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Presidential Documents

Title 3—

The President

Executive Order 13222 of August 17, 2001

Continuation of Export Control Regulations

By the authority vested in me as President by the Constitution and the laws of the United States of America, including but not limited to section 203 of the International Emergency Economic Powers Act (''Act'') (50 U.S.C. 1702), I, GEORGE W. BUSH, President of the United States of America, find that the unrestricted access of foreign parties to U.S. goods and technology and the existence of certain boycott practices of foreign nations, in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*), constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and hereby declare a national emergency with respect to that threat.

Accordingly, in order (a) to exercise the necessary vigilance over exports and activities affecting the national security of the United States; (b) to further significantly the foreign policy of the United States, including its policy with respect to cooperation by U.S. persons with certain foreign boycott activities, and to fulfill its international responsibilities; and (c) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious economic impact of foreign demand, it is hereby ordered as follows:

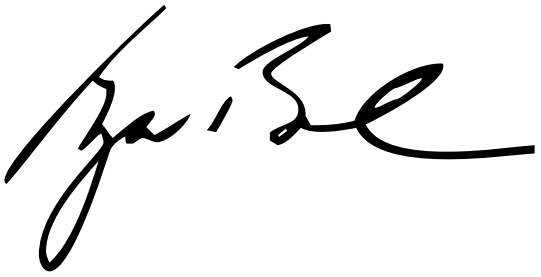
Section 1. To the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, and the provisions for administration of the Export Administration Act of 1979, as amended, shall be carried out under this order so as to continue in full force and effect and amend, as necessary, the export control system heretofore maintained by the Export Administration Regulations issued under the Export Administration Act of 1979, as amended. The delegations of authority set forth in Executive Order 12002 of July 7, 1977, as amended by Executive Order 12755 of March 12, 1991, and Executive Order 13026 of November 15, 1996; Executive Order 12214 of May 2, 1980; Executive Order 12735 of November 16, 1990; and Executive Order 12851 of June 11, 1993, shall be incorporated in this order and shall apply to the exercise of authorities under this order. All actions under this order shall be in accordance with Presidential directives relating to the export control system heretofore issued and not revoked.

Sec. 2. All rules and regulations issued or continued in effect by the Secretary of Commerce under the authority of the Export Administration Act of 1979, as amended, including those published in Title 15, Subtitle B, Chapter VII, Subchapter C, of the Code of Federal Regulations, Parts 730 through 774, and all orders, regulations, licenses, and other forms of administrative action issued, taken, or continued in effect pursuant thereto, shall, until amended or revoked by the Secretary of Commerce, remain in full force and effect as if issued or taken pursuant to this order, except that the provisions of sections 203(b)(2) and 206 of the Act (50 U.S.C. 1702(b)(2) and 1705) shall control over any inconsistent provisions in the regulations. Nothing in this section shall affect the continued applicability of administrative sanctions provided for by the regulations described above.

Sec. 3. Provisions for administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this

order also shall constitute authority for the issuance and continuation in full force and effect of all rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative actions issued, taken, or continued in effect pursuant thereto, relating to the administration of section 38(e).

Sec. 4. This order shall be effective as of midnight between August 20, 2001, and August 21, 2001, eastern daylight time.



THE WHITE HOUSE,
August 17, 2001.

[FR Doc. 01–21338
Filed 8–21–01; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
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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.

FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Part 1411

RIN 3055–AA07

Rules of Practice and Procedure; Rule Adjusting Civil Money Penalties for Inflation

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule contains the cost-of-living adjustments for the civil money penalties specified in the Farm Credit Act of 1971, as amended. Since October 1996, the penalty could not exceed $110 per day. The new penalty cannot exceed $117 per day. The new penalty is set in accordance with the Federal Civil Penalties Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, which requires us to adjust our penalties for inflation every four years.

EFFECTIVE DATE: This rule will become effective on August 22, 2001.

FOR FURTHER INFORMATION CONTACT: Dorothy L. Nichols, General Counsel, Farm Credit System Insurance Corporation, McLean, VA 22102, (703) 883–4211.

SUPPLEMENTARY INFORMATION:

I. Penalty Provisions

Two provisions of the Farm Credit Act of 1971, as amended (Act) authorize the Farm Credit System Insurance Corporation (FCSIC) to impose civil money penalties. First, section 5.65(c) specifies that any insured System bank that willfully fails or refuses to file any certified statement or pay any premium required under Part E of the Act shall be subject to a penalty of $100 for each day that the violation continues. Second, section 5.65(d) makes it unlawful for anyone convicted of a criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any System institution, without the prior written consent of the Farm Credit Administration. For a willful violation of this section, the FCSIC may subject the institution to a penalty of $100 for each day that the violation continues. In 1996, the FCSIC applied the inflation formula provided in the Federal Civil Penalties Adjustment Act of 1990, (28 U.S.C. 2461 note) and increased the penalties to $110.

II. Cost-of-Living Adjustment

The prescribed cost-of-living adjustment formula or inflation factor is based on the difference between the Consumer Price Index (CPI) for June of 1999 and the CPI for June of 1996, the year the penalty was last set. We used the Department of Labor Bureau of Labor Statistics—All Urban Consumers Tables. The CPI value was 156.7 for June 1996 and was 166.2 for June 1999, resulting in an inflation factor of 1.06 (i.e., a 6-percent increase). Using this adjustment the $110 penalty goes to $116.6 and with the rounding method prescribed in the statute it becomes $117.

The existing penalty of $110 continues to apply until amended by the publishing of this rule in the **Federal Register**.

The Federal Civil Penalties Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, gives agencies no discretion in the adjustment of civil money penalties for the rate of inflation. It also requires a reassessment every 4 years. Moreover, this rule is ministerial, technical, and noncontroversial. For these reasons, the FCSIC finds good cause to determine that public notice and an opportunity to comment are impracticable, unnecessary, and contrary to the public interest pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(B). Therefore, this rule is adopted in final form.

List of Subjects in 12 CFR Part 1411

Banks, banking, Civil money penalties, Penalties.

For the reasons stated in the preamble, part 1411 of charter XIV, title 12 of the Code of Federal Regulations is revised to read as follows:

PART 1411—RULES OF PRACTICE AND PROCEDURE

1. Revise the authority citation for part 1411 to read as follows:

Authority: Secs. 5.58(10), 5.65(c) and (d) of the Farm Credit Act; 12 U.S.C. 2277a–7(10), 2277a–14(c) and (d)); 28 U.S.C. 2461 note.

Subpart A—Rules and Procedures for Assessment and Collection of Civil Money Penalties

2. Revise § 1411.1 to read as follows:

§ 1411.1 Inflation adjustment of civil money penalties for failure to file a certified statement, pay any premium required or obtain approval before employment of persons convicted of criminal offenses.

In accordance with the Federal Civil Money Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, a civil money penalty imposed pursuant to section 5.65(c) or (d) of the Act for a violation occurring on or after October 23, 1996 shall not exceed $117 per day for each day the violation continues.

Dated: August 16, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit System Insurance Corporation Board.

[FR Doc. 01–21154 Filed 8–21–01; 8:45 am]

BILLING CODE 6710–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–26–AD; Amendment 39–12404; AD 2001–17–13]

RIN 2120–AA64

Airworthiness Directives; JanAero Devices Part Number (P/N) 14D11, A14D11, B14D11, C14D11, 23D04, A23D04, B23D04, and C23D04 Fuel Regulator Shutoff Valves

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 2001–08–01, which applies to certain JanAero Devices (JanAero) 14D11 and 23D04 series fuel regulator shutoff valves used with certain JanAero combustion

heaters that are installed on aircraft. AD 2001–08–01 currently requires you to visually inspect and pressure test these fuel regulator shutoff valves for leaks, and, if leaks are found, replace the fuel regulator shutoff valve. Numerous reports of fuel regulator shutoff valves leaking fuel caused the Federal Aviation Administration (FAA) to issue AD 2001–08–01. This amendment retains the actions of AD 2001–08–01, except only the visual inspection or the pressure test will be required instead of both. This amendment also specifically calls out the fuel regulator shutoff valves by part number instead of series, includes provisions for disabling the heater as an alternative method of compliance, and makes other minor clarifying revisions and additions to the AD. The actions specified by this AD are intended to eliminate or severely reduce the potential for fuel leakage in aircraft with these combustion heaters, which could result in an aircraft fire with consequent damage or destruction.

DATES: This AD becomes effective on September 11, 2001.

The Director of the Federal Register previously approved the incorporation by reference of JanAero Devices Service Bulletin No. A–107, dated January 8, 2001, as of May 10, 2001 (66 FR 19720, April 17, 2001).

The FAA must receive any comments on this rule on or before October 5, 2001.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–26–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from JanAero Devices, Electrosystems-JanAero Devices, P.O. Box 273, Fort Deposit, Alabama 36032; telephone: (334) 227–8306; facsimile: (334) 227–8596; Internet: http://www.kellyaerospace.com. You may examine this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–26–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Linda M. Haynes, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6091; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Discussion

Has FAA Taken Any Action to This Point?

Reports of leaking JanAero fuel regulator shutoff valves found during routine aircraft inspections caused FAA to issue AD 2001–08–01, Amendment 39–12178 (66 FR 19718, April 17, 2001). This AD requires that you accomplish the following on certain JanAero Devices (JanAero) 14D11 and 23D04 series fuel regulator shutoff valves used with certain JanAero combustion heaters that are installed on aircraft:

—Visually inspect and pressure test the fuel regulator shutoff valves for leaks; and

—If leaks are found, replace the fuel regulator shutoff valve.

Accomplishment of these actions is required in accordance with JanAero Service Bulletin No. A–107, dated January 8, 2001.

The affected fuel regulator shutoff valves are part of the JanAero B1500, B2030, B2500, B3040, B3500, B4050, or B4500 combustion heater configuration.

This condition, if not corrected, could result in fuel leakage in aircraft with these combustion heaters, which could result in an aircraft fire with consequent damage or destruction.

What Has Happened Since AD 2001–08–01 To Initiate This action?

Operators of aircraft with the affected fuel regulatory shutoff valves installed and mechanics who accomplished the actions of the AD provided suggestions for improvement to AD 2001–08–01. Based on this feedback, FAA is superseding AD 2001–08–01. Specifically, this feedback is as follows:

—FAA should only require the visual inspection or the pressure test, but not both;

—FAA should call out the specific fuel regulator shutoff valves by part number instead of series. A series designation allows the aircraft owner/operator to interpret the AD applicability instead of relying on a clear definitive applicability;

—FAA should allow disabling the heater as an alternative method of compliance to the actions of the AD; and

—FAA should include other minor clarifying revisions or additions in the AD, such as including former names of JanAero Devices, Inc., adding the website of the manufacturer, and minor editorial corrections.

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

What Has FAA Decided?

After examining the circumstances and reviewing all available information related to the subject above, we have determined that:

—The unsafe condition referenced in this document still exists or could develop on type design aircraft equipped with either a JanAero B1500, B2030, B2500, B3040, B3500, B4050, or B4500 combustion heater;

—The previously-referenced issues specified in the feedback presented to FAA from the public should be incorporated into AD 2001–08–01; and –AD action should be taken in order to correct this unsafe condition.

What Would This AD Require?

This AD supersedes AD 2001–08–01 with a new AD that retains the actions of AD 2001–08–01, except only the visual inspection or the pressure test is required instead of both. This AD also specifically calls out the specific fuel regulator shutoff valves by part number instead of series, includes provisions for disabling the heater as an alternative method of compliance, and makes other minor clarifying revisions or additions to the AD.

