for the following functions: steam line isolation on manual, high steam flow, and high high steam flow (ITS 3.3.2).

2. Adds an exception to Mode 3 applicability of the ESFAS instrument function. The ITS is modified to allow reactor coolant system hydrostatic testing in Mode 3 without the steam line pressure—low safety injection function instrumentation being operable (ITS 3.3.2).

3. Adds a requirement for the condensate isolation functions to be operable in Modes 1, 2, and 3, except when all main feedwater regulating valves and associated bypass valves are closed and deactivated (ITS 3.3.2).

4. Adopts STS requirements to perform a trip actuating device operational test on containment isolation valve position indication post-accident monitoring instrumentation function (ITS 3.3.3).

5. Increases action requirements for loss of power diesel generator start and load sequence instrumentation functions. This item also imposes additional restrictions by adopting the STS-required actions for two inoperable channels of 480 volt buses (ITS 3.3.5).

6. Relocates reactor coolant system pressure temperature limits to the pressure temperature limits report (PTLR) and adopts STS required actions to ensure operation within the pressure and temperature limits (ITS 3.4.3 and ITS 5.6.5). This item is beyond-scope because the licensee's proposed ITS differed from some of the STS requirements.

7. Increases operability and surveillance requirements for reactor coolant system (RCS) loops. For Mode 3, the CTS currently requires one reactor coolant pump to be in operation and one steam generator to be operable. ITS adds the requirement that two RCS loops be operable, which also means that two steam generators are required in Mode 3. ITS also adopts a surveillance to verify one RCS loop is in operation consistent with the current limiting condition for operation (ITS 3.4.1).

8. Adds explicit operability, action, and surveillance requirements for the containment sump monitor (ITS 3.4.15).

9. Revises applicability and frequency for surveillance of the auto actuation of emergency core cooling system (ECCS) valves and auto start of ECCS pumps in Mode 4. ITS specifies an 18-month frequency as opposed to the once each refueling frequency in CTS. ITS also requires the surveillance requirements to be met during all Mode 4 conditions (ITS 3.5.3).

10. Imposes more restrictive changes to main steam isolation valve and non-return check valve action requirements. The Point Beach plant has a different arrangement for main steam isolation valves and therefore, could not adopt the STS requirements for these TSs (ITS 3.7.2).

11. Adds operability, action, and surveillance TS requirements for main feedwater isolation valves (ITS 3.7.3).

12. Imposes more restrictive changes to the atmospheric dump valve flow path action and surveillance requirements (ITS 3.7.4).

13. Revises the frequency of surveillance requirements for the auxiliary feedwater (AFW) system. This change also revises some of the nomenclature to the AFW system (ITS 3.7.5).

14. Incorporates changes to the component cooling water system operability and action requirements. Also, adds a note to clarify action requirements when a residual heat removal loop is made inoperable by component cooling system components (ITS 3.7.7).

15. Adds surveillance requirements to verify the manual start and alignment capabilities of the control room emergency ventilation system (ITS 3.7.9).

16. Adds a limiting condition for operation and an action pertaining to a containment air temperature limit. In addition, a Bases section is added to provide background for the new TS limit (ITS 3.6.5).

17. Adds a surveillance requirement to verify that one residual heat removal loop is in operation during Mode 6 conditions (ITS 3.9.5).

18. Relocates cycle-specific parameters to a core operating limits report (COLR) and establishes administrative control requirements for the COLR in ITS 5.6.4 (ITS 5.6.4).

An additional action being implemented with the ITS is the creation of a Pressure Temperature Limits Report (PTLR). This action relocates pressure temperature (P/T) limits and low overtemperature pressure protection limits to a licensee controlled PTLR. The licensee submitted its methodology for calculating P/T and low-temperature overpressure protection limits in a separate letter dated March 10, 2000, as supplemented July 28, November 20, 2000, and April 10, 2001. The licensee requested to implement PTLR coincident with ITS, so this amendment is being issued with ITS.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed revision to the CTS. Changes which are administrative in nature have been found to have no effect on the technical content of the TSs and are acceptable. The increased clarity and understanding these changes bring to the TSs are expected to improve the operators' control of the plant in normal and accident conditions. Relocation of requirements to other licensee-controlled documents does not change the requirements themselves nor does 10 CFR 50.36(c)(2)(ii) mandate that the TSs include these requirements. Further changes to these requirments may be made by the licensee under 10 CFR 50.59 or other NRC-approved control mechanisms that ensure continued maintenance of adequate requirements. All such relocations have been found to be in conformance with the guidelines of NUREG–1431 and the Final Policy Statement, and are, therefore, acceptable.

Changes involving more restrictive requirements have been found to enhance plant safety and to be acceptable.

Changes involving less restrictive requirements have been reviewed individually. When requirements have

been shown to provide little or no safety benefit or to place unnecessary burden on the licensee, their removal from the TSs was justified. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of a generic action, or of agreements reached during discussions with the Owners Groups, and have been found to be acceptable for PBNP. Generic relaxations contained in NUREG–1431 have also been reviewed by the NRC staff and have been found to be acceptable.

In summary, the proposed revisions to the CTS were found to provide control of plant operations such that reasonable assurance will be provided that the health and safety of the public will be adequately protected.

These TS changes will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed TS amendment.

With regard to potential nonradiological impacts, the proposed amendment involves features located entirely within the restricted area as defined in 10 CFR part 20 and does not have a potential to affect any historical sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed TS amendment.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*ie.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the PBNP, dated May, 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on June 26, 2001 the staff consulted with the state of Wisconsin State official, Mr. Jeff Kitsembel of the Public Service Commission of Wisconsin, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated November 15, 1999, as supplemented by letters dated March 15, June 15, June 19, July 28, August 17, September 14, October 19 and December 21, 2000, February 6, February 23, March 19, May 11 and June 13, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 13th day of July 2001.

For the Nuclear Regulatory Commission.

Beth Wetzel,

Senior Project Manager, Section 1, Project Directorate III; Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–18329 Filed 7–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Meeting Concerning the Revision of the Oversight Program for Nuclear Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of public meeting.

SUMMARY: NRC will hold a public meeting near Wilmington, NC to provide the local public, facility employees, citizens' groups, and local officials with information about, and an opportunity to provide views on, how the NRC plans to revise and improve its oversight program for commercial nuclear fuel cycle facilities regulated under 10 CFR parts 40, 70, and 76. The facilities include gaseous diffusion plants, high- and low-enriched uranium fuel fabrication facilities, and a uranium hexafluoride (UF_6) production plant. These facilities possess large quantities of materials that are potentially hazardous (radioactive, toxic, or flammable) to workers, the public, or the environment. Also, some of the facilities possess information and material important to national security. One of these regulated facilities, Global Nuclear Fuel—America, is located near Wilmington.

The goal of this revision project is to have an oversight program that: (1) Provides earlier and more objective indications of facility performance in the areas of safety and national security, (2) increases stakeholder confidence in the NRC, and (3) increases regulatory effectiveness, efficiency, and realism. To this end, the NRC is striving to make the oversight program more risk-informed and performance-based. The oversight revision project is described in SECY–99–188, ''Evaluation and Proposed Revision of the Nuclear Fuel Cycle Facility Safety Inspection Program,'' and in SECY–00–0222, ''Status of Nuclear Fuel Cycle Facility Oversight Program Revision.'' SECY–99–188 and SECY–00–0222, as well as other background information, are available in the Public Document Room and on the NRC Web Page at *http://www.nrc.gov.*

Purpose of Meeting: To obtain stakeholder views for improving the NRC oversight program for ensuring fuel cycle licensees and certificate holders maintain protection of worker and public health and safety, protection of the environment, and safeguards for special nuclear material and classified matter in the interest of national security. The public meeting will focus on the revisions that are being made to the program, and on how interested parties can provide input to the change process.

Date and Location: Members of the public, industry, and other stakeholders are invited to attend and participate in the meeting, which is scheduled for 10 to 10:30 a.m. on Tuesday, August 7, 2001. The meeting will be held at the Global Nuclear Fuel—Americas, L.L.C., facility on Highway 117 North.

FOR FURTHER INFORMATION CONTACT: Patrick Castleman, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission,

Washington, DC 20555, telephone (301) 415–8118, e-mail *pic@nrc.gov.*

Dated at Rockville, Maryland this 17th day of July, 2001.

For the Nuclear Regulatory Commission.

Patrick Castleman,

Project Manager, Inspection Section, Safety and Safeguards Support Branch, Division of Fuel Cycle Safety and Safeguards.

[FR Doc. 01–18328 Filed 7–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of July 23, 30, August 6, 13, 20, 27, 2001.

PLACE: Commissioner's Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 23, 2001

There are no meetings scheduled for the Week of July 23, 2001.

Week of July 30, 2001—Tentative

Tuesday, July 31, 2001

1:25 p.m.—Affirmation Session (Public Meeting) (If needed)

Week of August 6, 2001—Tentative

There are no meetings scheduled for the Week of August 6, 2001.

Week of August 13, 2001—Tentative

Tuesday, August 14, 2001

9:30 a.m.—Briefing on NRC International Activities (Public Meeting) (Contact: Elizabeth Doroshuk, 301–415–2775)

Wednesday, August 15, 2001

9:30 a.m.—Briefing on EEO Program (Public Meeting) (Contact: Irene Little, 301–415–7380)

1:25 p.m.—Affirmation Session (Public Meeting) (If needed)

1:30 p.m.—Meeting with Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors (CRCPD) (Public Meeting) (Contact: John Zabko, 301–415–1277)

Week of August 20, 2001—Tentative

There are no meetings scheduled for the Week of August 20, 2001.

Week of August 27, 2001—Tentative

There are no meetings scheduled for the Week of August 27, 2001.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

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This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: July 18, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–18380 Filed 7–19–01; 11:17 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a proposed revision of a regulatory guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Draft Regulatory Guide DG–1110 is a proposed Revision 1 of Regulatory Guide 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis.'' DG–1110 is being developed to provide guidance to licensees on methods acceptable to the NRC staff for assessing the nature and impact of licensing basis changes when the licensee chooses to support, or is requested by the NRC staff to support, such changes with risk information.

A proposed Revision 1 of Chapter 19, ''Use of Probabilistic Risk Assessment in Plant-Specific, Risk-Informed Decisionmaking: General Guidance,'' of NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants,'' is being issued for public comment as a companion document. Chapter 19 of the Standard Review Plan will be used by the NRC staff for evaluating licensee submittals that use the guidance in Regulatory Guide 1.174 on risk-informed decisionmaking that uses probabilistic risk assessment.