Accomplishment of this AD is still required in accordance with JanAero Service Bulletin No. A–107, dated January 8, 2001.

Will I Have the Opportunity To Comment Prior to the Issuance of the Rule?

Because the unsafe condition described in this document could result in an aircraft fire with consequent damage or destruction, FAA finds that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How Do I Comment on This AD?

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, we invite your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date specified above. We may amend this rule in light

of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of the AD I Should Pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

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

How Can I Be Sure FAA Receives My Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2001–CE–26–AD.'' We will date stamp and mail the postcard back to you.

Regulatory Impact

Does This AD Impact Various Entities?

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

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 2001–08–01, Amendment 39–12178 (66 FR 19718, April 17, 2001), and by adding a new AD to read as follows:

2001–17–13 Janaero Devices: Amendment 39–12404; Docket No. 2001–CE–26–AD. Supersedes AD 2001–08–01, Amendment 39–12178.

(a) *What aircraft are affected by this AD?* This AD applies to aircraft equipped with a JanAero Devices part number 14D11, A14D11, B14D11, C14D11, 23D04, A23D04, B23D04, or C23D04 fuel regulator shutoff valve used with JanAero Devices B1500, B2030, B2500, B3040, B3500, B4050, or B4500 B-Series combustion heaters. The following is a list of aircraft where the B-Series combustion heater could be installed. This is not a comprehensive list and aircraft not on this list that have the heater installed through field approval or other methods are still affected by this AD:

Manufacturer	Aircraft models
Raytheon Aircraft Corporation (Beech)	Beech 95–B55 Series, 58, 58TC, 58P, 60, A60, and 76.
Canadair	CL–215, CL–215T, and CLT–415.
Cessna Aircraft Company (Cessna)	208, 303, 310F, 310G, 310H, 310I, 310J, 310K, 310L, 310M, 310N, 310P, 310Q, 320C, 320D, 320E, 320F, 337 Series, 340, 340A, 414, 414A, 421, 421A, 421B, and 421C.
The New Piper Aircraft, Inc. (Piper)	PA–23 Series, PA–30, PA–31 Series, PA–34 Series, PA–39, and PA–44.

Note 1: The B1500, B2030, B2500, B3040, B3500, B4050, or B4500 B-Series combustion heaters were previously manufactured by Janitrol, C&D, FL Aerospace, and Midland-Ross Corporation.

(b) *Who must comply with this AD?* Anyone who wishes to operate any aircraft that is equipped with one of the above-referenced JanAero combustion heaters must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to eliminate or severely reduce the potential for fuel leakage in aircraft with these combustion heaters, which could result in an aircraft fire with consequent damage or destruction.

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

Action	Compliance time	Procedures
(1) Inspect the fuel regulator shutoff valve for fuel leaks. Use the pressure test procedures or visual procedures included in the service information.	Within the next 25 hours aircraft time-in-service (TIS) after September 11, 2001 (the effective date of this AD), unless already accomplished (e.g., compliance with AD 2001–08–01), and thereafter prior to installing any fuel regulator shutoff valve on an aircraft.	Locate the pressure regulatory shutoff valve in the installation using the applicable maintenance manual's regulator shutoff valve location, removal, and installation instructions. For the pressure test or visual inspection, use the procedures in JanAero Devices Service Bulletin No. A–107, dated January 8, 2001.

Action	Compliance time	Procedures
(2) If no fuel leaks or no signs of fuel stains are found during each inspection required by paragraph (d)(1) of this AD, mark the valve cover with the date of inspection (month/year).	Prior to further flight after any inspection required by paragraph (d)(1) of this AD.	Use permanent ink and letters of at least 1/10-inch, but no larger than 1/4-inch, in height and make this mark below the date of manufacturer as specified in JanAero Devices Service Bulletin No. A–107, dated January 8, 2001.
(3) If any fuel leak(s) is/are found during any inspection required by paragraph (d)(1) of this AD, replace the valve. Ensure there are no fuel leaks in the replacement valve by following the inspection and identification requirements of paragraphs (d)(1) and (d)(2) of this AD, respectively.	Before further flight after the inspection where any fuel leak was found.	In accordance with the applicable maintenance manual.
(4) As an alternative method of compliance to this AD, you may disable the heater provided you immediately comply with the inspection, identification, and replacement requirements of this AD when you bring the heater back into service. Accomplish the following actions when disabling: (i) Cap the fuel supply line; (ii) Disconnect the electrical power and ensure that the connections are properly secured to reduce the possibility of electrical spark or structural damage; (iii) Inspect and test to ensure that the cabin heater system is disabled; (iv) Ensure that no other aircraft system is affected by this action; (v) Ensure there are no fuel leaks; and (vi) Fabricate a placard with the words: ''System Inoperative''. Install this placard at the heater control valve within the pilot's clear view.	If you choose this option, you must accomplish it before the required inspection times (within the next 25 hours TIS after September 11, 2001, and thereafter prior to further flight after installing any fuel regulator shutoff valve on an aircraft). To bring the heater back into service, you must accomplish the actions of paragraphs (d)(1), (d)(2), and (d)(3) of this AD (inspection, identification, and replacement, as necessary).	Not Applicable.

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

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

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

Note 2: This AD applies to any aircraft with the equipment installed as identified in paragraph (a) of this AD, regardless of whether the aircraft has been modified, altered, or repaired in the area subject to the requirements of this AD. For aircraft that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Linda M. Haynes, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6091; facsimile: (770) 703–6097.

(g) *Are any service bulletins incorporated into this AD by reference?* You must accomplish the actions required by this AD in accordance with JanAero Devices Service Bulletin No. A–107, dated January 8, 2001. The Director of the Federal Register previously approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51 as of May 10, 2001 (66 FR 19720, April 17, 2001).

(1) You can get copies from JanAero Devices, Electrosystems-JanAero Devices, P.O. Box 273, Fort Deposit, Alabama 36032; telephone: (334) 227–8306; facsimile: (334) 227–8596; Internet: http://www.kellyaerospace.com.

(2) You can look at copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) *Does this amendment affect any other regulation?* This amendment supersedes AD 2001–08–01, Amendment 39–12178.

(i) *When does this amendment become effective*? This amendment becomes effective on September 11, 2001.

Issued in Kansas City, Missouri, on August 15, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–21010 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–369–AD; Amendment 39–12378; AD 2000–17–10 R1]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to all Lockheed Model L–1011–385 series airplanes, that currently requires modifications of the engine turbine cooling air panel at the flight engineer/second officer's console, pilot's caution and warning light panel on the main instrument panel, and monitoring system for the engine turbine air temperature. That AD was prompted by reports of an undetected fire breaching the high speed gearbox (HSGB) case on certain Rolls Royce engines installed on in-service airplanes due to lack of an internal fire detection system within the HSGB. The actions specified by that AD are intended to prevent undetected fires originating within the HSGB from breaching the

HSGB case, which could result in engine damage and increased difficulty in extinguishing a fire. This action removes certain airplanes from the applicability of the existing AD.

DATES: Effective September 26, 2001.

The incorporation by reference of Lockheed Service Bulletin 093–77–059, dated February 25, 1998; and Lockheed Service Bulletin 093–77–059, Revision 1, dated February 2, 1999, as listed in the regulations, was approved previously by the Director of the Federal Register as of October 6, 2000 (65 FR 53157, September 1, 2000).

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. 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, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Linda Haynes, Aerospace Engineer, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 2000–17–10, amendment 39–11884 (65 FR 53157, September 1, 2000), which is applicable to Lockheed Model L–1011–385 series airplanes, was published in the **Federal Register** on April 26, 2001 (66 FR 20954). The action proposed to continue to require modifications of the engine turbine cooling air panel at the flight engineer/second officer's console, pilot's caution and warning light panel on the main instrument panel, and monitoring system for the engine turbine air temperature. That action also proposed to remove certain airplanes from the applicability of the existing AD.

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 54 Model Lockheed Model L–1011–385 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 29 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per engine (3 engines per airplane) to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $6,320 per engine, or $18,960 per airplane. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $591,600 or $20,400 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11884 (65 FR 53157, September 1, 2000), and by adding a new airworthiness directive (AD), amendment 39–12378, to read as follows:

2000–17–10 R1 Lockheed: Amendment 39–12378. Docket 2000–NM–369–AD. Revises AD 2000–17–10, Amendment 39–11884.

Applicability: Model L–1011–385 series airplanes equipped with Rolls Royce Model RB211–524 series engines, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 undetected fires originating within the high speed gearbox (HSGB) from breaching the HSGB case, which could result in engine damage and increased difficulty in extinguishing a fire, accomplish the following:

Restatement of Requirements of AD 2000–17–10

Modification

(a) Within 24 months after October 6, 2000 (the effective date of AD 2000–17–10, amendment 39–11884), accomplish the actions specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, in accordance with Lockheed Service Bulletin 093–77–059, dated February 25, 1998; or Revision 1, dated February 2, 1999.

(1) Modify the engine turbine cooling air panel at the flight engineer/second officer's console.

(2) Modify the pilot's caution and warning light panel on the main instrument panel.

(3) Modify the monitoring system for the engine turbine air temperature.

Note 2: Lockheed Service Bulletin 093–77–059 refers to Rolls Royce Service Bulletins RB.211–72–C178, dated March 20, 1998; and

RB.211–77–C144, dated August 7, 1998; as additional sources of service information for accomplishment of the modification of the monitoring system for the engine turbine air temperature.

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, Atlanta Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office (ACO).

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

Special Flight Permits

(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 Lockheed Service Bulletin 093–77–059, dated February 25, 1998; or Lockheed Service Bulletin 093–77–059, Revision 1, dated February 2, 1999. This incorporation by reference was approved previously by the Director of the Federal Register as of October 6, 2000 (65 FR 53157, September 1, 2000). Copies may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on September 26, 2001.

Issued in Renton, Washington, on August 15, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–21101 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–379–AD; Amendment 39–12379; AD 2001–16–10]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–200, –300, –320, and –500 Series Airplanes; and Model 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, and –500 series airplanes; and all Model ATR72 series airplanes. The AD requires revising the Airplane Flight Manual to modify procedures for calculating takeoff performance when Type II or IV de-icing or anti-icing fluids have been used. This amendment is prompted by reports that use of these de-icing or anti-icing fluids may result in an increase in the pitch forces necessary to rotate the airplane during takeoff. This condition could result in a delayed takeoff or even late aborted takeoff. The actions specified by this AD are intended to ensure that the flight crew is advised of the potential effects of Type II or IV de-icing or anti-icing fluids on the airplane's performance during takeoff, and to ensure that the flight crew is advised of the revised performance calculations for takeoff to address these effects.

DATES: Effective September 26, 2001.

ADDRESSES: Information related to this AD 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, 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, and –500 series airplanes, and all Model ATR72 series airplanes, was published in the **Federal Register** on April 12, 2001 (66 FR 18882). That action proposed to require revising the Airplane Flight Manual (AFM) to modify procedures for takeoff when Type II or IV de-icing fluids have been used.

Comments

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

Request To Revise Unsafe Condition

One commenter (the manufacturer) disagrees with certain characterizations in the proposed AD related to the unsafe condition's potential effects on the affected airplanes. The commenter suggests that application of Type II or IV de-icing or anti-icing fluids may induce a stick force increase at rotation, but no performance degradation. Between 1991 and 1998, there were five reported cases of aborted takeoff (above V1) after use of Type II or IV fluids, but no change in the performance of those airplanes. To provide the necessary margins for a delayed takeoff or even a late aborted takeoff on limited runways, the manufacturer has recommended increasing the takeoff distance for airplanes using Type II or IV fluids, as reflected in the revised takeoff performance calculations in the AFM. Accordingly, the commenter requests the following changes to the proposed AD:

- The commenter requests that ''Type II or IV de-icing fluids'' also refer to ''anti-icing fluids.''
- The commenter requests that the effect on the airplane resulting from the unsafe condition be revised from ''reduced controllability of the airplane'' to ''delayed or even late aborted takeoff.''
- The commenter requests that the description of the revised AFM procedures be revised from ''procedures for takeoff'' to ''procedures for calculating takeoff performance.''

The FAA partially concurs. The FAA finds that, while the requested changes are not substantive and will not have a significant bearing on how operators will comply with the AD, the changes provide a more accurate description of the effect of the fluids on the performance of the airplane. The final rule has been revised accordingly.

Request To Revise Cost Impact

This same commenter (the manufacturer) requests a revision of the number of affected U.S.-registered airplanes identified in the Cost Impact section of the proposed AD. According to the manufacturer's data, the number

of affected airplanes should be 159, not 69. The FAA concurs and has revised the final rule accordingly.

Additional Change to Final Rule

The introductory language of paragraph (a) of this final rule has been revised to provide a better explanation of the actions required by that paragraph.

Conclusion

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

Cost Impact

The FAA estimates that 159 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 $9,540, 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:

2001–16–10 Aerospatiale: Amendment 39–12379. Docket 2000–NM–379–AD.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flight crew is advised of the potential effects of Type II or IV de-icing or anti-icing fluids on the airplane's performance during takeoff, and to ensure that the flight crew is advised of the revised performance calculations for takeoff to address these effects, accomplish the following:

Revision of the Airplane Flight Manual (AFM)

(a) Within 15 days after the effective date of this AD, revise the Appendices and Supplements chapter of the FAA-approved AFM by including either the following manufacturer's Appendix ''Takeoff after use of Fluid Type II or IV'' or a copy of this AD in the AFM.

''Takeoff After Use of Fluid Type II or IV

This appendix applies only to aircraft de-iced or anti-iced before takeoff, using fluid Type II or IV.

These types of fluid may lead to an increase in control forces necessary to rotate, and then to a modification of takeoff performance.

Therefore, this flight manual must be modified as follows:

1. General

The general information in Section 1 is applicable.

2. Limitations

The limitations in Section 2 are applicable.

3. Normal Procedures

The normal procedures in Section 3 are applicable.

4. Emergency Procedures

The emergency procedures in Section 4 are applicable.

5. Procedures Following Failures

The procedures following failures in Section 5 are applicable.

6. Performances

The performances in Section 6 for dry runways and in Section 7.03 for non-dry runways (advisory materials) are applicable with the addition of the following for takeoff computations:

—Determine VR for the lowest available V2,
—Assume V1=VR,
—Increase TOR, TOD, ASD by 20%.

7. Appendices and Supplements

Data of Section 7 are applicable by adding what follows:

For the dispatch cases:
—Apply takeoff penalties due to the system failure,
—Then apply takeoff penalties due to the use of fluids Type II or IV.

Dispatch is not authorized in the following cases:
—Ferry flight with pitch elevators disconnected,
—Takeoff with flaps retracted.''

Alternative Methods of Compliance

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

Note 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 2000–449–082(B) and 2000–448–053(B), both dated October 31, 2000.

Effective Date

(d) This amendment becomes effective on September 26, 2001.

Issued in Renton, Washington, on August 15, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–21102 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–193–AD; Amendment 39–12403; AD 2001–17–12]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes, that currently requires replacement of the air driven generator (ADG) wire assembly with a new, increased length wire assembly. This amendment requires, among other actions, replacement of the existing ADG wire assembly in the right air conditioning compartment with a certain new wire assembly. This amendment is prompted by an investigation that revealed the length of the new wire assembly is too long and causes the assembly to chafe against the left emergency alternating current bus of the ADG. The actions specified by this AD are intended to prevent loss of the charging capability of the airplane battery due to chafing. Loss of the charging capability of the airplane battery, coupled with a loss of all normal electrical power, could prevent continued safe flight and landing of the airplane.

DATES: Effective September 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 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: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–03–12, amendment 39–11571 (65 FR 8030, February 17, 2000), which is applicable to certain McDonnell Douglas Model MD–11 series airplanes, was published in the **Federal Register** on February 20, 2001 (66 FR 10842). The action proposed to require, among other actions, replacement of the existing air driven generator (ADG) wire assembly in the right air conditioning compartment with a certain new wire assembly. The action also proposed to expand the applicability of the existing AD to include additional airplanes.

Comments Received

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

Address Change for Obtaining Service Information

The airplane manufacturer states that the referenced department name, number, and mail code of the address for obtaining service information are incorrect in the proposed AD. The correct address is Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). The airplane manufacturer requests that the proposed AD be revised accordingly. The FAA agrees and has revised this address in the final rule.

Delay Issuance of Final Rule

One commenter requests that the FAA verify that the proposed replacements can be accomplished with the desired result before issuing the final rule. The commenter states that the proposed AD cannot be complied with as written due to a non-existent screw, part number (P/N) 3D0005–8–9, specified in Boeing Service Bulletin MD11–24–128, Revision 02, dated October 31, 2000, which is referenced in the proposed AD as the appropriate source of service information for accomplishing the proposed replacements. The commenter also states that Figure 1 (Sheet 4 of 5), view B–B of the service bulletin indicates a screw having P/N NAS1096–2–9, which is not mentioned in the Materials information of the service bulletin. The commenter asks whether this screw is supposed to be listed in the Materials information instead of screw, P/N 3D–0005–8–9 (or –08–9).

The FAA partially agrees. To delay this action until the required actions can be performed on an airplane would be inappropriate, since we have determined that an unsafe condition exists and that replacement must be accomplished to ensure continued safety. However, since issuance of the NPRM, we have reviewed and approved Revision 03 of Boeing Service Bulletin MD11–24–128, dated May 17, 2001. The only relevant change is that the revised service bulletin corrects the screw P/N to NAS1096–2–9 in the Material information and removes the non-existent screw, P/N 3D0005–8–9. No more work is necessary on airplanes changed as shown in Revision 02 of the service bulletin. Therefore, we have revised the final rule to reference Revision 03 of the service bulletin as the appropriate source of service information, and added a new note to give operators credit for accomplishment of Revision 02 of the service bulletin before the effective date of this AD.

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 191 Model MD–11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 60 airplanes of U.S. registry will be affected by this AD.

The new actions that are required in this AD action will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $810 per airplane. Based on these figures, the cost impact of the requirements of this AD on U.S.

operators is estimated to be $52,200, or $870 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 39–11571 (65 FR 8030, February 17, 2000), and by adding a new airworthiness directive (AD), amendment 39–12403, to read as follows:

2001–17–12 McDonnell Douglas: Amendment 39–12403. Docket 2000–NM–193–AD. Supersedes AD 2000–03–12, Amendment 39–11571.

Applicability: Model MD–11 series airplanes, as listed in Boeing Service Bulletin MD11–24–128, Revision 03, dated May 17, 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 charging capability of the air driven generator (ADG), that when coupled with a loss of all normal electrical power, could prevent continued safe flight and landing of the airplane, accomplish the following:

Replacement

(a) Within 1 year after the effective date of this AD, do the actions specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD per Boeing Service Bulletin MD11–24–128, Revision 03, dated May 17, 2001.

(1) Replace the ADG wire assembly, part number (P/N) ACS9006–501 and/or ACS9006–502, located on the transformer panel at station Y=568.333 in the right air conditioning compartment with a new wire assembly, P/N SR11240033–101.

Note 2: The referenced service bulletin incorrectly lists the new wire assembly as having P/N SR1124033–101 in paragraph 3.A.4. of the Accomplishment Instructions. The correct P/N is SR11240033–101, as indicated in paragraph (a)(1) of this AD.

(2) Replace the associated clamps and screws of the ADG wire assembly with new clamps and screws.

(3) Torque tighten terminal hardware to the limits specified in the service bulletin.

Note 3: Accomplishment of the actions specified in Boeing Service Bulletin MD11–24–128, Revision 02, dated October 31, 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 Boeing Service Bulletin MD11–24–128, Revision 03, dated May 17, 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 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 September 26, 2001.

Issued in Renton, Washington, on August 14, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20939 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–191–AD; Amendment 39–12402; AD 2001–17–11]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 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 MD–11 series airplanes, that requires an inspection to detect arcing damage of the electrical cables leading to the hydraulic pump terminal strips and the surrounding structure in the wheel well area of the right main landing gear (MLG); and corrective actions, if necessary. This AD also requires replacement of a certain terminal strip with a new terminal strip, and removal of the applicable nameplate in the wheel well of the right MLG. For certain airplanes, this AD also requires, as an alternative, an inspection of the terminal strip to determine if the correct washer is installed, and replacement of the incorrect washer with a new washer. This action is necessary to prevent arcing damage to the terminal strips and damage to the adjacent structure of the wheel well area of the right MLG, which could result in a fire in the wheel well of the right MLG. This action is intended to address the identified unsafe condition.

DATES: Effective September 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 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: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; 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 MD–11 series airplanes was published in the **Federal Register** on February 20, 2001 (66 FR 10846). That action proposed to require an inspection to detect arcing damage of the electrical cables leading to the hydraulic pump terminal strips and the surrounding structure in the wheel well area of the right MLG, and replacing any damaged component with a new component or repairing the damaged component.

For certain other airplanes, the revised service bulletin describes procedures for an inspection of the terminal strip to determine if the correct washer is installed, and replacement of any incorrect washer with a new washer.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. We find that these actions are an acceptable alternative method of compliance (AMOC) with the actions specified in the original version of service bulletin and specified by the NPRM. Therefore, we have revised the final rule to include these actions as an option to complying with the requirements of paragraphs (a) and (b) of this AD, as applicable.

Request for Various Changes to Requirements of the NPRM and Service Bulletin

Because of the ''problems'' with the McDonnell Douglas Alert Service Bulletin MD11–24A186, dated October 4, 2000 (original version), the commenter also requests that the NPRM be changed as follows:

1. Allow re-identification of the terminal strip (specified in the General Notes of the referenced service bulletin) per operator standard practices.

2. Revise paragraph (a)(2) of the NPRM to include a statement that, ''if the damaged strip is S3–261, replace it per [paragraph (b)(1) of the AD].'' The commenter provided no justification.

3. Include a defined repair, developed by Boeing, in paragraph (a)(5) of the NPRM for cases where the Structural Repair Manual (SRM) does not cover the damage. The commenter states that accomplishing the repair required by paragraph (a)(5) of the NPRM can lead to extended unscheduled airplane downtime due to the unknown damage and unknown repair procedure. The commenter also states that requiring approval of a repair by the Aircraft Certification Office (ACO) will not be practical. Damage to airplanes that is not covered in the SRM is commonly encountered and is addressed by the airline's FAA-approved engineering support process.