The NRC staff is soliciting comments on these proposed revisions. In addition, the NRC staff is considering incorporating the impact of power uprates on success and failure criteria and the appropriateness of the evaluation models into this guidance. The staff is soliciting comments on this issue and will incorporate appropriate changes to these documents based on comments received.

This draft guide and draft standard review plan chapter have not received complete staff approval and do not represent an official NRC staff position.

Comments may be accompanied by relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Comments will be most helpful if received by September 17, 2001.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC home page (*http://www.nrc.gov*). This site provides the ability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking web site, contact Ms. Carol Gallagher, (301) 415–5905; email *CAG@NRC.GOV.* For information about the draft guide and the related standard review plan chapter, contact Ms. M.T. Drouin at (301) 415–6675; email MXD@NRC.GOV.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of this draft regulatory guide are available on the NRC's web site *www.nrc.gov* in the Reference Library under Regulatory Guides. Electronic copies are also available in NRC's Public Electronic Reading Room at the same web site; DG–1110 is under ADAMS Accession Number ML011770102. Regulatory guides are available for inspection at the NRC's Public Document Room, 11555

Rockville Pike, Rockville, MD; the PDR's mailing address is USNRC PDR, Washington, DC 20555; telephone (301) 415–4737 or (800) 397–4205; fax (301) 415–3548; email PDR@NRC>GOV. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by email to *DISTRIBUTION@NRC.GOV;* or by fax to (301) 415–2289. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.
(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 17th day of July 2001.

For the Nuclear Regulatory Commission.

Scott F. Newberry,

Director, Division of Risk Analysis and Applications, Office of Nuclear Regulatory Research.

[FR Doc. 01–18325 Filed 7–20–01; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Certification Regarding Rights to Unemployment Benefits.
(2) *Form(s) submitted:* UI–45.
(3) *OMB Number:* 3220–0079.
(4) *Expiration date of current OMB clearance:* 11/30/2003.
(5) *Type of request:* Extension of a current approved collection.
(6) *Respondents:* Business or other for profit, Individuals or Households.
(7) *Estimated annual number of respondents:* 1,950.
(8) *Total annual responses:* 2,900.
(9) *Total annual reporting hours:* 487.
(10) *Collection description:* In administering the disqualification for the voluntary leaving of work provision of Section 4 of the Railroad Unemployment Insurance Act, the Railroad Retirement Board investigates an unemployment claim that indicates the claimant left voluntarily. The certification obtains information needed to determine if the leaving was for good cause.

FOR FURTHER INFORMATION CONTACT: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Marcie Brown (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–18264 Filed 7–20–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 66 FR 38046 (July 20, 2001).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: July 17, 2001.

CHANGE IN THE MEETING: Cancellation of Meeting.

The closed meeting scheduled for Thursday, July 19, 2001 at 9 a.m. has been canceled.

Dated: July 19, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–18374 Filed 7–19–01; 11:09 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

The Ticket To Work and Work Incentives Advisory Panel Design and Evaluation Committee Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of meeting.

DATES: July 27, 2001, 8:30 a.m. to 5 p.m.

ADDRESSES: Holiday Inn-Capitol, 550 C Street, SW., Washington, DC 20024 Phone: (202) 479–4000, (202) 479–4353 Fax. The hotel is located near the Federal Center, SW and the L'Enfant Metro Stations. Call-in number: 1–888–790–1713. Pass code 12211.

SUPPLEMENTARY INFORMATION: *Type of meeting:* This is a meeting of the Design and Evaluation Committee of the Ticket to Work and Work Incentives Advisory Panel (the Panel). The meeting is a research roundtable meeting and is open to the public. The public is invited to participate by coming to the address listed above or calling in to the number listed. Public comment will be taken. The public is also invited to submit comments in writing on the implementation of the Ticket to Work and Work Incentives Improvement Act (TWWIIA) of 1999 at any time.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration announces that the Design and Evaluation committee of the Ticket to Work and Work Incentives Advisory Panel (the Panel) will host an Expert Roundtable on the Ticket Program Evaluation for People with Significant Disabilities and the Adequacy of Incentives Study. Interested parties are invited to attend the meeting. The Panel will use the meeting time to receive public testimony, hear presentations from invited experts, receive briefings on the implementation of TWWIIA and conduct discussions. The roundtable discussion will focus on questions and issues presented in this announcement.

Agenda: Interested parties may attend the meeting or call in to listen between the hours of 8:30 a.m. to 5 p.m. Eastern Time. Public testimony will be heard on Friday, July 27, 2001 from 11 a.m. to 12 noon. Individuals interested in providing testimony in person should contact the Panel staff as outlined below to schedule time slots. Members of the public must schedule a timeslot in order to comment. Since the time slot is limited, persons interested in providing testimony at the meeting should contact the Panel staff by e-mailing Theda Zawaiza at *Theda.W.Zawaiza@ssa.gov* or calling (202) 358–6421.

Each presenter will be called on by the Chair in the order in which they are scheduled to testify and is limited to a maximum five-minute verbal presentation. Full written testimony on TWWIIA Implementation, no longer than 5 pages, may be submitted in person or by mail, fax or e-mail on an on-going basis to the Panel for consideration.

In the event that the public comments do not take up the scheduled time period for public comment, the Panel will use that time to deliberate and conduct other Panel business.

The full agenda for the meeting will be posted on the Internet at http://www.ssa.gov/work/panel/ one week before the meeting or can be received in advance electronically or by fax upon request.

Contact Information: Anyone requiring information regarding the Panel should contact the TWWIIA Panel staff. Records are being kept of all Panel proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the Panel staff by:

- Mail addressed to Social Security Administration, Ticket to Work and Work Incentives Advisory.
- Panel Staff, 400 Virginia Avenue, SW., Suite 700, Washington, DC 20024.
- Telephone contact with Kristen Breland by telephone at (202) 358–6423.
- Fax at (202) 358–6440.
- E-mail to *TWWIIAPanel@ssa.gov.*

Dated: July 16, 2001.

Deborah M. Morrison,

Designated Federal Officer.

Expert Roundtable on the Ticket Program Evaluation for People With Significant Disabilities and the Adequacy of Incentives Study

Date: July 27, 2001, 8:30 a.m. to 5 p.m.

Roundtable Questions and Issues

- Discussion of SSA's overall evaluation and Adequacy of Incentives Study design and methodology. SSA question: What are the outcomes of interest? What needs to be accomplished by the study, included in the Report to Congress, and implemented prior to the end of the three-year period? What does Congress need to know and how should the information be provided?
- Discussion of SSA's question: ''What are objective means of identifying, through SSA administrative data, the target populations as defined in Section 101(h)(5)(C) of P. L. 106–170, the Ticket to Work and Work Incentives Improvement Act? What other sources are available to identify the target population as defined in the statute?
- Who are the experts and what information resources should be considered regarding current and past projects and successful efforts to support individuals with significant disabilities to achieve integrated jobs in the community, at or above minimum wage? (i.e. What have we learned from the PASS plans, Choice projects, successful supported employment and other employment?)
- What other means of identifying the information needed in order for individuals in the target populations to achieve employment should be considered, i.e. review of the literature and best practice, targeted studies, demonstration projects? What should the timing and design be, and what expertise is necessary to conduct reviews, projects, studies, etc.?''
- How can SSA study/review/demonstrate how individualized milestones [1] could be used effectively to achieve employment for these individuals?
- What is the best way to address the SSA question: What about the array of services, e.g. cost, is of interest? How can SSA determine what services are most effective in assisting individuals in the four categories obtain and retain successful employment? What do the services cost and how are they provided?
- What are the best ways to ensure that various and diverse populations are represented in the research study?
- How should consumers, family members, and/or their representatives be included in the study design planning process and study implementation?
- How should Employment Networks [2] be consulted as part of the Adequacy of Incentives Study regarding the incentives needed to serve individuals in the four target populations defined in the statute?

[FR Doc. 01–18282 Filed 7–20–01; 8:45 am]

BILLING CODE 4191–02–U

[1] SSA will address, in the Adequacy of Incentives Report due to Congress in December 2002, the efficacy of individualized milestones. The Work Incentives Advisory Panel recommends that SSA should also consider the immediate implementation of an individualized milestone system. The system would provide individualized milestones for individuals with a need for on-going support services, individuals who need high-cost accommodations, individuals who earn a sub-minimum wage, and individuals who work and receive partial cash benefits along the lines of systems already in use in Massachusetts, Oklahoma and other states. These systems use the individualized planning process to determine if and when a different set of milestones is necessary, and establish a plan for payments and accountability for payments.

[2] Each EN serving under the Ticket to Work program shall consist of an agency or instrumentality of a State (or political subdivision thereof) or a private entity that assumes responsibility for the coordination and delivery of services under the program to beneficiaries assigning tickets to it. An EN may consist of a one-stop delivery system established under subtitle B of title I of the Workforce Investment Act of 1998.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance John H. Batten Airport, Racine, WI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is giving notice that a portion of the airport property for intersection improvements to Hwy 32 and Three Mile road is not needed for aeronautical use as currently identified on the Airport Layout Plan.

This parcel was originally acquired through Grant No. 3–55–0068–06. The parcel is presently open and undeveloped. The land comprising this parcel is no longer needed for aeronautical purposes and there are no impacts by allowing the airport to dispose of this property. The airport wishes to transfer ownership of the land to the Wisconsin Department of Transportation to provide for right of way for the intersection improvements for Hwy 32 and Three Mile Road. Income from the sale will be used to improve the airport.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the Federal Register 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before August 20, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra E. DePottey, Program Manager, Federal Aviation Administration, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 55450–2706. Telephone Number (612) 713–4363/FAX Number (612) 713–4364. Documents reflecting this FAA action may be reviewed at this same location or at the John H. Batten Airport, Racine, WI.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA intends to authorize the disposal of the subject airport property at John H. Batten Airport, Racine, WI. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination that all measures covered by the program are eligible for Airport Improvement Program funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and

Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

Issued in Minneapolis, MN on June 13, 2001.

Nancy M. Nistler,

Manager, Minneapolis Airports District Office, FAA, Great Lakes Region.

[FR Doc. 01–18239 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release the City From Its Obligations to Operate and Maintain Runway 17/35 for Aeronautical Use at the Lambert-St. Louis International Airport, St. Louis, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on request.