4. Revise paragraph (b)(1) of the NPRM to require replacement of the installed t-strip with a new terminal strip, part number (P/N) HS27212–3–4, no matter what the base thickness, stud, and terminal sizes are. The commenter states that measuring the base thickness, stud, and terminal sizes of the terminal strips to determine whether or not to replace the strip will cause confusion,

Comments

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

Address Change for Obtaining Service Information

The airplane manufacturer states that the referenced department name, number, and mail code of the address for obtaining service information are incorrect in the notice of proposed rulemaking (NPRM). The correct address is Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). The airplane manufacturer requests that the NPRM be revised accordingly. The FAA agrees and has revised this address in the final rule.

Delay Issuance of Final Rule

One commenter requests that the final rule not be issued until Boeing has issued Revision 01 of McDonnell Douglas Alert Service Bulletin MD11–24A186. The commenter states that the NPRM cannot be complied with as written due to ''problems'' with McDonnell Douglas Alert Service Bulletin MD11–24A186, dated October 4, 2000 (original version), which is referenced in the NPRM as the appropriate source of service information for accomplishing certain proposed actions.

Since issuance of the NPRM, the FAA has reviewed and approved Revision 01 of McDonnell Douglas Alert Service Bulletin MD11–24A186, dated May 16, 2001. For certain airplanes, the revised service bulletin describes the following procedures:

1. Replacing a certain terminal strip;

2. Removing the applicable nameplate in the right MLG wheel well;

3. Sealing the screw heads of any replaced terminal strip;

4. Performing an inspection to detect arcing damage of the electrical cables leading to the hydraulic pump terminal strips and the surrounding structure in the wheel well area of the right MLG,

and possibly result in the affected terminal strips being left on the airplane.

5. Sealing screw heads of replaced terminal strips (paragraph 3.B.6 of the referenced service bulletin) should be done per Boeing Standard Wiring Practices Manual (SWPM) (Document D6–82481) Chapter 20–20–03, paragraphs 2.B.(1) through (3) and paragraph 3.B. (reference Boeing TWX DAL–ATL–01–01462H, dated April 6, 2001). The commenter states that the referenced Douglas Process Specification (DPS) is not a practical source document for maintenance instructions, because it references many other DPSs, which would complicate compliance.

6. Performing the continuity test (part of the closing actions) should be done per Wiring Diagram Manual (WDM) 29–21–01, not per WDM 24–51–09, as referenced. The commenter provided no justification.

The FAA does not agree with the commenter's request to allow re-identification of the terminal strip per operator standard practices. Because the commenter provided no justification, we have no knowledge about the specifics of the commenter's ''operator's standard practices.'' Therefore, no change to the final rule is necessary with regard to this point. However, paragraph (d) of the final rule does provide operators the opportunity to apply for an alternative method of compliance, such as the use of ''operator's standard practices.''

The FAA does not agree with the commenter's request to include a statement that, ''if the damaged strip is S3–261, replace it per [paragraph (b)(1) of the AD].'' Although the commenter's suggested wording may eliminate a step in the work instructions, we have determined that the procedures specified in the revised service bulletin address this concern.

The FAA does not agree with the commenter's request to include a defined repair, developed by Boeing, in paragraph (a)(5) of the NPRM for cases where the SRM does not cover the damage. We find that repair of damaged structure is necessary, since such damage could lead to further unsafe conditions. Also, if the service bulletin does not cover every aspect of the structural repair, we cannot rely on an unknown engineering support process of the airlines. However, we have issued a notice (N 8110.72, dated March 30, 1998), which provides guidance for delegating authority to certain type certificate holder structural designated engineering representatives (DER) to approve alternative methods of compliance for AD-required repairs and modifications of individual airplanes. We are currently working with Boeing, Douglas Products Division (DPD), to develop the implementation process for delegation of approval of AMOCs in accordance with that notice. Once this process is implemented, approval authority for alternative methods of compliance can be delegated without revising the AD.

The FAA partially agrees with the commenter's request to revise paragraph (b)(1) of the final rule to require replacement of the installed t-strip with a new terminal strip, P/N HS27212–3–4, no matter what the base thickness, stud, and terminal sizes are. We do not agree to revise paragraph (b)(1) of the final rule. However, we have revised the final rule (paragraph (c)(1)(i)) to include an option to replace the installed t-strip no matter what the base thickness, stud, and terminal sizes are (as referenced in Revision 01 of the service bulletin described above).

The FAA agrees with the commenter's request that the sealing of screw heads of the replaced terminal strips (paragraph 3.B.6 of the referenced service bulletin) should be done per Boeing SWPM Chapter 20–20–03. We have included the correct reference to SWPM Chapter 20–20–03 in new paragraph (c)(1)(i) of the final rule. Revision 01 of the service bulletin (described above) incorrectly references Chapter 20–20–02 of the Boeing SWPM for accomplishing the sealing of the screw heads.

The FAA agrees with the commenter that the continuity test (part of the closing actions) should be done per WDM 29–21–01, not per WDM 24–51–09, as referenced in the NPRM. This change has been made in Revision 01 of the service bulletin (described above).

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 191 Model MD–11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 60 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. Required parts will cost approximately $25 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $5,100, or $85 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 adding the following new airworthiness directive:

2001–17–11 McDonnell Douglas: Amendment 39–12402. Docket 2000–NM–191–AD.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–24A186, dated October 4, 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 arcing damage to the terminal strips and damage to the adjacent structure of the wheel well area of the right main landing gear (MLG), which could result in a fire in the wheel well of the right MLG, accomplish the following:

Inspection and Corrective Actions, If Necessary

(a) Except as provided by paragraph (c) of this AD: Within 18 months after the effective date of this AD, do a general visual inspection to detect arcing damage of the electrical cables leading to the hydraulic pump terminal strips and the surrounding structure in the wheel well area of the right MLG, per McDonnell Douglas Alert Service Bulletin MD11–24A186, dated October 4, 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.''

(1) If no arcing or structure damage is detected during the general visual inspection, before further flight, do the actions specified in paragraph (b) of this AD.

(2) If any arcing damage is detected on any terminal strip, before further flight, replace the damaged terminal strip with a like part, and seal the screw heads of any replaced terminal strip, per the service bulletin.

(3) If any arcing damage is detected on any cable and the damage within the limits specified in the service bulletin, before further flight, repair the arcing damage per the service bulletin, and do the actions specified in paragraph (b) of this AD.

(4) If any arcing damage is detected on any cable and the damage beyond the limits specified in the service bulletin, before further flight, replace the damaged cable with a new cable per the service bulletin, and do the actions specified in paragraph (b) of this AD.

(5) If any structure damage is detected, before further flight, do the actions specified in paragraphs (a)(5)(i) and (a)(5)(ii) of this AD.

(i) Repair the damaged structure per the service bulletin; except if the type of structural material that has been affected is not covered in the Structural Repair Manual (SRM), repair per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

(ii) Do the actions specified in paragraph (b) of this AD.

Follow-on Replacement and Removal of Nameplate, If Necessary

(b) Except as provided by paragraph (c) of this AD: Do the actions specified in paragraphs (b)(1) and (b)(2) of this AD per McDonnell Douglas Alert Service Bulletin MD11–24A186, October 4, 2000.

(1) Replace any terminal strip identified in Table 1 of this AD with a base thickness of 0.445 inches or less that have ¼-inch or larger studs and/or 4 through 000 gauge size terminal lugs with a new terminal strip. Table 1 is as follows:

TABLE 1

Item No.	System	Location
S3–261	Aux hydraulic pump 1	Wheel well of the right MLG (looking forward).

(2) Remove the applicable nameplate in the wheel well of the right MLG.

Alternative Actions for Requirements of Paragraphs (a) and (b) of This AD

(c) In lieu of the requirements of paragraphs (a) and (b) of this AD, as applicable, within 18 months after the effective date of this AD, do the actions specified in paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) For Group 1 airplanes identified in McDonnell Douglas Alert Service Bulletin MD11–24A186, Revision 01, dated May 16, 2001: Do the actions specified in paragraphs (c)(1)(i) and (c)(1)(ii) of this AD, per McDonnell Douglas Alert Service Bulletin MD11–24A186, Revision 01, dated May 16, 2001.

(i) Replace any terminal strip identified in Table 1 of this AD, remove the applicable nameplate in the right MLG wheel well per the service bulletin, and seal the screw heads of any replaced terminal strip per Chapter 20–20–03 of the Boeing Standard Wiring Practices Manual (SWPM).

Note 3: McDonnell Douglas Alert Service Bulletin MD11–24A186, Revision 01, dated May 16, 2001, incorrectly references Chapter 20–20–02 of the Boeing SWPM for accomplishing the sealing of the screw heads; the correct reference is Chapter 20–20–03 of the Boeing SWPM. Where there are differences between the referenced service bulletin and the AD, the AD prevails.

(ii) Do a general visual inspection to detect arcing damage of the electrical cables leading to the hydraulic pump terminal strips and the surrounding structure in the wheel well area of the right MLG, per the service bulletin. If any damage is detected, before further flight, replace damaged component with a new component or repair the damaged component per the service bulletin; except if the type of structural material that has been affected is not covered in the SRM, repair per a method approved by the Manager, Los Angeles ACO, FAA.

(2) For Group 2 airplanes identified in McDonnell Douglas Alert Service Bulletin MD11–24A186, Revision 01, dated May 16, 2001: Do a general visual inspection of the terminal strip to determine if the correct washer is installed, per the service bulletin. If incorrect washer is installed, before further flight, replace washer with a new washer, per the service bulletin.

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 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

(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.

Incorporation by Reference

(f) Except as provided by paragraphs (a)(5)(i), (c)(1)(i), and (c)(1)(ii) of this AD, the actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–24A186, dated October 4, 2000; or

McDonnell Douglas Alert Service Bulletin MD11–24A186, Revision 01, dated May 16, 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

(g) This amendment becomes effective on September 26, 2001.

Issued in Renton, Washington, on August 14, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20938 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–190–AD; Amendment 39–12401; AD 2001–17–10]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes, that currently requires a one-time inspection to detect riding, chafing, or damage of the wire bundles adjacent to the disconnect panel bracket of the observer's station. That AD also requires repair or replacement of damaged wires with new or serviceable wires; installation of anti-chafing sleeving on the wire bundles, if necessary; and installation of a grommet along the entire upper aft edge of the disconnect panel bracket. This amendment requires an identical one-time inspection, follow-on actions, and similar corrective actions, if necessary; but the installation of anti-chafing sleeving will be required for all airplanes. The actions specified by this AD are intended to detect riding or chafing of the wire bundles adjacent to the disconnect panel bracket assembly, which could result in a fire in the wire bundles and smoke in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective September 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 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: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 97–10–12, amendment 39–10024 (62 FR 25839, May 12, 1997), which is applicable to certain McDonnell Douglas Model MD–11 series airplanes, was published in the **Federal Register** on February 20, 2001 (66 FR 10849). The action proposed to require a one-time inspection to detect riding, chafing, or damage of the wire bundles adjacent to the disconnect panel bracket of the observer's station; follow-on actions; corrective actions, if necessary; and installation of anti-chafing sleeving for all airplanes.

Comments

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

Address Change for Obtaining Service Information

The airplane manufacturer states that the referenced department name, number, and mail code of the address for obtaining service information are incorrect in the proposed AD. The correct address is Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). The airplane manufacturer requests that the proposed AD be revised accordingly. The FAA agrees and has revised this address in the final rule.

Clarify Referenced Paragraphs

One commenter notes that the proposed AD refers to paragraph 3.B.2. of the Accomplishment Instructions of the referenced service bulletin for accomplishing the proposed actions. The commenter points out that the referenced service bulletin has two paragraphs 3.B.2 in the Accomplishment Instructions—one for Group 1 and another for Group 2. The commenter requests that the FAA clarify these references.