SUMMARY: The FAA proposes to rule and invites public comment on the request to release the City from its obligations to operate and maintain Runway 17/35 for aeronautical use at the Lambert-St. Louis International Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before August 22, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, ACE–600, 901 Locust, Kansas City, Missouri 64106–2325. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Leonard Griggs, Airport Director, Lambert-St. Louis International Airport, at the following address: City of St. Louis, Missouri, St. Louis International Airport, P.O. Box 10212, Lambert Station, St. Louis, Missouri 63145.

FOR FURTHER INFORMATION CONTACT: Mrs. Nicoletta Oliver, Airports Compliance Specialist, Federal Aviation Administration, Central Region, Airports Division, ACE–615C, 901 Locust, Kansas City, Missouri 64106–2325. The request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release the City from its obligations to operate and maintain Runway 17/35 for aeronautical use at the Lambert-St. Louis International Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

On June 22, 2001, the FAA determined that the request to release the City of its obligations to operate and maintain RW 17/35 for aeronautical use at the Lambert-St. Louis International Airport submitted by the City was substantially complete within the requirements of Section 125 of AIR 21. The FAA will approve or disapprove the request no later than September 10, 2001.

The following is a brief overview of the request.

The Lambert-St. Louis International Airport requests the FAA release the City of its obligations to maintain Runway 17/35 for aeronautical use. This release will allow the runway to be closed and the Boeing Company to construct a development area that will be used for aviation related nonaeronautical purposes. The property remains part of the Lambert-St. Louis International Airport and remains subject to the obligations of the Federal grant agreements.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

Issued in Kansas City, Missouri, on June 28, 2001.

George A. Hendon,

Manager, Airports Division, Central Region.

[FR Doc. 01–18241 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 194: Air Traffic Management (ATM) Data Link Implementation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 194 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 194: Air Traffic Management (ATM) Data Link Implementation.

DATES: The meeting will be held August 6–9, 2001, starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Apendeix 2), notice is hereby given for a Special Committee 194 meeting. The agenda will include:

August 6

- Opening Plenary Session (Welcome and Introductory Remarks, Agenda Overview, Approve Minutes of Previous Meeting, Working Group Reports, Other Business)
- Working Group 2, Flight Operations and ATM Integration

August 7, 8

- Working Group 1, Data Link Ops Concept & Implementation Plan
- Working Group 2, Flight Operations and ATM Integration
- Working Group 3, Human Factors

August 9

- Closing Plenary Session (Agenda Overview, Working Group Reports, Other Business, Data and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 10, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–18311 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

511 Traveler Information Telephone Number Program Support Assistance Program; Request for Applications

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; request for applications.

SUMMARY: This document requests applications for assistance from public agencies in developing plans for implementing systems to provide traveler information over the telephone using the common three-digit national

access number, 511. When an implementation plan exists, this assistance also may be used to convert existing traveler information telephone numbers to 511. This assistance program provides Federal funding to public agencies to develop regional and statewide plans for implementing 511 traveler information services, and/or to help defray the costs of telephone service providers in converting traveler information telephone numbers. Applications in response to this notice will be assessed to determine: (1) The readiness of the applicant to develop an implementation plan for 511 services; (2) the adequacy of the proposed approach related to geographic areas, institutional coordination, and information to be provided; and/or (3) if assistance is to be used for converting traveler information telephone numbers, the readiness of the applicant to convert in a timely fashion. This notice replaces, in its entirety, the notice of request for applications for conversion to 511, published August 9, 2000, at 65 FR 48797.

DATES: Applications for 511 program support assistance must be received prior to June 1, 2002. Decisions regarding the acceptance of specific applications for funding will be made within 60 business days of receipt.

ADDRESSES: Applications for 511 program support assistance should be submitted electronically via e-mail to *511CONVERT@FHWA.DOT.GOV,* or mailed directly to the Federal Highway Administration, Intelligent Transportation Systems (ITS) Joint Program Office, 511 Planning Support, HOIT–1, 400 Seventh St., SW., Room 3416, Washington, D.C. 20590–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rupert, Office of Travel Management (HOTM–1), (202) 366–2194; Mr. William S. Jones, ITS Joint Program Office (HOIT–1), (202) 366–2128; or Ms. Gloria Hardiman-Tobin, Office of Chief Counsel (HCC–32), (202) 366–0780; U.S. Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590–0001. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.nara.gov/fedreg* and the Government Printing Office's web page at *http://www.access.gpo.gov/nara.*

The document may also be viewed at the U.S. Department of Transportation's ITS home page at *http://www.its.dot.gov.*

Background

On March 8, 1999, the U.S. Department of Transportation petitioned the Federal Communications Commission (FCC) to adopt a new, national three-digit telephone number to allow Americans to access on-the-spot transportation and traveler information such as road conditions and bus schedules. The burgeoning traffic reporter industry reflects the hunger that citizens have for more travel information, and the positive role the government can play as a partner in providing that information.

The nationwide three-digit number will utilize and significantly advance the intelligent transportation infrastructure already in place to assist some States and cities in providing traveler information. The traveler information will continue to be provided by private companies or public/private partnerships already delivering this service. The number will provide information about bad weather, construction, or traffic jams that cause delays for businesses and the general public, as well as information about the status of transit buses, ferries, light rail, and other public transportation in local communities. In addition, by directing drivers away from congestion and hazardous conditions, the nationwide three-digit number will provide better access for emergency vehicles responding to accidents.

The FCC placed the DOT's petition in its docket (File No. NSD–L–99–24, CC Docket 92–105; 57 FR 22681, May 29, 1992), and comments submitted to the FCC were favorable to adoption of a national three-digit traveler information number. On July 21, 2000, the FCC assigned 511 as the nationwide traveler information telephone number and granted responsibility for it to government transportation agencies.

Using 511 as a single number to provide traveler information that might now be provided by a number of telephone numbers associated with various transportation agencies or jurisdictions demands a significant degree of coordination within any State or region. Therefore, transportation officials must consider how a telephone call to 511 will be handled depending on the caller's location before they begin discussions with telecommunications providers to implement 511 telephone services.

In order to assist locations in the planning necessary to convert existing telephone access numbers and facilitate implementing the 511 telephone service, the DOT developed a program to provide Federal funding assistance. As an initial implementation of this assistance, the FHWA published a notice on August 9, 2000, at 65 FR 48797, requesting participation in a program to help defray the costs associated with converting existing traveler information telephone numbers to 511. Based upon early applications and initial work by States such as Kentucky, Virginia, and Arizona, it became clear that some sort of assistance to areas to develop 511 traveler information systems would be more beneficial toward deployment of 511 services nationwide than just converting existing telephone numbers. Therefore, this 511 support assistance program replaces the earlier conversion program, and offers funding to State transportation departments to develop plans for 511 services. If 511 deployment plans exist, the funds may be used to defray the costs of conversion to 511 or the development of 511 services. The development of 511 services may include development of basic traveler information services, if none exist or are inadequate for delivery by 511. A critical element of developing 511 deployment plans is determining the available traveler information services and the ''gaps'' that may exist when considering statewide deployment.

This is expected to be a two-year program beginning in fiscal year (FY) 2001 with approximately $5 million in Federal funds available. The maximum amount of Federal funding provided under this program for any State is limited to $100,000. The number of applications approved for funding each FY will depend upon the number of applications submitted and the total funding available for each FY.

Objectives of the 511 Support Assistance Program

The goal of the 511 support assistance program is to accelerate the implementation of 511 nationwide for traveler information. Through this program, the Intelligent Transportation Systems Joint Program Office (ITS–JPO) expects to enable every State to develop plans or programs that result in the deployment of traveler information services delivered through the 511 telephone number. The creation of statewide 511 deployment plans will facilitate discussions with

telecommunications firms on implementing 511 services, and serve as a key building block for a 511 system available nationwide.

Applications for 511 support assistance may be submitted by any State transportation department able to serve as a facilitator or manager for 511 within the State, acting on behalf of the effected parties in the State and surrounding areas, as appropriate, for delivering 511 services.

Funding

The FHWA anticipates that applications selected for funding will begin in FY 2001. The instrument to provide funding, on a cost reimbursable basis, will be an ITS partnership agreement. Federal funding authority is derived from section 5001(a)(5) of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107, 419 (1998). Actual award of funds will be subject to funding availability.

Federal ITS funding for 511 support assistance may be used to:

1. Develop materials to support, conduct, or participate in meetings with potential participants in 511 service programs, including researching available traveler information services, legal and regulatory issues related to traveler information and telephone services, and technical issues related to 511 deployment;
2. Prepare summary materials of 511 deployment plans;
3. System design; or
4. Providing that a statewide 511 deployment plan exists, conversion of existing telephone number including software modifications, necessary hardware changes, and system or acceptance testing.

Matching Share/Cost Sharing

There is a 20 percent matching share that must be from non-federally derived funding sources, as statutorily required, and must consist of either cash, substantial equipment contributions that are wholly utilized as an integral part of the project, or personnel services dedicated full-time to the proposed integrated deployment for a substantial period, as long as such personnel are not otherwise supported with Federal funds. The non-federally derived funding may come from State, local government, or private sector partners. Note that funding identified to support continued operations, maintenance, and management of the system will *not* be considered as part of the partnership's cost-share contribution.

In an ITS partnership, as with other ITS–JPO cost-sharing programs, it is inappropriate for a fee to be included in the proposed budget as part of a partner's contribution to the project. This does not prohibit appropriate fee payments to vendors or others that may provide goods or services to the partnership. It also does not prohibit business relationships with the private sector, which result in revenues from the sale or provision of ITS products or services. The DOT regulations (49 CFR 18.25) require program income to be deducted from expenditures before billing. Given prior approval, program income can be used either as match or cost share.

The ITS–JPO and the Comptroller General of the United States have the right to access all documents pertaining to the use of Federal ITS funds and non-Federal contributions. Non-Federal partners must maintain sufficient documentation to substantiate these costs. Such items as direct labor, fringe benefits, material costs, consultant costs, public involvement costs, subcontractor costs, and travel costs should be included in that documentation.

Instructions to Applicants

An application for 511 support assistance shall consist of two parts: A proposed approach for coordinating the deployment of 511 and a financial plan, that together describe the proposed activities to be conducted with this funding. The complete application shall not exceed 10 pages in length, including the 511 Deployment Coordination Approach, the Financial Plan, the title page, index, and tables. A page is defined as one side of an 8½ by 11-inch paper, with a type font no smaller than 12 point.

Applications shall be submitted in an electronic format compatible with Microsoft Office 2000. The cover sheet or title page of the application shall include the name, address, and phone number of an individual to whom correspondence and questions about the application may be directed. Any portion of the application or its contents that may contain proprietary information shall be clearly indicated; otherwise, the application and its contents shall be non-proprietary.