The FAA agrees. Since additional work is NOT required for Group 2 airplanes, our intent was that the required actions be done per Figures 1, 2, and 3 of the referenced service bulletin, as applicable, which are the appropriate figures indicated in paragraph 3.B.2 of the Accomplishment Instruction for Group 1 airplanes. Therefore, the FAA has revised the final rule to reference Figures 1, 2, and 3, as applicable, rather than paragraph 3.B.2.

Explanation of Change to Applicability Statement

As discussed under the heading ''Differences Between the Proposed AD and Service Bulletin'' in the preamble of the proposed AD, the FAA has consulted with the airplane manufacturer and determined that additional work is NOT required for Group 2 airplanes. As a result of this determination, we excluded Group 2 airplanes in the applicability statement of the proposed AD (i.e., airplanes on which anti-chafing sleeving was installed on the wire bundles per paragraph (a)(1) or (a)(2) of AD 97–10–12). Our intention was to give credit to operators of those airplanes on which the requirements of this AD had been accomplished previously, and that those airplanes continue to be operated per those requirements. However, since issuance of the proposed AD, we recognize that excluding those airplanes in the applicability statement is incorrect, because they would no longer be required to operate per the requirements of this AD. Therefore, we have removed that exclusion from the applicability statement and clarified this

point in a note that states, ''As allowed by the phrase, 'Required as indicated, unless accomplished previously,' if the requirements of AD 97–10–12 have already been accomplished, this AD does not require that those actions be repeated.''

Credit for Previously Installed Grommet

One commenter requests that the FAA revise the proposed rule to specify that operators will be given ''credit'' for having previously accomplished the installation of a protective grommet per AD 97–10–12. The commenter suggests ways of revising the proposed AD to accommodate its request. As discussed above, the FAA has revised the final rule to address this commenter's request.

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 195 Model MD–11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 60 airplanes of U.S. registry will be affected by this AD.

The inspection and installation that are required by this AD action will take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. The cost of required parts will be nominal. Based on these figures, the cost impact of the inspection and installation required by this AD on U.S. operators is estimated to $7,200, or $120 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 39–10024 (62 FR 25839, May 12, 1997), and by adding a new airworthiness directive (AD), amendment 39–12401, to read as follows:

2001–17–10 McDonnell Douglas: Amendment 39–12401. Docket 2000–NM–190–AD. Supersedes AD 97–10–12, Amendment 39–10024.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–24A111, Revision 01, dated July 27, 2000; certificated in any category.

Note 1: As allowed by the phrase, ''Required as indicated, unless accomplished previously,'' if the requirements of AD 97–10–12 have already been accomplished, this AD does not require that those actions be repeated.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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.

Note 3: Where there are differences between the referenced service bulletin and the AD, the AD prevails.

To detect riding or chafing of the wire bundles adjacent to the disconnect panel bracket assembly, which could result in a fire in the wire bundles and smoke in the cockpit, accomplish the following:

General Visual Inspection and Corrective Actions, If Necessary

(a) Within 6 months after the effective date of this AD, perform a general visual inspection to detect riding, chafing, or damage of the wire bundles adjacent to the disconnect panel bracket, per Figure 1 of McDonnell Douglas Alert Service Bulletin MD11–24A111, Revision 01, dated July 27, 2000.

Note 4: 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 droplight, 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) If any riding or chafing is found, and if any damage is found: Before further flight, repair damaged wires; install anti-chafing sleeving on the wire bundles; and install a protective grommet along the entire upper aft edge of the disconnect panel bracket; per Figures 2 and 3 of the service bulletin, respectively.

(2) If any riding or chafing is found, but no damage is found: Before further flight, install anti-chafing sleeving on the wire bundles, and install a protective grommet along the entire upper aft edge of the disconnect panel bracket, per Figures 2 and 3 of the service bulletin, respectively.

(3) If no riding, chafing, or damage is found: Before further flight, install anti-chafing sleeving on the wire bundles, and install a protective grommet along the entire upper aft edge of the disconnect panel bracket, per Figures 2 and 3 of the service bulletin, respectively.

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

Special Flight 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 MD11–24A111, Revision 01, dated July 27, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from 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 September 26, 2001.

Issued in Renton, Washington, on August 14, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20937 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–189–AD; Amendment 39–12400; AD 2001–17–09]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 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 MD–11 series airplanes, that requires an inspection of the upper avionics circuit breaker panel at the main observer's station to detect damage of the wires and to verify the correct routing of the wire bundles; corrective actions, if necessary; and installation of a new clamp, spacer, and sta-straps. This action is necessary to prevent chafing in the upper avionics circuit breaker panel of the main observer's station, which could result in arcing and consequent smoke and/or fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective September 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 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: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; 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 MD–11 series airplanes was published in the **Federal Register** on February 20, 2001 (66 FR 10851). That action proposed to require an inspection of the upper avionics circuit breaker panel at the main observer's station to detect damage of the wires and to verify the correct routing of the wire bundles; corrective actions, if necessary; and installation of a new clamp, spacer, and sta-straps.

Comments

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

Address Change for Obtaining Service Information

The airplane manufacturer states that the referenced department name, number, and mail code of the address for obtaining service information are incorrect in the proposed AD. The correct address is Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). The airplane manufacturer requests that the proposed AD be revised accordingly. The FAA agrees and has revised this address in the final rule. 1

Revise Requirements of Paragraph (a)(1)(ii) of Proposed AD

One commenter requests that the requirements for adjusting the wire routing (i.e., loosening of clamps and replacing sta-straps) specified in paragraph (a)(1)(ii) of the proposed AD be deleted, and that a requirement to install individual spacers or sleeves be added. The commenter states that the adjustment cannot be done according to the drawings as recommended in the referenced service bulletin without a big expenditure of work. The commenter also states that the adjustment may cause disruption of the wire bundles and introduce new possibilities for wire chafing.

The FAA does not agree. We find that adjusting the wire routing, as required by paragraph (a)(1)(ii) of the AD, further minimizes the possibility of wire damage and adequately addresses the identified unsafe condition. However, under the provision of paragraph (b) of the final rule, we may consider requests for approval of an alternative method of compliance if sufficient data are submitted to substantiate that such a design change would provide an acceptable level of safety.

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 change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 185 Model MD–11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 59 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the airplane manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $17,700, 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 adding the following new airworthiness directive:

2001–17–09 McDonnell Douglas: Amendment 39–12400. Docket 2000–NM–189–AD.

Applicability: Model MD–11 series airplanes, as listed in Boeing Alert Service Bulletin MD11–24A179, Revision 01, dated October 31, 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 in the upper avionics circuit breaker panel of the main observer's station, which could result in arcing and consequent smoke and/or fire in the cockpit, accomplish the following:

Inspection, Installation, and Corrective Actions, If Necessary

(a) Within 6 months after the effective date of this AD, do the action(s) specified in paragraphs (a)(1) and (a)(2) of this AD per Boeing Alert Service Bulletin MD11–24A179, Revision 01, dated October 31, 2000.

(1) A general visual inspection of the upper avionics circuit breaker panel at the main observer's station to detect damage of the wires and to verify the correct routing of the wire bundles.

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 droplight, 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.''

(i) If any damaged wire is found, before further flight, repair it or replace it with new wiring.

(ii) If any incorrect wire routing is found, before further flight, loosen clamps and replace the sta-straps with new sta-straps.

(2) Install a new clamp to the AES9101 wire bundle and wire support bar, and install a new spacer and sta-straps.

Note 3: Accomplishment of the actions specified in Boeing Alert Service Bulletin MD11–24A179, dated August 10, 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 Boeing Alert Service Bulletin MD11–24A179, Revision 01, including Appendix A, dated October 31, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from 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 September 26, 2001.

Issued in Renton, Washington, on August 14, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20936 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–188–AD; Amendment 39–12399; AD 2001–17–08]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 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 MD–11 series airplanes, that requires performing a general visual inspection to detect chafing or damage of the parallel power feeder cables of the number 2 integrated drive generator (IDG); repairing any chafed cable and damaged structure; and repositioning the parallel power feeder cables of the number 2 IDG. This action is necessary to prevent chafing and arcing of the parallel feeder cables of the number 2 IDG, which could result in smoke and/or fire in the right aft galley area. This action is intended to address the identified unsafe condition.

DATES: Effective September 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 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: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; 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 MD–11 series airplanes was published in the **Federal Register** on February 20, 2001 (66 FR 10853). That action proposed to require performing a general visual inspection to detect chafing or damage of the parallel power feeder cables of the number 2 integrated drive generator (IDG); repairing any chafed cable and damaged structure; and repositioning the parallel power feeder cables of the number 2 IDG.

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.

Address Change for Obtaining Service Information

The airplane manufacturer states that the referenced department name, number, and mail code of the address for obtaining service information are incorrect in the proposed AD. The correct address is Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). The airplane manufacturer requests that the proposed AD be revised accordingly. The FAA agrees and has revised this address in the final rule.

Conclusion

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

Cost Impact

There are approximately 64 Model MD–11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 14 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $3,360, or $240 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 adding the following new airworthiness directive:

2001–17–08 McDonnell Douglas: Amendment 39–12399. Docket 2000–NM–188–AD.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–24A157, dated August 10, 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 and arcing of the parallel feeder cables of the number 2 integrated drive generator (IDG), which could result in smoke and/or fire in the right aft galley area, accomplish the following:

Inspection

(a) Within 6 months after the effective date of this AD, do a general visual inspection to detect chafing or damage of the parallel power feeder cables of the number 2 IDG, per McDonnell Douglas Alert Service Bulletin MD11–24A157, dated August 10, 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 droplight, 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 and No Structure Damage)

(1) If no chafing and damage is detected, before further flight, reposition the parallel power feeder cables of the number 2 IDG, per the service bulletin.

Condition 2 (Chafing or Structure Damage)

(2) If any chafing or damage is detected, before further flight, repair the chafed cable and damaged structure, as applicable, and reposition the parallel power feeder cables of the number 2 IDG, per 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, 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 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 MD11–24A157, dated August 10, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from 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 September 26, 2001.

Issued in Renton, Washington, on August 14, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20935 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–187–AD; Amendment 39–12398; AD 2001–17–07]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 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 MD–11 series airplanes, that requires replacement of the insulation blankets of the forward and center cargo compartments in the area of the cargo control units (CCU) with new insulation blankets. This action is necessary to protect against electrical failures in the CCUs, which could result in sparks or flame in the CCU container and lead to fire in the insulation blanket or adjacent equipment. This action is intended to address the identified unsafe condition.

DATES: Effective September 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 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: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; 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 MD–11 series airplanes was published in the **Federal Register** on February 20, 2001 (66 FR 10855). That action proposed to require replacement of the insulation blankets of the forward and center cargo compartments in the area of the cargo control units (CCU) with new insulation blankets.

Comments

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

Address Change for Obtaining Service Information

The airplane manufacturer states that the referenced department name, number, and mail code of the address for obtaining service information are incorrect in the proposed AD. The correct address is Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). The airplane manufacturer requests that the proposed AD be revised accordingly. The FAA agrees and has revised this address in the final rule.

Delay Issuance of Final Rule

One commenter requests that the FAA delay issuance of the final rule until an on aircraft verfication has been performed. The FAA does not agree. To delay this final rule would be inappropriate, since we have determined that an unsafe condition exists and that the insulation blankets must be replaced to ensure continued safety.