Selection Criteria

Applicants must submit an acceptable 511 Deployment Coordination Approach and Financial Plan that together provide sound evidence that a plan for deploying and/or converting 511 traveler information telephone services can successfully be completed in a timely fashion.

Applications should be organized into the following two sections:

1. 511 Deployment Coordination Approach

The application should describe the proposed approach for coordinating 511 deployment across a State or, as appropriate, across multiple States. The following paragraphs illustrate the general information that applicants should include in this section of the application.

(a) The application should describe the region(s) that will be included in the 511 deployment plan. This may include neighboring States or other jurisdictions that will need to be included as 511 services are deployed, as well as metropolitan areas within the State. At a minimum, the State should be considered as the total region to be addressed for 511 deployment in the plan.

(b) The application should identify candidate agencies or organizations that will be engaged in discussions about deploying 511 services. These organizations may include, but not limited to: Highway and transit operating agencies, public safety agencies, sources of traveler information, regulatory agencies, and telephone service providers. It is expected that the slate of organizations, agencies, and firms involved in deploying 511 will be adjusted as deployment plans are developed.

(c) The application should discuss institutional or organizational issues that will affect the deployment of 511 services, and what candidate techniques or activities will be used to address these issues. Prior activities that identified or addressed 511 deployment issues may be described in this section to provide a complete portrayal of the breadth of effort by the applicant to develop a plan for regional deployment. If a 511 deployment plan is completed and the requested funding will be used for converting existing telephone numbers to 511, a copy of the 511 deployment plan should be included.

(d) The application should describe the expected product(s) of the activities described in paragraph (c) of this section. It is expected that reports, plans, presentations, or other discrete outputs would be produced by these activities for use by the applicant. The applicant should propose which of these products, in addition to the 511 deployment plan, may serve as deliverables to the ITS–JPO under any resultant agreement from this request. The final deliverables will be determined in negotiations between the ITS–JPO and the selected locations.

(e) The application should include a proposed schedule or timeline depicting the development of the 511 deployment plan. The schedule should include milestone events or targeted activities, especially indicating any activities that require ITS–JPO actions or actions by organizations typically not influenced by the applying agency. The schedule should also indicate targets for delivery of any products or outputs from development activities.

2. Financial Plan

The Financial Plan should demonstrate that sufficient funding is available to successfully complete all aspects of the proposed development of the 511 deployment plan as described in section 1. The Financial Plan should also provide the financial information described under the heading, Matching Share/Cost Sharing.

An acceptable Financial Plan should:

(a) Provide a clear identification of the proposed funding for activities leading to the development of a comprehensive plan for deploying 511 services, and a commitment that no more than 80 percent of the total cost will be supported by these Federal ITS funds. As appropriate, financial commitments from other public agencies and from private firms should be documented in appropriate documents, such as memorandums of understanding.

(b) Describe how the 511 deployment plan will be developed to ensure its timely implementation and the continued, long-term operations of the system.

(c) As appropriate, include corresponding public and/or private investments that minimize the relative percentage and amount of Federal ITS funds, and evidence of continuing fiscal capacity and commitment from anticipated public and private sources.

Alternate Use of Funding

If a 511 deployment plan is developed and development activities do not exhaust all funding allocated under agreements resulting from this request, or if a 511 deployment plan exists, this funding may be used to offset the capital costs associated with converting traveler information telephone numbers to 511. Conversion activities that will be considered appropriate include telephone call routing or other call handling software modifications, necessary hardware changes, and system or acceptance testing. In addition, upon completion of a 511 deployment plan, this funding may also be used toward activities to develop 511 services. These activities may include development of basic traveler information services if none exist or are inadequate for delivery by 511.

Financial records shall be maintained that detail the activities or equipment provided by Federal funding, indicating appropriate total matching requirements, as described under the heading, Matching Share/Cost Sharing. As noted under that heading, the ITS–JPO and the Comptroller General of the United States have the right to access all documents pertaining to the use of Federal ITS funds and non-Federal contributions.

Authority: sec. 5001(a)(5), Pub. L. 105–178, 112 Stat. 107, 420; 23 U.S.C. 315; and 49 CFR 1.48.

Issued on: July 12, 2001.

Christine M. Johnson,

Program Manager, Operations Director, ITS Joint Program Office.

[FR Doc. 01–18303 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

National Intelligent Transportation Systems (ITS) Architecture; New User Service Procedure

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce that the U.S. Department of Transportation, through the ITS Joint Program Office (JPO), has developed a procedure for the introduction and integration of a new user service into the National ITS Architecture, as well as other significant changes encompassing several existing user services in the National ITS Architecture . This procedure will aid stakeholders in determining how to articulate their transportation needs for integration into the National ITS Architecture. Additionally, this procedure will increase public awareness of the incorporation process and will enable all interested parties to participate in the user service integration into the National ITS Architecture.

FOR FURTHER INFORMATION CONTACT: *For information on the National ITS Architecture User Service Procedure:* Mr. Lee Simmons, (202) 366–8048, ITS Joint Program Office (HOIT–1). *For Legal Questions:* Ms. Gloria Hardiman-Tobin, (202) 366–1397, Office of the Chief Counsel (HCC–40). Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web site at: *http://www.access.gpo.gov/nara*.

The entire National ITS Architecture may be reviewed and retrieved from the ITS web site: *http://www.its.dot.gov*. Follow the available link to Architecture.

Background

The National ITS Architecture provides a common framework for planning, defining, and integrating intelligent transportation systems. This common framework represents the starting point for more detailed regional and/or project architectures in which local characteristics are more appropriately addressed. The scope of the National ITS Architecture is defined by a set of user services. Each user service represents the most common activities and operations that transportation stakeholders perform to sustain efficient and safe travel.

The National ITS Architecture began as a program in 1993 to incorporate the 29 user services that were defined in the National ITS Program Plan. That stakeholder-based consensus effort was completed in 1996. Since that time, three new user services have been defined as follows: Highway Rail Intersection User Service was incorporated into the National ITS Architecture in January 1997, Archived Data User Service was incorporated into the current version (version 3.0) of the National ITS Architecture in December 1999, and the Maintenance and Construction Operations User Service, published in the **Federal Register** on April 18, 2001, at 66 FR 20026, has been defined and is in the process of being incorporated into the National ITS Architecture. The stakeholders involved represent a broad cross section of the ITS, construction, and maintenance communities, including transportation practitioners, systems engineers, system developers, technology specialists, and consultants.

The National ITS Architecture describes, for each of the user services, the functions required to perform the

services, and the key interfaces required to perform these functions.

The current set of user services can be grouped into the following categories:

1. Travel and Traffic Management;
2. Public Transportation Management;
3. Electronic Payment;
4. Commercial Vehicle Operations;
5. Emergency Management;
6. Advanced Vehicle Safety Systems;
7. Information Management; and
8. Maintenance and Construction Management.

The DOT recognizes that the current set of 32 user services do not cover all possible aspects of transportation systems, and there could be additions made to enhance the National ITS Architecture or to add new user services. Because the National ITS Architecture is a consensus architecture, the DOT would like to encourage continued involvement by the stakeholder community that best understands the need for enhancing the National ITS Architecture.

The following paragraphs describe a procedure for the development of a new user service and the introduction and integration of this new user service into the National ITS Architecture. It may also be used for a significant change cutting across a number of existing user services that does not call for the specific addition of a new user service. The procedure is not intended to be all-encompassing, nor is it intended to be restrictive. It should serve only as a guide to stakeholders who are interested in amending the National ITS Architecture to incorporate additional transportation practices and activities that are not currently reflected.

National ITS Architecture New User Service Procedure

The procedure consists of two phases. Phase one of the procedure is the principal responsibility of the stakeholder community and involves addressing its transportation system needs, formalizing them in an acceptable user service, and securing acceptance for integration into the National ITS Architecture. Phase two of the procedure is the principal responsibility of the ITS JPO and involves its actions to integrate the user service into the National ITS Architecture, coordinate its activities with the stakeholders, and ensure that the final product has stakeholder consensus and support. In both phases, it is necessary to engage in public outreach activities to ensure adequate awareness among the stakeholder and ITS communities and to offer the opportunity for them to participate.

Phase I

a. The first step is for the interested group of stakeholders to determine their collective concerns. Although it is not required, there are three sources of advocacy where the stakeholders may go for advice before proceeding. They are the ITS JPO, the applicable office or modal administration in the DOT, and ITS America. Voicing stakeholder concerns to an advocate should lead to a partnership and understanding of these concerns, and a better stakeholder understanding of the process to cause the National ITS Architecture to be modified.

b. The second step is for the stakeholders to review Volume II of the ''National ITS Program Plan, Intelligent Transportation Systems''.[1] This volume describes each of the 29 original user services. The 30th and 31st user services, addressing highway-rail intersection and archived data, have been separately developed and approved, and have been added to the appendix of the ''National Intelligent Transportation Systems Program Plan, Five-Year Horizon.'' [2] The description of the ''Maintenance and Construction Operations User Service'' represents the 32nd user service that is now being incorporated into the National ITS Architecture.[3] The review of these three documents enables the stakeholders to better understand the user needs currently addressed by the National ITS Architecture and how they are described. If their current needs are not satisfied in the three plans, then the stakeholders may choose to propose actions to add a newly defined user service to the National ITS Architecture.

At this point, the ITS JPO, in conjunction with other modal administrations as appropriate, will make a decision regarding the appropriateness and viability of the proposed new user service. If the decision is to proceed, there will be a notification to the broader transportation community of the intent to modify the National ITS Architecture in response to stakeholder concerns. This can be accomplished through a notice in the **Federal Register**; press releases to other print media; notices posted on the ITS DOT and ITS America websites; [4] notification to specific transportation committees including those of the Transportation Research Board (TRB), the Institute of Transportation Engineers (ITE), the American Association of State Highway Transportation Officials (AASHTO), and the American Public Transportation Association (APTA); and notification to appropriate ITS America technical committees and task forces.