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 change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 91 Model MD–11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 22 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the airplane manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $3,960, or $180 per airplane.

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

2001–17–07 McDonnell Douglas: Amendment 39–12398. Docket 2000–NM–187–AD.

Applicability: Model MD–11 series airplanes, as listed in Boeing Alert Service Bulletin MD11–25A244, Revision 01, dated October 31, 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 protect against electrical failures in the cargo control units (CCU), which could result in sparks or flame in the CCU container and lead to fire in the insulation blanket or adjacent equipment, accomplish the following:

Replacement

(a) Within 6 months after the effective date of this AD, replace the insulation blankets of the forward and center cargo compartments in the area of the CCU's with new insulation blankets, per Boeing Alert Service Bulletin MD11–25A244, dated August 10, 2000, or Revision 01, dated October 31, 2000. Insulation blankets made from metallized polyethyleneteraphthalate (MPET) may not be used.

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 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 Boeing Alert Service Bulletin MD11–25A244, dated August 10, 2000; or Boeing Alert Service Bulletin MD11–25A244, Revision 01, dated October 31, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from 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 September 26, 2001.

Issued in Renton, Washington, on August 14, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20934 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–186–AD; Amendment 39–12397; AD 2001–17–06]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 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 MD–11 series airplanes, that requires replacement of the cargo roller circuit breakers with new circuit breakers, and reidentification of the aft circuit breaker panel; as applicable. This action is necessary to prevent possible overheating of cargo control unit components, which could result in smoke and/or fire in the cargo compartment. This action is intended to address the identified unsafe condition.

DATES: Effective September 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 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: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; 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 MD–11 series airplanes was published in the **Federal Register** on February 20, 2001 (66 FR 10857). That action proposed to require replacement of the cargo roller circuit breakers with new circuit breakers, and reidentification of the aft circuit breaker panel; as applicable.

Comments

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

Address Change for Obtaining Service Information

The airplane manufacturer states that the referenced department name, number, and mail code of the address for obtaining service information are incorrect in the proposed AD. The correct address is Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). The airplane manufacturer requests that the proposed AD be revised accordingly. The FAA agrees and has revised this address in the final rule.

Delay Issuance of Final Rule

One commenter requests that the FAA delay issuance of the final rule until an on-aircraft verfication has been performed. The FAA does not agree. To delay this final rule would be inappropriate, since we have determined that an unsafe condition exists and that an inspection must be conducted to ensure continued safety.

Replace With Arc Fault Detection Circuit Breakers

One commenter states that the requirements of the proposed AD are acceptable, but questions the effectiveness of installing a smaller circuit breaker to protect a component. Based on lessons learned over the last two years related to the development of arc fault detection of circuit breakers, the commenter states that it seems unlikely that changing the size of the circuit breaker will be adequate in preventing further incidents of electrical failures in the cargo control unit (CCU) that have resulted in sparks or flame exiting the CCU.

From these comments, the FAA infers that the commenter is requesting that the thermal circuit breakers be replaced with arc fault detection circuit breakers, rather than 5 amp thermal circuit breakers. The FAA does not agree. The FAA agrees that replacing 10 amp circuit breakers with 5 amp circuit breakers will not prevent all incidents of electrical failures in the CCU, which could result in sparks or flames. We also agree that arc fault detection of circuit breakers may provide additional protection to the existing thermal blankets. However, these circuit breakers are currently in the research and development phase. Industry has not published a set of performance requirements for such circuit breakers, and the FAA has not approved their installation. Although installation of these circuit breakers in the future may increase the effectiveness of circuit protection, the 5 amp thermal circuit breakers do protect the wiring against many types of electrical faults. Therefore, we have determined that replacing 10 amp circuit breakers with 5 amp thermal circuit breakers will further minimize the possibility of incidents of electrical failures in the CCU. No change to the final rule is necessary with regard to this point.

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 change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 104 Model MD–11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 24 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the airplane manufacturer at no cost to the operators. Based on these figures, the cost impact

of the AD on U.S. operators is estimated to be $2,880, or $120 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 adding the following new airworthiness directive:

2001–17–06 McDonnell Douglas: Amendment 39–12397. Docket 2000–NM–186–AD.

Applicability: Model MD–11 series airplanes, as listed in Boeing Alert Service Bulletin MD11–24A189, dated June 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 (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 possible overheating of cargo control unit (CCU) components, which could result in smoke and/or fire in the cargo compartment, accomplish the following:

Replacement or Reidentification

(a) Within 6 months after the effective date of this AD, do the applicable actions specified in paragraphs (a)(1) and (a)(2) of this AD per Boeing Alert Service Bulletin MD11–24A189, dated June 22, 2000.

(1) For airplanes identified as Group 1 and Group 2 in the service bulletin: Replace the cargo roller circuit breakers with new circuit breakers.

(2) For airplanes identified as Group 2 in the service bulletin: Reidentify the aft circuit breaker panel.

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 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 Boeing Alert Service Bulletin MD11–24A189, dated June 22, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from 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 90712; 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 September 26, 2001.

Issued in Renton, Washington, on August 14, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20933 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–185–AD; Amendment 39–12396; AD 2001–17–05]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 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 MD–11 series airplanes, that requires a one-time general visual inspection of the electrical wiring of the right side of the cockpit to determine if the electrical wiring is chafing against the observer station and to detect damaged wires; and corrective actions, if necessary. This action is necessary to prevent chafing and damage to electrical wires of the cockpit and consequent electrical arcing due to wires that were routed improperly during production of the airplane, which could result in fire and smoke in the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective September 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 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: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; 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 MD–11 series airplanes was published in the **Federal Register** on February 20, 2001 (66 FR 10858). That action proposed to require a one-time general visual inspection of the electrical wiring of the right side of the cockpit to determine if the electrical wiring is chafing against the observer station and to detect damaged wires; and corrective actions, if necessary.

Comments

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

Address Change for Obtaining Service Information

The airplane manufacturer states that the referenced department name, number, and mail code of the address for obtaining service information are incorrect in the proposed AD. The correct address is Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). The airplane manufacturer requests that the proposed AD be revised accordingly. The FAA agrees and has revised this address in the final rule.

Delay Issuance of Final Rule

One commenter requests that the FAA delay issuance of the final rule until an on-aircraft verfication has been performed. The FAA does not agree. To delay this final rule would be inappropriate, since we have determined that an unsafe condition exists and that an inspection must be conducted to ensure continued operational safety.

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 change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 148 Model MD–11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 43 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 inspection, and that the average labor rate is $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 $2,580, 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, 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:

2001–17–05 McDonnell Douglas: Amendment 39–12396. Docket 2000–NM–185–AD.

Applicability: Model MD–11 series airplanes, as listed in Boeing Alert Service Bulletin MD11–24A117, dated May 18, 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 chafing and damage to electrical wires of the cockpit and consequent electrical arcing due to wires that were routed improperly during production of the airplane, which could result in fire and smoke in the airplane, accomplish the following:

One-Time General Visual Inspection

(a) Within 6 months after the effective date of this AD, do a one-time general visual inspection of the electrical wiring of the right side of the cockpit to determine if the electrical wiring is chafing against the observer station and to detect damaged wires, per Boeing Alert Service Bulletin MD11–24A117, dated May 18, 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 droplight, 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)

(b) If all electrical wires are found not to be chafing against the observer station during the inspection required by paragraph (a) of this AD, no further action is required by this AD.

Condition 2 (Chafing and No Wire Damage)

(c) If any electrical wire is found to be chafing against the observer station and if no wire is found damaged during the inspection required by paragraph (a) of this AD, before further flight, loosen the wire clamps, reposition the wires, and tighten the wire clamps, per Boeing Alert Service Bulletin MD11–24A117, dated May 18, 2000.

Condition 3 (Chafing and Wire Damage)

(d) If any electrical wire is found to be chafing against the observer station and if any wire is found damaged during the inspection required by paragraph (a) of this AD, before further flight, do the action specified in paragraph (d)(1) or (d)(2) of this AD, as applicable, AND do the action specified in paragraph (d)(3) of this AD; per Boeing Alert Service Bulletin MD11–24A117, dated May 18, 2000.

(1) For damage within repairable limits: Repair damaged insulation.

(2) For damage outside repairable limits: Replace damaged wires with new wires.

(3) Loosen the wire clamps, reposition the wires, and tighten the wire clamps.

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 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

(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.

Incorporation by Reference

(g) The actions shall be done in accordance with Boeing Alert Service Bulletin MD11–24A117, dated May 18, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from 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

(h) This amendment becomes effective on September 26, 2001.

Issued in Renton, Washington, on August 14, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20932 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AWP–17]

Establishment of a Class E Enroute Domestic Airspace Area, Kingman, AZ

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule; Confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which establishes a Class E enroute domestic airspace area beginning at 1,200 feet above ground level (AGL) in the vicinity of Kingman, AZ and replaces existing Class G uncontrolled airspace.

EFFECTIVE DATE: 0901 UTC September 6, 2001.

ADDRESSES: Send comments on the direct final rule effective date in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 01–AWP–17, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Air Traffic Division, Airspace Specialist, AWP–520.10, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION: On June 18, 2001, the FAA published in the **Federal Register** a direct final rule; request for comments, which established a Class E enroute domestic airspace area beginning at 1,200 feet above ground level in the vicinity of Kingman, AZ (FR Document 01–4680, 66 FR 32731, Airspace Docket No. 01–AWP–17). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on September 6, 2001. No adverse comments were received; therefore this document confirms that this direct final rule will become effective 0901 UTC, on September 6, 2001.

Issued in Los Angeles, California, on August 8, 2001.

Dawna J. Vicars,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01–21166 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AWP–16]

Establishment of a Class E Enroute Domestic Airspace Area, Las Vegas, NV

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which establishes a Class E enroute domestic airspace area beginning at 1,200 feet above ground level (AGL) in the vicinity of Las Vegas, NV and replaces existing Class G uncontrolled airspace.

EFFECTIVE DATE: 0901 UTC September 6, 2001.

ADDRESSES: Send comments on the direct final rule effective date in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 01–AWP–16, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Air Traffic Division, Airspace Specialist, AWP–520.10, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION: On June 18, 2001, the FAA published in the **Federal Register** a direct final rule; request for comments, which established a Class E enroute domestic airspace area beginning at 1,200 feet above ground level in the vicinity of Las Vegas, NV (FR Document 01–4680, 66 FR 32732, Airspace Docket No. 01–AWP–16). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on September 6, 2001. No adverse comments were received; therefore this document confirms that this direct final rule will become effective 0901 UTC, on September 6, 2001.

Issued in Los Angeles, California, on August 8, 2001.

Dawna J. Vicars,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01–21167 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. FAA–2000–7119; Amendment No. 121–281 and 135–80]

RIN 2120–AG89

Emergency Medical Equipment; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action makes three changes to clarify final rule preamble language and one change to clarify the numbering sequence of the regulatory language published in the April 12, 2001, **Federal Register** [66 FR 19028]. This final rule action addresses enhancements to air carrier emergency medical equipment and instruction for crewmembers.

DATES: Effective on August 22, 2001.

FOR FURTHER INFORMATION CONTACT: Judi Citrenbaum, 202–267–9689, AAM–210, Aeromedical Standards, Office of Aviation Medicine.

Correction

In the final rule, FR Doc. 01–8932, published on April 12, 2001, [66 FR 19028] make the following corrections:

1. In the preamble, on page 19028, in the third column; under ''Comments Received'', line 9, remove the sentence: ''These comments state that this passenger had been diagnosed with hypertrophic cardiomyopathy [1] a few months prior to the flight and that, if an AED had been on board, it may have saved his life.'', and add, in its place, the following sentences, to read as follows: ''After his death it was learned that the passenger had hypertrophic cardiomyopathy. [1] Commenters state that, if an AED had been on board, it may have saved his life.''

2. In the preamble, on page 19029, in the second column under ''FAA response'', in paragraph 3, remove the last sentence, and add, in its place, the following sentences, to read as follows: ''The FAA recommends that new AED's powered by lithium batteries to be placed on an aircraft would have to comply with TSO–C142. AED's powered by batteries approved under TSO–C97 currently placed on aircraft may continue to use these earlier approved batteries until replacement when they will be required to be approved under TSO–C142.''

3. In the preamble, on page 19042, in the third column under ''Regulatory Flexibility Determination'', in paragraph 2, line 9, remove the words ''and more''.

4. On page 19045 remove amendatory instruction numbers ''12.'' and ''13.'' and add, in their place, ''11.'' and ''12.''

Issued in Washington, DC on August 16, 2001.

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 01–21165 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–047]

RIN 2115–AE46

Special Local Regulations for Marine Events; Bush River, Abingdon, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations during the Harford County Power Boat Regatta to be held on the waters of the Bush River near Abingdon, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Bush River during the event.

DATES: This rule is effective from 11:30 a.m. eastern time on September 1, 2001 until 6:30 p.m. eastern time on September 3, 2001.

ADDRESSES: Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of

docket CGD05–01–047 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dulani Woods, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, telephone number (410) 576–2513.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. In keeping with 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The high-speed power boat races will take place on September 1 and 2, 2001. The special local regulations are necessary to provide for the safety of event participants, support vessels, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. In addition, advance notifications will be made via the Local Notice to Mariners, marine information broadcasts, and area newspapers.

Background and Purpose

On September 1 and 2, 2001, the Harford County Power Boat Club will sponsor the Harford County Power Boat Regatta on the waters of the Bush River, near Abingdon, Maryland. The event will consist of 60 hydroplanes and runabouts racing in heats counter-clockwise around an oval racecourse. A fleet of spectator vessels is anticipated. Due to the need for vessel control during the races, vessel traffic will be temporarily restricted to provide for the safety of spectators, participants and transiting vessels.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Bush River. The temporary special local regulations will be in enforced from 11:30 a.m. to 6:30 p.m. eastern time on September 1 and 2, 2001, and will restrict general navigation in the regulated area during the event. If the event is postponed due to inclement weather, then the temporary special local regulations will be enforced from 11:30 a.m. to 6:30 p.m. eastern time on September 3, 2001. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. Non-participating vessels will be allowed to transit the event area at minimum wake speed, at the Patrol Commander's discretion. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

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).

Although this regulation prevents traffic from transiting a portion of the Bush River during the event, the effect of this regulation will not be significant due to the limited duration of the regulation, the fact that the Coast Guard Patrol Commander will allow non-participating vessels to transit at minimum wake speed whenever it is safe to do so, and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Bush River during the event.

Although this regulation prevents traffic from transiting or anchoring in a portion of the Bush River during the event, the effect of this regulation will not be significant because of its limited duration, the fact that the Coast Guard Patrol Commander will allow non-participating vessels to transit at minimum wake speed whenever it is safe to do so, and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.**

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

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State law or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

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

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect 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, because it does not have a substantial and direct effect on one or more Indian tribes, on the relationship between the Federal Governments and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

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.

Environment

We prepared an ''Environmental Assessment'' in accordance with Commandant Instruction M16475.1C, and determined that this rule will not significantly affect the quality of the human environment. The ''Environmental Assessment'' and ''Finding of No Significant Impact'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Add a temporary section, § 100.35–T05–047, to read as follows:

§ 100.35–T05–047 Bush River, Abingdon, Maryland.

(a) *Definitions.*

(1) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(2) *Official Patrol.* The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Activities Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant.* Includes all vessels participating in the Harford County Power Boat Regatta under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Activities Baltimore.

(4) *Regulated Area.* Includes the waters of the Bush River bounded on the south by the Amtrak railroad drawbridge, thence northerly from the eastern end of the drawbridge along the shoreline to Church Point at latitude 39°27′48″ N, longitude 76°13′42″ W, thence westerly to Bush Point at latitude 39°27′42″ N, longitude 76°14′30″ W, thence southwesterly along the shoreline to Otter Point at latitude 39°26′48″ N, longitude 76°15′42″ W, thence southerly to Flying Point at latitude 39°26′30″ N, longitude 76°15′30″ W, thence southeasterly along the shoreline to the western end of the Amtrak railroad drawbridge. All coordinates reference Datum: NAD 1983.

(b) *Special local regulations.*

(1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(iii) Unless otherwise directed by the official patrol, operate at a minimum wake speed not to exceed six (6) knots.

(c) *Effective dates.* This section is in effect from 11:30 a.m. eastern time on September 1, 2001 until 6:30 p.m. eastern time on September 3, 2001.

(d) *Enforcement times.* This section will be enforced from 11:30 a.m. to 6:30 p.m. eastern time on September 1 and 2, 2001. If the event is postponed due to rain, this section will be enforced from 11:30 a.m. until 6:30 p.m. eastern time on September 3, 2001.

Dated: August 8, 2001.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–21183 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Chapter I

RIN 2900–AK46

Veterans Benefits Administration Nomenclature Changes

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document makes nomenclature changes in VA regulations in 38 CFR Chapter I to reflect current Veterans Benefits Administration titles and office designations. References to the ''Chief Benefits Director'' are changed to ''Under Secretary for Benefits.'' Also, references to ''Vocational Rehabilitation and Counseling'' and its abbreviation ''VR&C'' are changed to ''Vocational Rehabilitation and Employment'' and ''VR&E,'' respectively. In addition, references to the ''Vocational Rehabilitation and Education Service'' are changed to ''Vocational Rehabilitation and Employment Service'' or ''Education Service'' as appropriate.

DATES: Effective date: August 22, 2001.

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Assistant Director for Policy and Program Development, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 202–273–7187.

SUPPLEMENTARY INFORMATION: This final rule merely reflects agency organization.

Accordingly, we are dispensing with prior notice and comment and a delayed effective date under the provisions of 5 U.S.C. 553.

The Secretary of Veterans Affairs hereby certifies that this 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. 601–602, since this final rule does not contain any substantive provisions. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the regulatory flexibility analyses requirements of sections 603 and 604.

Approved: July 11, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, under 38 U.S.C. 501 and ch. 31, 38 CFR chapter I is amended as set forth below.

CHAPTER I—DEPARTMENT OF VETERANS AFFAIRS

1. In chapter I, revise all references to ''Chief Benefits Director'' to read ''Under Secretary for Benefits''.

2. In chapter I, revise all references to ''Vocational Rehabilitation and Counseling'' to read ''Vocational Rehabilitation and Employment''.

3. In chapter I, revise all references to ''VR&C'' to read ''VR&E''.

§§ 21.4005, 21.4138, 21.4203, 21.4208, 21.4255, and 21.7301 [Amended]

4–5. In §§ 21.4005, 21.4138, 21.4203, 21.4208, 21.4255, and 21.7301, revise all references to ''Vocational Rehabilitation and Education Service'' to read ''Education Service''.

§§ 21.3303, 21.4232, and 21.6410 [Amended]

6. In §§ 21.3303, 21.4232, and 21.6410, revise all references to ''Vocational Rehabilitation and Education Service'' to read ''Vocational Rehabilitation and Employment Service''.

[FR Doc. 01–21136 Filed 8–21–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4141a; FRL–7036–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Determination for Armco Inc., Butler Operations Main Plant and Butler Operations Stainless Plant in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for Armco Inc., Butler Operations Main Plant and Butler Operations Stainless Plant, major sources of nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 9, 2001 without further notice, unless EPA receives adverse written comment by September 21, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mail code 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Michael Ioff at (215) 814–2166, the EPA Region III address above or by e-mail at *ioff.mike@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major volatile organic compounds (VOC) and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; (3) all other major non-CTG rules were due by November 15, 1992. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTG's.

On February 4, 1994, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Pittsburgh area, a major source of VOC is defined as one having the potential to emit 50 tons per year (tpy) or more, and a major source of NO_X is defined as one having the potential to emit 100 tpy or more. Pennsylvania's RACT regulations require sources, in the Pittsburgh area, that have the potential to emit 50 tpy or more of VOC and sources which have the potential to emit 100 tpy or more of NO_X comply with RACT by May 31, 1995. The regulations contain technology-based or operational ''presumptive RACT emission limitations'' for certain major NO_X

sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a ''generic'' RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by-case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; *or* (2) demonstrates that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Pittsburgh area.

On January 21, 1997, PADEP submitted revisions to the Pennsylvania SIP which establish and impose case-by-case RACT for several sources of VOC and/or NO_X. This rulemaking pertains to two of those sources, the Armco Inc., Butler Operations Main Plant and the Armco Inc., Butler Operations Stainless Plant. Remaining sources are or have been the subject of separate rulemakings.

II. Summary of the SIP Revisions

A. Butler Operations Main Plant

The Armco Inc., Butler Operations Main Plant is a producer of flat rolled stainless and silicon steel slabs, sheets, and coils located in Butler, Butler County, Pennsylvania. The facility is not a major VOC emitting source. The facility is a major source of NO_X, and is subject to RACT. The facility's Melt Shop consists of three Electric Arc Furnaces (EAFs), an Argon-Oxygen Decarburization (AOD) vessel, a Vacuum Degasser, five Ladle Preheaters, two Continuous Casters, and various auxiliary equipment. Other installations and processes at the Main Plant include Hot Mill with slab conditioning, Cold Mill, and North/Silicon Processing units with the associated annealing and pickling lines as well as other process/auxiliary equipment. The facility also includes five boilers and a number of preheat/heating/reheat/drying and annealing metallurgical furnaces and heaters. Pennsylvania established NO_X RACT requirements for the facility in a RACT Plan Approval consisting of an operating permit, PA 10–001–M.

(1) Description of the NO_X Emitting Installations and Processes

(a) EAFs at the Melt Shop: The EAFs are used at the facility to melt and refine the charge of metallic scrap, fluxes, and various alloying elements. The sufficient resistive heating is generated inside the refractory-lined furnace vessel by electrical current flowing between the three graphite electrodes and through the metallic charge. In spite of very high temperatures which arise inside the furnace during the melting phase, only modest NO_X formation occurs. This is due to the fact that in the EAF process the generation of NO_X is largely transferred from a steelmaking facility to an electric generating unit at a utility plant where those emissions are controlled.

(b) AOD vessel at the Melt Shop: The AOD vessel is a refractory-lined furnace used in the ladle metallurgical argon-oxygen decarburization process to refine stainless steel outside the EAF. During the oxygen-argon blowing, fluxes and alloy materials are added to the vessel. Immediately after the decarburization blow, molten steel is argon-stirred to achieve the desired chemical and temperature homogenization of the material. The AOD process primarily generates particulate emissions controlled by a baghouse. Waste gases from the process (consisting chiefly of carbon monoxide) are combusted in an open hood above the vessel's mouth producing a relatively small amount of NO_X emissions.