After reviewing the proposal for a new user service, the ITS JPO may determine that a new user service is not needed as the problem may be addressed by amending and/or modifying the existing user services. If they are not significant, recommendations in these areas should be forwarded to the ITS JPO for subsequent disposition and National ITS Architecture modification. If they are significant and cut across a number of existing user services, the same steps outlined below may be followed.

c. The third step is for the stakeholders to identify their specific transportation needs. It should be noted that the National ITS Architecture is a consensus architecture, and no individual or small group of persons will be able to change it without the full consent of the larger stakeholder community.

d. The fourth step is the development of the user service which will become an addendum to Volume II of the National ITS Program Plan, Intelligent Transportation Systems (see footnote 1) or an appendix to the National ITS Program Plan, Five-Year Horizon (see footnote 2). The definition of the new user service follows the general format shown in Volume II of the National ITS Program Plan, Intelligent Transportation Systems, and thus may require assistance from one of the advocacy sources. Prior to completing development, it is suggested that public outreach similar to the second step of Phase I be used again to invite reviews of the draft user service from within the known stakeholder community, as well as from the broader ITS community.

e. The fifth step is an ITS screening process used by the ITS JPO, working in conjunction with other modal administrations as appropriate. This entails a review of the definition of ITS to ensure that the user service improves the availability, efficiency, and safety of operations of the transportation system.

[1] Volume II of the National ITS Program Plan, Intelligent Transportation Systems, dated March 1995 is available at the following URL: *http://www.itsdocs.fhwa.dot.gov/jpodocs/repts_pr/2×601!.pdf*

[2] The National Intelligent Transportation Systems Program Plan, Five-Year Horizon, dated August 2000, is available at the following URL: *http://www.itsdocs.fhwa.dot.gov/jpodocs/repts_pr/97r01!.pdf*[2]

[3] The Maintenance and Construction Operations User Service is available at the following URL: *http://www.itsdocs.fhwa.dot.gov/jpodocs/repts_pr/13465.pdf*

[4] The URLs for the following web sites are provided: ITS JPO: *http://www.its.dot.gov*; National ITS Architecture: *http://www.its.dot.gov/arch/arch.htm*; ITS America: *http://www.itsa.org*

The screening process also ensures that the user service is consistent with the goals of integration and standardization. The ITS JPO will make the appropriate changes to the draft user service to ensure that its scope is consistent with the other user services.

f. The final step in Phase I is for the ITS JPO, with formal advice from ITS America, to determine whether or not to accept and include the completed user service into the National ITS Program Plan or the National ITS Five-Year Program Plan. Once accepted by the ITS JPO, the user service will be incorporated into the National ITS Architecture.

Phase II

a. The first step is for the ITS JPO to coordinate the revision of the National ITS Architecture that will satisfy the intent of the stakeholder community.

b. The second step is to develop a milestone schedule that includes a kickoff meeting and interim program review(s) to engage representatives of the stakeholder community, address the user service, and begin a formal National ITS Architecture integration effort.

At this stage, it is appropriate to invite a group of stakeholders who, where possible, will be involved in the kickoff meeting and each of the reviews to lend continuity and understanding to the overall effort and to ensure stakeholder concerns and needs are met. This will require an outreach effort prior to the kickoff meeting, again similar to the second step in Phase I.

c. The third step is to integrate the new user service into the National ITS Architecture. In addition to the technical work, the effort involves program reviews, and the possibility of outreach meetings with selected members of the stakeholder community.

d. The fourth step is to render a final report to the stakeholder community representatives by the ITS JPO. This is a brief oral report highlighting the changes and indicating that the integration effort is complete.

e. The final step is to post the changed National ITS Architecture on the ITS JPO and National ITS Architecture websites and to release the next version of the National ITS Architecture on CD–ROM, if appropriate.

There will be an outreach effort to announce the change and new version of the National ITS Architecture through the same media used previously. Phase II of the ITS JPO integration activities should be accomplished within 6 to 9 months, depending upon the detail and complexity of the new user service.

Authority: 23 U.S.C. 101, 106, 109 ,133, 315, and 508; sec 5206(e), Pub. L. 105–178,112 Stat. 457 (23 U.S.C. 502 note); and 49 CFR 1.48.

Issued on: July 12, 2001.

Christine M. Johnson,

Program Manager, Operations Director, ITS Joint Program Office.

[FR Doc. 01–18246 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–7744; Notice 2]

General Motors Corporation; Denial of Application for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) of Warren, Michigan, determined that certain headlamps on 1999 Buick Century and Buick Regal models do not meet the photometric requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''Lamps, Reflective Devices, and Associated Equipment,'' and filed the report required by 49 CFR part 573, notifying the agency of the noncompliance. GM has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published in the **Federal Register** (65 FR 49632) on August 14, 2000. Opportunity was afforded for public comment until September 13, 2000. One comment was received from Advocates for Highway and Auto Safety (Advocates).

GM manufactured 201,472 Buick Century and Buick Regal models between October 1998 and June 1999, some of whose headlamps do not meet the photometric requirements in FMVSS No. 108 for test points above the horizontal (intended for overhead sign illumination). To evaluate the noncompliance, GM randomly collected 10 pairs of lamps from production and photometrically tested them. Additionally, GM tested the same 10 pairs of lamps using accurately-rated bulbs. These are bulbs that have their filaments positioned within strict tolerances. In large scale bulb production, the filament positions vary slightly and, therefore, can produce varying photometric output. The photometric output of a lamp using an accurately-rated bulb is intended to closely represent the output that was intended in its design, and not that which would occur in a mass produced headlamp as sold on motor vehicles.

The test results indicate that five test points (production bulbs) and three test points (accurately-rated bulbs), respectively, failed to meet the minimum candela requirements. The test results also indicate that the amount of light below the minimum required was generally less than 10 percent at all noncomplying test points. However, seven failures at certain test points that were greater than 16 percent below the minimum, with the maximum variation being 24.4 percent (at 1.5 degrees up) with a production bulb. Transport Canada conducted tests on headlamps used on the same types of vehicles, and found that all the test points in question met the requirements. GM believes that these results show the noncomplying results were related to manufacturing variations and were present in only a portion of the lamps.

GM supports its application for inconsequential noncompliance with the following statements:

> The test points at issue are all above the horizon and are intended to measure illumination of overhead signs. They do not represent areas of the beam that illuminate the road surface, and the headlamps still fulfill applicable Federal Motor Vehicle Safety Standard 108 requirements regarding road illumination.
>
> For years the rule of thumb has been that a 25 percent difference in light intensity is not significant to most people for certain lighting conditions.
>
> GM has not received any complaints from owners of the subject vehicles about their ability to see overhead signs.
>
> GM is not aware of any accidents, injuries, owner complaints or field reports related to this condition for these vehicles.

GM also cites a number of inconsequentiality applications that the agency has granted in the past as support for granting its application. Those cited were submitted by GM [59 FR 65428; December 19, 1994], Subaru of America, [56 FR 59971; November 26, 1991], and Hella, Inc. [55 FR 37602; September 12, 1990]. GM also cites a University of Michigan Transportation Research Institute (UMTRI) report entitled ''Just Noticeable Differences for Low-Beam Headlamp Intensities'' (UMTRI–97–4, February 1997).

In the only public comment received, Advocates stated its ''strongest opposition to NHTSA granting a finding of inconsequential noncompliance for the GM headlamps which are the subject of this notice.'' Advocates first points out that it believes GM's purported lack of complaints about inadequate headlamp illumination has ''no merit whatever.'' It believes that it is unlikely that drivers would attribute

their driving errors or crashes to a faulty beam. Further, it believes it unlikely that an investigating officer at a crash scene would consider the characteristics of the beam pattern as the causal factor. It goes on to say that crashes may have occurred as a result of the noncompliance of which GM is not aware.

Advocates also discusses the importance of overhead lighting. It states that:

> It is especially crucial for adequate levels of lighting to fall on the surfaces of high-mounted retroreflectorized traffic control devices which advise of vehicle maneuvers, speed limit changes, warnings of hazardous conditions, and destination information to ensure driver confidence and safety in executing the moment-to-moment driving task.

Advocates refers to the amendment of FMVSS No. 108 on January 12, 1993 [58 FR 3856] which added minimum photometric requirements for headlamps for illumination of overhead signs. Advocates reiterates the agency's rationale for this rulemaking, that some manufacturers were introducing headlamps in the 1980s and 1990s which widely departed from the traditional U.S. beam pattern. These headlamps were providing inadequate light above the horizontal to illuminate overhead signs.

We have reviewed the application and disagree with GM that the noncompliances are inconsequential to motor vehicle safety. As Advocates correctly noted in its comment, the sole purpose of the 1993 final rule was to establish photometric minima above the horizon so that headlamps would sufficiently illuminate overhead signs. Without any test point minima specified, some manufacturers were designing headlamps that provided very little light above the horizon. Because States were choosing retroreflectorized overhead signs rather than the more expensive self-illuminated ones, the agency determined that it should address the increasing need for illumination of overhead reflectorized signs.

In setting these minima, the agency expected the industry to design its headlamps to ensure that production variability would not result in noncompliances. GM's own compliance tests show failures that are as much as 24.4 percent below the required minima. Each of the ten headlamps GM tested had noncomplying test points, with all but two having failures that were greater than 14.1 percent below the minimum requirement. This testing indicates that there may be a serious flaw in the design and/or production of these lamps.

Although GM states that Transport Canada tested and found all lamps to be compliant, the company did not provide any substantiating data, or even the number of headlamps tested by Transport Canada. The agency contacted Transport Canada and obtained the test data on the subject vehicles. Initially, there were four failures at the relevant test points. The failures were resolved by reaiming the headlamps one quarter degree, an adjustment allowed by the standard. After reaiming, Transport Canada found the lamps to be in compliance at the four test points where they had previously failed. Although these four lamps were found to be in compliance, the need to reaim and the marginal compliance at others shows that the design of the lamps was marginal.

A January 1991 study conducted by UMTRI (UMTRI–91–3) recommended certain minimum intensity levels for test points above the horizontal that are intended to illuminate signs. UMTRI divided its recommendations for minima between three types of retroreflectorized signs: enclosed lens, encapsulated lens, and microprismatic, each respectively more reflective than the previous. The first two are most relevant, as microprismatic signs comprised only about three percent of the current signs at that time. UMTRI concluded that, for a test point 1.5 degrees up, the minimum intensities for the enclosed and encapsulated lens signs were 700 and 250 candela (cd), respectively. The standard currently requires a minimum of 200 cd. In setting this level, the agency expected manufacturers to factor in a certain level of design variability to assure compliance. GM's poorest performing lamp provided about 150 cd at this test point. The agency finds this unacceptable. As Advocates pointed out in its comments, there are many critical maneuvers that must be undertaken in low light situations, and to not provide sufficient light to illuminate signs is a detriment to motor vehicle safety.

GM cites a number of the agency's previous grants of inconsequentiality applications that were based upon our conclusion that a change in luminous intensity of approximately 25 percent must occur before the human eye can discern a difference. GM also cited an UMTRI report [UMTRI–97–4; February 1997] to support its position.

We believe that these past agency actions and the 1997 UMTRI report do not support GM's conclusion. The previous actions and the UMTRI report all deal with an observer's ability to see a headlamp or a signal light, not the ability to see the light reflected back from headlamp-illuminated signs or other reflectors. The inconsequential applications which GM cites all involved signal lighting with deficiencies in photometric requirements. In all cases, the agency was confident that the noncompliant signal lights would still be visible to nearby drivers. Because signal lighting is not intended to provide roadway illumination to the driver, a less than 25 percent reduction in light output at any particular test point is less critical.

Regarding the UMTRI study on just-noticeable differences for lower-beam headlamps, the research and findings are mostly analogous to those of the signal lighting research. UMTRI's study was designed to evaluate the just-noticeable differences for glare intensities of oncoming headlamps. Like the signal light research, it was performed from the point of view of a driver observing differences in headlamp intensities. We are not persuaded by GM's contentions about the meaning of this research. In its report, UMTRI states

> The applications of (just noticeable differences) derived from judgments about the subjective brightnesses of lamps viewed directly seems less of a leap in the case of signal lamp functions, and of those aspects of headlamps that involve direct viewing (primarily discomfort glare), than in the case of headlamp functions that involve the illumination of objects. The primary reason for caution in extending the current results to illuminated objects is that the range of luminances of such objects (e.g., a pedestrian at 100 meters illuminated by headlamps at night) will be much lower than the luminances of the headlamps themselves. The [research] can therefore be used more confidently to justify applying the 25 percent limit for inconsequential noncompliance to a photometric test point that specifies a maximum for glare protection than to one that specifies a minimum for seeing light. Further work on the effects of changes in lamp intensity on the visibility of illuminated objects is desirable to clarify more completely the issue of inconsequential noncompliance for headlamps.

In consideration of the foregoing, NHTSA has decided that the applicant has not met its burden of persuasion that the noncompliance it describes is inconsequential to motor vehicle safety. Accordingly, its application is hereby denied, and it must proceed to notify and remedy as required by statute.

(49 U.S.C. 30118(d) and 30120(h); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 17, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–18307 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–8014; Notice 2]

Mercedes-Benz, U.S.A., L.L.C.; Denial of Application for Decision of Inconsequential Noncompliance

Mercedes-Benz, U.S.A., L.L.C., (MBUSA) of Montvale, New Jersey, determined that a number of Mercedes-Benz CL500 vehicles were produced with upper beam headlamps that exceed the photometric limits of FMVSS No. 108, ''Lamps, Reflective Devices, and Associated Equipment.'' MBUSA has applied to be exempted from the notification and remedy requirements of 49 U.S.C. chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published in the **Federal Register** (65 FR 59247) on October 4, 2000. Opportunity was afforded for public comment until November 3, 2000. No public comments were received.

Mercedes-Benz CL500 vehicles are equipped with high intensity discharge headlamps (HIDs). When the HIDs are activated, their light is, through the use of a mechanical flap, directed at an angle that optimizes illumination of the road surface in front of the vehicle. When the upper beam mode is activated, a mechanical flap alters the angle of the HID illumination to provide a higher angle of illumination. In 613 model year 2000 CL500 vehicles, a separate H7 lamp was improperly wired to illuminate at the same time the mechanical flap was activated to increase the HID light angle. In the upper beam mode, the HID and H7 lamp combination produce 89,000 candela (cd) at test point H–V and 12,731 cd at test point 4D–V. FMVSS No. 108 establishes maximums of 75,000 cd at H–V and 12,000 cd at 4D–V. When they are in the lower beam mode, these headlamps meet all photometric requirements of FMVSS No. 108.

MBUSA supports its application for inconsequential noncompliance with the following statements:

(1) Only a very limited number of Mercedes-Benz CL500 vehicles were produced containing the foregoing noncompliance (613 units). This number represents only minimal percentage of all vehicles operating in the United States.

(2) Upper beam headlamps are not legal in states for operation in the presence of oncoming traffic. Therefore, the higher output upper beam headlamps will likely not even be noticed by other drivers or vehicle occupants. Moreover, MBUSA believes that the approximately 20% increase in upper beam headlamp output in affected CL500's is indistinguishable to occupants of oncoming vehicles.

(3) With regards to the driver of the affected vehicles, MBUSA believes that the increase in output for upper beam headlamps may actually enhance vehicle safety in that drivers will have a greater view down the road thereby providing earlier warning of obstacles in the vehicle's intended path of travel.

(4) MBUSA has not received, nor is the Company aware of any complaints, accidents or injuries caused by the higher output upper beam headlamps.

The agency has reviewed the application and has decided that the noncompliances are not inconsequential to motor vehicle safety. The noncompliant vehicles' headlamps, in their upper beam mode, produce 18.6 percent more light at H–V and 6.1 percent more light at 4D–V than the standard allows. The noncompliance at H–V is particularly troubling in that it could be further exacerbated by factors such as poor aiming and increased voltage. This could increase the light intensity significantly and, thus, contribute more problematic glare at the distances prescribed by the various states for dimming headlamps in the presence of oncoming vehicles.

We are aware of a University of Michigan Transportation Research Institute (UMTRI) report titled ''Just Noticeable Differences for Low-Beam Headlamp Intensities'' (UMTRI–97–4, February 1997). This report concludes that drivers in oncoming vehicles will not notice differences in the intensity of headlamps that are less than 25 percent.

We believe, however, that it would not be appropriate to use this study to judge the merits of MBUSA's application. This is based on two factors. First, the study focuses only on the lower beam mode in headlamp systems. The MBUSA vehicles do not comply when the upper beam mode is activated. We cannot presume that a study which examines light intensity associated with the lower beam mode would also apply to the light intensity of the upper beam mode. The upper beam mode produces substantially more intensity down the road. UMTRI does not mention any correlations between upper and lower beam modes in its study.

Second, the research finds that the just noticeable differences, under controlled conditions, are between 11 and 19 percent. UMTRI concludes that, in real world conditions, the just noticeable differences would be somewhat larger due to the rather simple and uncluttered environment of a controlled study. In a controlled study, observers can devote much more attention to small differences due to the lack of other distractions that are common during driving. This leads UMTRI to conclude that 25 percent is a reasonable value upon which to judge inconsequential noncompliance applications. However, we have noticed in the many complaints received that consumers are very aware of and sensitive to the glare produced by oncoming drivers' headlamps. This public sensitivity leads us to believe that glare in the ''real-world'' is not necessarily like that in laboratory studies. Many of these complaints can be found on the Department of Transportation's Docket Management System website, *http://dms.dot.gov* docket NHTSA–98–4820. This demonstrates that glare is of great significance to the public.

MBUSA attempts to support its rationale for granting the application by pointing out that there is a limited number of noncompliant vehicles (613). In order for the agency to grant an inconsequentiality application, it is necessary to determine whether the particular noncompliance is likely to increase the risk that the requirement is intended to prevent. Arguments that only a small number of vehicles or pieces of motor vehicle equipment are affected generally will not justify granting a petition. But, more importantly, the key issue is whether the noncompliance is likely to increase the safety risk.

MBUSA states that there are State laws prohibiting the operation of upper beam headlamps in the presence of oncoming traffic. For this reason, it believes that the increased output of the subject lamps will not be noticed by other drivers. The agency does not concur with this rationale. State laws generally require drivers to dim their headlamps at a prescribed distance from oncoming traffic. This distance is based on the intensity of available upper beams. Therefore, if the intensity of upper beams is increased, this distance may not be effective in reducing glare for oncoming drivers.

Finally, MBUSA states that the increase in output from the subject lamps may actually enhance vehicle safety as drivers will have greater visibility. We agree with MBUSA that

the increased output of the subject lamps will increase drivers' views down the road. However, the purpose of the minimum light intensity requirements for upper beam headlamps is to protect oncoming drivers from problematic glare. There must be a balance between the need of drivers to have a clear view of the roadway and the need to reduce glare for oncoming drivers. While MBUSA is correct in assuming that the extra light provided by the subject lamps would be advantageous to drivers of the vehicle, it does not mention the obvious ill effects it would have on oncoming drivers. For this reason, we do not accept MBUSA's rationale.

In consideration of the foregoing, NHTSA has decided that the applicant has not met its burden of persuasion that the noncompliance it describes is inconsequential to motor vehicle safety, and it should not be exempted from the notification and remedy requirements of the statute. Accordingly, its application is hereby denied.

(49 U.S.C. 30118(d) and 30120(h); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 17, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–18305 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–7705; Notice 2]

Mootness of Application for Decision of Inconsequential Noncompliance

The following companies, Osram Sylvania Products, Inc., (Osram); Subaru of America, Inc., (Subaru); Koito Manufacturing Co., LTD. (Koito); North American Lighting, Inc. (NAL); Stanley Electric Co., LTD, (Stanley); and General Electric Company (GE) have determined that certain H1 replaceable light sources they manufactured or used in lamp assemblies did not have the ''DOT'' marking required under 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''Lamps, Reflective Devices, and Associated Equipment.'' These companies have also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

Under the requirements of S7.7(a) of FMVSS No. 108, each replaceable light source shall be marked with the symbol ''DOT.''

Notice of receipt of the application was published in the **Federal Register** (66 FR 10052) on February 13, 2001. Opportunity was afforded for public comment until March 15, 2001. No comments were received.

Between January 1998 and January 2000, Osram produced 841,283 H1 replaceable light sources without the required ''DOT '' marking. In its Part 573 report, Osram stated that it was not possible to determine exactly how many light sources were used in headlamp assemblies as opposed to those which were used in fog lamp assemblies. However, the point is irrelevant, since light sources are subject to the requirements of the standard if they are, in fact, capable of being used as a replaceable light source in a headlamp.

Between February 1999 and January 2000, NAL used 118,756 of these Osram replaceable light sources in headlamp assemblies. Subaru installed 110,784 of these NAL headlamp assemblies in model year 2000 Legacy vehicles from February 1999 through February 2000.

Stanley used 30,426 of the Osram replaceable light sources in headlamp assemblies intended for Honda Preludes produced between October 22, 1998 and January 27, 2000. Koito used 12,340 of the Osram replaceable light sources in headlamp assemblies it manufactured between June 1999 and January 2000.

Also, a separate group of replaceable light sources with similar certification problems were manufactured by GE. GE produced 2,490 of these between April 1, 1999 and March 23, 2000. The GE replaceable light sources are included in this notice because of these similarities.

All of the applicants have indicated that the subject replaceable light sources, with the exception of the absence of the ''DOT'' marking, fully comply with all the performance and design requirements of FMVSS No. 108 and do not constitute any risk to motor vehicle safety. Osram has submitted confidential test data to show this.

We have reviewed the applications. Since the purpose of the ''DOT'' marking is to certify that the replaceable light sources comply with all applicable standards, the failures to mark light sources with DOT symbols are considered as violations of 49 U.S.C. 30115, *Certification*, which does not require notification or remedy. Therefore, after due consideration, we have decided that the applications referenced above are moot.

(49 U.S.C. 30118(d) and 30120(h); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 17, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–18308 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–8808; Notice 2]

Philips Lighting Company; Mootness of Application for Decision of Inconsequential Noncompliance

Philips Lighting Company (Philips), of Somerset, New Jersey, has determined that certain H3–55W replaceable light sources it manufactured do not have the ''DOT'' marking required under 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''Lamps, Reflective Devices, and Associated Equipment,'' and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' Philips has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety. Under the requirements of S7.7(a) of FMVSS No. 108, each replaceable light source shall be marked with the symbol ''DOT.''

Notice of receipt of the application was published in the **Federal Register** (66 FR 10053) on February 13, 2001. Opportunity was afforded for public comment until March 15, 2001. No comments were received.

Between January 1998 to December 1999, Philips produced 67,299 H3–55W replaceable light sources that do not have the ''DOT'' marking. Philips has indicated that the subject replaceable light sources, with the exception of the absence of the ''DOT'' marking, fully comply with all the performance and design requirements of FMVSS No. 108 and do not constitute any risk to motor vehicle safety. Philips has submitted test results to support this.

We have reviewed the application. Because the purpose of the ''DOT'' marking is to certify that the replaceable light sources comply with all applicable standards, the failure to mark light sources with a DOT symbol is considered a violation of 49 U.S.C.

30115, *Certification,* which does not require notification or remedy. Therefore, after due consideration, we have decided that this application is moot.

(49 U.S.C. 30118(d) and 30120(h); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 17, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–18306 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34062]

C & C Railroad, Inc.—Reincorporation Exemption—C&C Railroad, LLC

C & C Railroad, Inc., a Class III rail carrier, and C&C Railroad, LLC, a noncarrier (collectively applicants), have filed a notice of exemption under 49 CFR 1180.2(d)(6) wherein C&C Railroad, Inc. will be merged with and into C&C Railroad, LLC.[1]

The parties reported that they intended to consummate the transaction immediately following the effective date of the exemption. The earliest the transaction could have been consummated was July 2, 2001, 7 days after the exemption was filed.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction. However, applicants have stated that they will provide their employees with the protections and benefits of *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34062, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Michael A. Abramson, Esq., 120 S. Riverside Plaza, Suite 1200, Chicago, IL 60606.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: July 16, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–18183 Filed 7–20–01; 8:45 am]

BILLING CODE 4915–00–P

[1] C&C Railroad, LLC is a newly formed limited liability company organized by the shareholders of C & C Railroad, Inc. for the sole purpose of reincorporating in the State of Delaware. The separate existence of C & C Railroad, Inc. shall cease and C&C Railroad, LLC shall be the surviving entity. C&C Railroad, LLC will continue the operations formerly provided by C & C Railroad, Inc. *See C & C Railroad, Inc.—Operation Exemption—Centerpoint Properties, L.L.C.*, STB Finance Docket No. 33990 (STB served Jan. 17, 2001).

DEPARTMENT OF THE TREASURY

Customs Service

Second Test: Importer Compliance Monitoring Program

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This document announces the second test to be conducted regarding the Importer Compliance Monitoring Program (ICMP). The test is intended to be run for three years whereupon a decision will be made whether to extend the test. The ICMP is intended to promote importer compliance with Customs laws and regulations pertaining to cargo processing and will afford mutual benefits to both Customs and the importing community. By a document published in the **Federal Register** on April 24, 1998, Customs initially announced a test of the ICMP that was thereafter conducted with limited participation. Customs now seeks to achieve more extensive participation in the program test in order to ensure a more comprehensive and effective evaluation of the program. Written requests to participate in the program test, as well as public comments on any aspect of the test, are solicited.

EFFECTIVE DATES: The program test will commence no earlier than August 22, 2001, and will continue for three years. Comments on any aspect of the planned test must be received on or before August 22, 2001. Written requests to participate in the program test may be submitted on or after July 23, 2001.

ADDRESSES: Written applications to participate in the program test should be addressed to: Director, Regulatory Audit, Office of Strategic Trade, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, D.C. 20229. Written comments on any aspect of the planned test may be addressed to: Matthew Krimski, Director, Compliance Assessments, Regulatory Audit Division, 1300 Pennsylvania Avenue, NW, Room 6.3–A, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: ICMP program coordinator for the application process: Mark Zaepfel, Senior Auditor, Regulatory Audit Division, (202) 927–0809.

ICMP program coordinator for marketing: Russell Ugone, Director, Trade Agreements Branch, Regulatory Audit Division, (202) 927–0728.

For general information about the ICMP: Matthew Krimski, Director, Compliance Assessments Branch, (202) 927–0411; Joseph Palmer, Field Director, Regulatory Audit, (312) 983–9615; Russell Ugone, Director, Trade Agreements Branch, (202) 927–0728.

SUPPLEMENTARY INFORMATION:

Background

Since passage of the Customs Modernization provisions (107 Stat. 2170) contained in the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, December 8, 1993), the primary goal of the trade compliance process has been to maximize importer compliance with U.S. trade laws, while facilitating the importation and entry of admissible merchandise. To meet these challenges, Customs has extensively reviewed and sought to improve and redesign the trade compliance process using established business practices, re-engineered tools, and new methodologies that enhance service to importers without compromising the enforcement aspect of the Customs mission.

To this end, one of the methodologies that Customs has developed is the Compliance Assessment Process which has been subject to continual process improvement since its introduction (see § 163.11, Customs Regulations (19 CFR 163.11)). The Compliance Assessment Process allows Customs to determine the level of compliance based on an overall assessment of a company's import operations.

Also, Customs has under development a new program called the

Focused Assessment Process. The Focused Assessment Process is an additional tool that will be used by Customs for purposes of assessing the compliance levels of major importers. Similar to the Compliance Assessment Process, the Focused Assessment Process will be a more closely defined assessment program designed to focus on those areas of a particular importer's transactions that pose a risk to Customs and the importer.

Both the Compliance Assessment Process and the Focused Assessment Process are geared toward the company's import operations that occurred prior to the time the assessment is conducted.

However, events can occur within a company, such as mergers, system changes, and loss of key personnel, that may potentially have an impact on the company's continuing compliance with Customs laws and regulations.

Accordingly, the Importer Compliance Monitoring Program (ICMP) was initiated to enable interested importers to participate in a program to assess their own ongoing compliance with Customs laws and regulations related to cargo processing on a continuing basis.

After identifying necessary policies and procedures upon which to test the ICMP, Customs, by a document published in the **Federal Register** (63 FR 20442) on April 24, 1998, announced that a test of the ICMP would be conducted and requested that companies apply to participate in the test. Participation in the program test, however, was limited to no more than 50 companies. Following the selection of test participants, a test of the ICMP was thereafter conducted for a period of one year.

Due to the limited participation in the test, Customs has found that a further test of the ICMP is warranted in which increased importer participation is requested, and encouraged. Customs seeks to develop additional and more complete information that will help ensure a more comprehensive and effective evaluation of the ICMP.

Generally, the procedures and approach to be used in the new ICMP test will be consistent with those that will be adopted in the new Focused Assessment procedure under development by Customs. These procedures will be similar to those employed under the Compliance Assessment process, but will be oriented to those areas that are identified as posing the most risk to Customs and the importer.

It is also noted, as more fully explained below, that as a result of the prior test, Customs has made some alterations to the ICMP test procedures. In particular, only those areas of a company's import operations that are initially identified by Customs as posing a risk to both the importer and Customs will be covered in the new test. Customs will review these areas periodically for current applicability. ICMP participants can expect that these areas may change over the duration of the importer's participation in the ICMP as the importer's business evolves.

Low Risk Designation

The new ICMP test also includes significant benefits for participation. Customs recognizes that many companies have voluntarily invested extensive resources in an effort to heighten their compliance with Customs import requirements. In consideration of this, the ICMP will now provide a framework, with significant commensurate benefits, for those companies to maintain their efforts at increased compliance. These benefits will include having the company designated as Low Risk for Customs purposes on a conditional basis as long as the company meets the requirements of the ICMP. This Low Risk designation can result in a marked decrease in the number of cargo examinations performed by Customs. It should be clearly understood, however, that this Low Risk designation may be withdrawn at Customs discretion if, for example, a company fails to meet its commitments regarding the ICMP program or if there are significant departures from Customs law and regulation by the company.

It should be recognized that the benefit of the Low Risk designation is specifically tied to the importations associated with individual company IRS numbers. If a company uses multiple numbers in its importations, only those numbers identified by the company and reviewed and evaluated by Customs will be identified for Low Risk.

Components of ICMP Test: Application and Implementation

The new ICMP test is comprised of two parts: the application part of the test and the implementation phase.

The first part of the test is an application phase that will allow Customs to review the company's operations to determine its readiness to be recommended for Low Risk. If issues arise during this phase, the company will have the opportunity to take corrective action before participating in the program. Customs recognizes that companies volunteering for the ICMP are demonstrating a commitment to a continuing program of compliance. As such, Customs makes a similar commitment to assist importers with their efforts to participate in the program including working with importers to resolve initial issues in the application process.

The second part of the test, the implementation phase, will provide the company Low Risk benefits as long as it meets the commitments it has made to Customs to stay in the program and does not engage in any misconduct (see section below on Misconduct and Removal from Test Participation). These commitments include testing the company's business transactions for specific areas identified by Customs using Customs approved testing procedures. The commitments also provide for the company to meet certain reporting requirements on an annual basis to ensure Customs is made aware of the most recent significant information regarding the company's activities.

As with the initial test, this program test is undertaken pursuant to ' 101.9(a), Customs Regulations (19 CFR 101.9(a)), which permits the implementation of a test program or procedure designed to evaluate the effectiveness of new technology or operational procedures regarding the processing of passengers, vessels, or merchandise.

Overview of Importer Compliance Monitoring Program

In general, the ICMP is designed to enhance the cargo processing of participating importers as well as their level of compliance with Customs laws and regulations. After the company is notified of acceptance into the program, Customs will continue the consultation process with the company. This consultation process, which is an essential cornerstone of the ICMP, is necessary to ensure that all parties involved with the company's import functions have a mutual understanding of the company's business practices and the ICMP requirements for their successful participation in the program.

While the ICMP is voluntary and does not require a company to have undergone or been scheduled for a Customs compliance or focused assessment, the ICMP employs many of the same procedures that are used in a compliance or focused assessment. In this regard, the ICMP will require the importer to conduct a systemic overview of a selected group of its import operations that will involve both import process and transactional reviews of those operations. An objective group, independent of the company's importing function, may

conduct these reviews; use of outside professionals for this purpose is not required but may be done at the discretion of the importer.

Once accepted into the ICMP program, the company will conduct tests of the trade areas identified by Customs using sampling procedures meeting Customs standards. The company will test each area identified once during the three year test period. The company will notify Customs of the timing of the tests in order to develop an approved sampling plan and to allow Customs to monitor and validate the sampling procedures if it so chooses.

The participating company will also prepare an annual submission that will update the flowchart and narrative of the company's internal controls over its import process. Also, the company will identify for Customs those areas of its import operations that it plans to test in the upcoming year. This submission will form the basis of the annual consultation conducted by Customs with the ICMP participant every year that will provide needed guidance to the participant to effectively carry out its testing program. Customs will provide ongoing guidance and assistance to the company through continual communication by the ICMP Customs Regulatory Audit team and the company's Customs Account Manager, if one is assigned. A Customs Account Manager is a Customs employee (from Customs Office of Field Operations) who may be assigned to a major importing company in order to act as a facilitator between the company and Customs. Because of their role, Customs Account Managers can provide significant benefits in the ICMP coordination process.

The above process will continue for three years. If the test is extended beyond three years, a new three year program will be developed by Customs and the importer taking into account any significant changes to the importer's Customs transactions.

Transactional reviews under the program will use testing procedures or statistical and judgmental sampling methodologies that are also fully coordinated with Customs during the consultation process and will be the same or equivalent testing procedures and sampling programs utilized in compliance and/or focused assessments. Errors detected in a company's import transactions will be evaluated based on the number, nature and the materiality of these errors, and, where applicable, a compliance improvement plan will be prepared and submitted to Customs outlining actions taken or proposed to correct any identified deficiencies. Reports of errors that are detected by the importer through its own review may be treated as prior disclosures under part 162 of the Customs Regulations (19 CFR part 162) if they meet these prior disclosure regulatory requirements.

Test participants are expected to retain all applicable documentation pertaining to these import process and transactional reviews. As necessary, Customs will validate these import process and transactional reviews.

Benefits of participation in the ICMP accruing to an importer, as stated, include the preferential designation of Low Risk that will be accorded the importer upon acceptance into the program and will be retained as long as the importer meets the conditions and requirements of the program (see section below on Misconduct and Removal from Test Participation). This Low Risk category can significantly decrease the number of cargo examinations conducted by Customs. Additionally, Customs, through the interaction of the company's Customs Account Manager, can decrease the information demands made by Customs on the company.

Duration of Test; Selection of Test Participants

The ICMP program test will commence not earlier than August 22, 2001, and will proceed for three years at which time it may be extended. Once Customs determines to extend or end the program test, reasonable advance notice of this will be published in the **Federal Register**. Customs seeks and encourages increased importer participation in this ICMP test, in order that additional and more complete information may be gathered during the course of the test. This information will help Customs ensure a more comprehensive and effective evaluation of the ICMP. Written requests to participate in the program test may be submitted on or after July 23, 2001.

Test Application

In order to apply for the test, the applicant must provide in writing the following information:

1. The name of the company;
2. The address of the company;
3. All importer Internal Revenue Service (IRS) numbers used by the company;
4. The location of the business records dealing with the Customs transactions of the company; and
5. The name and telephone number of a person in the company that will be a contact point for the ICMP application and who is knowledgeable about the company's Customs business transactions.

The application containing the above information should be sent to: Director, Regulatory Audit, Office of Strategic Trade, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, D.C. 20229.

Customs reserves the right in its discretion to approve or disapprove an application. Applications may be sent to Customs at any time. Further, in selecting applicants for participation in the program test, Customs reserves the right, if necessary, depending upon the number of applications received, to prioritize the processing of such applications based upon the volume and/or nature of each applicant's Customs transactions. Customs will notify each applicant in writing of its selection or non-selection to participate in the test, and give the reason(s) for non-selection, should that be the case.

In the event that an applicant should not be selected for participation as a result of an initial review by Customs, the applicant may appeal in writing to the Director, Regulatory Audit Division, Office of Strategic Trade, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, D.C. 20229, within 10 days of the date of Customs written notification of non-selection.

Due to the voluntary nature of the program, a company selected for participation in the test may discontinue its participation at any time. It should be kept in mind, however, that participation in this program does not insulate a company from enforcement actions on specific imports.

Upon receipt of the application from the importer, Customs will immediately conduct an internal review within Customs of the company's current transactions to determine if there are any immediate issues that may impact further processing the application. If there are issues, Customs will attempt to resolve them with the importer. Customs will work closely with the applicant throughout this process.

The application process requires that a company intending to participate in the program apply by filling out a questionnaire and a process map detailing its Customs transactions and compliance processes. Customs will schedule an on-site review to validate the information and identify those areas posing the highest risk to the company and Customs.

The Customs on-site review will include a review of the company's internal controls over the compliance processes outlined in the questionnaire and a limited review of supporting transactions. The purpose of the review will be to identify those areas of the

company's internal controls that pose the maximum risk to the company and Customs. Under the previous test, the ICMP involved a continuing general overview of all of a company's import operations. In this test, only the identified group of higher risk import operations will be reviewed and subsequently monitored.

If Customs finds the internal controls to be in place and working effectively, then a recommendation can be made for acceptance into the program. If there are indications of weak internal controls or non-compliance, Customs will work with the company to develop a Compliance Improvement Plan to correct the situation.

Any company seeking to participate in the ICMP should be aware that any issues concerning non-compliance that come to light during the application/evaluation process must be corrected and can result in enforcement actions depending upon the circumstances. In fact, the ICMP entails an effective commitment by the company to resolve any issues of non-compliance that arise during either the application process or the subsequent program process of the test.

Misconduct and Removal From Test Participation

If a test participant makes late or inadequate submissions to Customs of its annual report or other information, fails to exercise reasonable care in the execution of its test obligations, or otherwise fails to follow the procedures, as outlined in this document, or applicable laws and regulations, the participant may be suspended or removed from the test program and/or subject to penalties or liquidated damages. Customs has the discretion to suspend or remove a test participant based on a determination that an unacceptable compliance risk exits. This action may be invoked at any time after acceptance in the test.

At any time during the test, the appropriate Field Director of Regulatory Audit may propose in writing to remove a company from participation in the program. The notice of proposed removal will inform the company of the facts or conduct warranting removal. Removal from participation in the program test, and elimination of all benefits that were received as a result of test participation including the Low Risk designation, may result from activities including, but not limited to, the following:

(1) Failure of the company to comply with ICMP requirements (such as failing to successfully implement a Compliance Improvement Plan after two attempts); or

(2) The presence of documented or alleged fraud, other investigative activity, or failing to follow applicable Customs laws and regulations.

Any decision proposing to remove a company from participation in the test may be appealed in writing to the Director, Regulatory Audit Division, Office of Strategic Trade, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington D.C. 20229, within 30 days of the date of the written notice of proposed removal. This decision will notify the company of the facts or conduct warranting removal. In appealing this notice of proposed removal, the company should address the facts or conduct referenced in the notice and state how it complies or will achieve compliance with the requirements for program participation.

In the case of willfulness or where the public health, interest or safety is involved, program removal and elimination of the Low Risk benefit may be effective immediately at Customs discretion. In all other cases, the removal of participation will be effective after 30 days from the date of the notice of removal unless the notice is timely appealed.

Program Consultation

One of the cornerstones of the ICMP is the consultation and review process that Customs affords the importer. Prior to approval for participation in the test, the importer's Customs transactions will be reviewed by Customs during the application/evaluation process and the results of this information will be shared with the importer. The test participant will have continuing access to the Customs Account Manager, if one is assigned, as well as Customs Regulatory Audit sources to provide guidance and information regarding the test and the importer's progress throughout the test. Additionally, Regulatory Audit will consult annually with the company regarding its progress over the prior year and its plans for the upcoming year and will provide guidance toward the accomplishment of the company's scheduled testing.

Comments and Evaluation of Test

Customs will review all public comments that are received concerning any aspect of the planned program test. The test is planned to run for three years, at which time it will be evaluated as to whether it should continue as a test, be adopted for implementation as a permanent program, or be terminated. If Customs determines to end the program test, reasonable notice of the expiration date will be published in the **Federal Register**. In addition, approximately 90 days after conclusion of the test, evaluations of the test will be conducted and final results will be made available to the public upon request. Participation in the test is not confidential and may be disclosed.

Dated: July 17, 2001.

Cynthia A. Covell,

Director, Regulatory Audit Division.

[FR Doc. 01–18252 Filed 7–20–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds-Termination: Developers Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 19 to the Treasury Department Circular 570; 2000 Revision, published June 30, 2000 at 65 FR 40868.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6765.

SUPPLEMENTARY INFORMATION: Developers Insurance Company, a California corporation, has formally merged with and into Developers Surety and Indemnity Company, an Iowa corporation, effective December 29, 2000. Developers Insurance Company was last listed as an acceptable surety on Federal bonds at 65 FR 40878, June 30, 2000, and Developers Surety and Indemnity Company was last listed as an acceptable surety on Federal bonds at 65 FR 40878, June 30, 2000.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Developers Insurance Company, under the United States Code, Title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is hereby terminated. With respect to any bonds currently in force with Developers Insurance Company, bond-approving officers may let such bonds run to expiration and need not secure new bonds.

A new 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 Developers Surety and Indemnity Company, Des Moines, Iowa. This new certificate replaces the Certificate of Authority issued to the company prior to the merger. A revised underwriting

limitation of $1,506,000 is now established for Developers Surety and Indemnity Company.

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 companies remain qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

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: 048–000–0536–5.

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: June 22, 2001.

Jennifer Fitzmaurice,

Acting Director, Financial Accounting and Service Division, Financial Management Service.

[FR Doc. 01–18298 Filed 7–20–01; 8:45 am]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S. 657/P.L. 107–19

To authorize funding for the National 4-H Program Centennial Initiative. (July 10, 2001; 115 Stat. 153)

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Title	Stock Number	Price	Revision Date
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

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