(c) Vacuum Degasser at the Melt Shop: The installation is used to expose molten steel to a low-pressure environment in order to remove gaseous impurities from the steel. In the process, a vessel with molten steel is closed and placed under a slight negative pressure while natural gas-fired burners are keeping the steel in the molten state for processing. Based on the small amount of natural gas used in this operation, the installation does not present a significant source of NO_X emissions.

(d) Continuous Caster at the Melt Shop: The Caster is used to form the molten steel (produced by the EAF and refined in the AOD/Vacuum Degasser) into a solid slab. In the process, molten steel is lifted in a ladle to the top of the casting machine where it poured into a tundish. From the tundish the molten steel flows in the water cooled mold where it formed into the shape of the slab. Modest NO_X emissions are formed around the oxygen cutting torch at the exit of the Caster and during tundish maintenance associated with drying and preheating operations.

(e) Slab Reheat Furnaces at the Hot Mill: The furnaces are used to heat the slabs at a uniform rate to the temperature suitable for hot working and to hold them at that temperature for a specified period of time to impart the desired metallurgical properties for further processing steps. All four furnaces are natural gas-fired units with burners mounted in the roof of each furnace. Each furnace has a natural draft exhaust stack, a combustion blower and equipped with adjustable automatic temperature controls.

(f) Continuous Annealing Furnaces at various locations: Annealing furnaces are natural gas-fired units that are used to refine the steel grain structure, to relief stresses induced by hot or cold working, and to alter the mechanical properties of steel in order to improve its malleability. Heat treatment of stainless steels is conducted at a slow rate and relatively low temperatures to minimize thermal stresses and to avoid distortion and cracking. Annealing makes steel softer and more ductile by controlled heating and cooling.

(g) Continuous Decarburization and Drying Furnaces at Silicon Processing unit: The decarburization furnaces are used to remove residual carbon from silicon (electrical) steel by heating steel in a controlled atmosphere inside the furnace. The drying furnaces are used to cure a Magnesium-Oxide coating applied to the steel surface in order to

produce a ''glass-like'' insulating layer which is required for the electrical applications of the product. The heat is supplied to the process furnaces by radiant tube heat exchangers where the burners are situated at the one end of the tube and the exhaust at the other end of the exchanger. Some of the furnaces are heated by electrical power as well as by natural gas.

(h) Pickling Lines at various locations: Pickling is the process used to remove the superficial scale that is formed on the steel surface during hot rolling, annealing, and cold rolling operations. The pickle tubs on all of the processing lines are covered and each processing line is vented to its own packed bed water scrubber. Steel coils are uncoiled and welded together to form a continuous strip which travels through the pickle tubs (where various acids and water are continuously fed) followed by cold and hot rinse tanks. The overflow from the pickle tubs, the rinse tanks and the acid fume scrubbers are neutralized with lime at the facility's wastewater treatment plant.

(2) Description of the RACT Determinations

The facility generates NO_X emissions from forty-two installations/processes. Pennsylvania has determined that 14 combustion sources comprised of Ladle Preheaters and various metallurgical furnaces with rated heat inputs less than 20 MMBTU/hr are subject to SIP-approved presumptive RACT requirements set forth in 25 Pa. Code Section 129.93.(c)(1). Five of the other twenty-eight sources are natural gas-fired metallurgical furnaces and boilers with rated gross heat inputs less than 50 MMBTU/hr. Pennsylvania has determined that these sources are subject to SIP-approved presumptive RACT requirements set forth in 25 Pa. Code Section 129.93(b)(2). Pennsylvania has also determined that three Miscellaneous small combustion sources are subject to SIP-approved presumptive RACT requirements set forth in 25 Pa. Code Section 129.93.(b)(3). The remaining twenty sources are comprised of the three EAFs, AOD vessel, Vacuum Degasser, Pickling Lines #2, #12, #4 and #23, five Slab Reheat Furnaces, two Annealing Furnaces, and four boilers. A case-by-case detailed RACT analysis was performed for those twenty installations/processes. Pennsylvania's determinations of NO_X RACT requirements are based on the analysis of whether or not the evaluated control technologies were economically and technically feasible options in each particular application. The following is the summary of Pennsylvania's RACT determinations.

(a) PA 10–001–M requires that the NO_X emission limit for the inlet of the baghouse No. 3 serving the Melt Shop shall not exceed 75 lb/hr. This baghouse controls emissions from the EAFs, Casters, argon stirring station, ladle preheaters, and miscellaneous combustion sources. The permit also requires monitoring of the specified NO_X emission limit by implementing an annual stack testing program.

(b) PA 10–001–M requires that the average NO_X emission rate of pickle lines #2, #4, #12, #23 shall not exceed 1.0 lb/ton. The permit also requires monitoring of the specified NO_X emission limit by implementing an annual stack testing program.

(c) PA 10–001–M requires AOD vessel; Vacuum Degasser; #1–6 ladle preheaters; #2–3 Continuous Caster; #20 and #26 Carlite; #1, #6, #11, #19 Decarburization and Drying furnaces, and CRNO Dryer to comply with the requirements of 25 PA Code Section 129.93(c)(1). In addition, Pennsylvania requires the sources to be operated in accordance with good air pollution control practices.

(d) PA 10–001–M requires annealing furnaces #2, #4, #7, and #12, CRNO furnace, and #19/20 Boiler to comply with the requirements of 25 PA Code Section 129.93(b)(3). In addition, Pennsylvania requires the sources to be operated in accordance with good air pollution control practices.

(e) PA 10–001–M limits annual fuel consumption for four Slab Reheat Furnaces and four boilers to a specified volume of natural gas expressed in thousand cubic feet per year for each installation.

All annual limits must be met on a rolling monthly basis over every consecutive 12-month period. PA 10–001–M imposes requirements for conducting the annual stack test programs including notification of the test, pre-approval of the stack test procedures, the number of tests, their duration, and post-test reporting requirements.

B. Butler Operations Stainless Plant

The Armco Inc., Butler Operations Stainless Plant is a processor of intermediate and final gauge 300 and 400 series stainless steel located in Butler, Butler County, Pennsylvania. The facility is not a major VOC emitting source. The facility is a major source of NO_X and is subject to RACT. The facility consists of #22 Annealing Furnace, #22 Pickling Line and #13/#14 Boiler. Pennsylvania established NO_X RACT requirements for the facility in a RACT Plan Approval consisting of an operating permit, PA 10–001–S.

(1) Description of the NO_X Emitting Installations and Processes

The Butler Operations Stainless Plant is a finishing facility. The semi-finished products supplied by the Main Plant are annealed and pickled at the facility. The NO_X emitting sources include #22 Annealing Furnace, #22 Pickling Line, and #13/#14 Boiler. The description of the NO_X emitting installations and processes provided for the Main Plant, above, also describe those at Butler Operations Stainless Plant.

(2) Description of the RACT Determinations

(a) #13/#14 Boiler: The installation has a rated heat input of 21 MMBTU/hr. Pennsylvania has determined that this source is subject to the SIP-approved presumptive RACT emission limitations in 25 Pa. Code Section 129.93(b)(2).

(b) #22 Annealing Furnace: The installation has a rated heat input of 68 MMBTU/hr. Pennsylvania determined that NO_X RACT for the #22 Annealing Furnace is compliance with the SIP-approved requirements of 25 PA Code Section 129.93(b)(3) and operation/maintenance of the furnace in accordance with good air pollution control practice.

(c) #22 Pickling Line: Pennsylvania determined NO_X RACT for the #22 Pickling Line to be improvements to the water-based scrubber technology which was already in place. To this end, PA 10–001–S requires the facility to install/maintain the instrumentation to monitor water flow rates and scrubber pressure drops. In addition, Pennsylvania limits NO_X emissions from the #22 Pickling Line to 1.6 lb/ton and requires monitoring of this NO_X emission limit by implementing an annual stack testing program. PA 10–001–M imposes requirements for conducting the annual stack test programs including notification of the test, pre-approval of the stack test procedures, the number of tests, their duration, and post-test reporting requirements.

IV. Final Action

EPA is approving PA 10–001–M and PA 10–001–S, issued by PADEP to the Armco Inc., Butler Operations Main Plant and Armco Inc., Butler Operations Stainless Plant, respectively, as revisions to the Pennsylvania SIP. The permits were submitted by PADEP to establish and impose NO_X RACT for Armco Inc., Butler Operations Main and Stainless Plant, major sources located in the Pittsburgh area. EPA is publishing

this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 9, 2001 without further notice unless EPA receives adverse comment by September 21, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This 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 approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for two named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 22, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control NO_X from the Armco Inc., Butler Operations Main Plant and Armco Inc., Butler Operations Stainless Plant may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen Oxides, Ozone, Reporting and recordkeeping requirements.

Dated: August 8, 2001.

Thomas C. Voltaggio,

Deputy Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(175) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(175) Revisions pertaining to NO_X RACT determinations for the Armco Inc., Butler Operations Main Plant and Armco Inc., Butler Operations Stainless Plant, submitted by the Pennsylvania

Department of Environmental Protection on January 21, 1997.

(i) Incorporation by reference.

(A) Letter submitted on January 21, 1997 by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT plan approvals in the form of permits.

(B) Permit Number: PA 10–001–M, effective February 23, 1996, for the Armco Inc., Butler Operations Main Plant in Butler, Butler County.

(C) Permit Number: PA 10–001–S, effective February 23, 1996, for the Armco Inc., Butler Operations Stainless Plant in Butler, Butler County.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determination for the sources listed in (i)(B) and (C), above.

[FR Doc. 01–21150 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4147a; FRL–7040–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Requirements for Four Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) related requirements to limit nitrogen oxides (NO_X) from four sources. These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 9, 2001 without further notice, unless EPA receives adverse written comment by September 21, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814–2182, the EPA Region III address above or by e-mail at *quinto.rose@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are:

(1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment;

(2) All sources covered by a CTG issued prior to November 15, 1990; and

(3) All major non-CTG sources. The regulations imposing RACT for these non-CTG major sources were to be submitted to EPA as SIP revisions by November 15, 1992 and compliance required by May of 1995.

The Pennsylvania SIP already includes approved RACT regulations for all sources and source categories covered by the CTGs. On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Pittsburgh area, a major source of VOC is defined as one having the potential to emit 50 tons per year (tpy) or more, and a major source of NO_X is defined as one having the potential to emit 100 tpy or more. Pennsylvania's RACT regulations require sources, in the Pittsburgh area, that have the potential to emit 50 tpy or more of VOC and sources which have the potential to emit 100 tpy or more of NO_X comply with RACT by May 31, 1995. The regulations contain technology-based or operational ''presumptive RACT emission limitations'' for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a ''generic'' RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; *or* (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/ NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that

Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Pittsburgh area.

It must be noted that the Commonwealth has adopted and is implementing additional ''post RACT requirements'' to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. EPA expects to publish the final rulemaking in the **Federal Register** in the near future. Federal approval of a case-by-case RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

II. Summary of the SIP Revisions

On July 1, 1997, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT and RACT-related requirements for several major sources of VOC and/or NO_X. This rulemaking pertains to four of those sources for their NO_X emissions. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of plan approval and agreement upon consent orders (consent Orders or COs) and an enforcement order (EO) issued by the Allegheny County Health Department (ACHD). The PADEP submitted these COs and EO to EPA, on behalf of ACHD, as SIP revisions. These four sources are located in the Pittsburgh area.

A. General Motors Corporation

General Motors Corporation (GMC) is an automotive parts manufacturing facility located in West Mifflin, Allegheny County, Pennsylvania. GMC had the potential to emit more than 100 tons per year (tpy) of NO_X. In this instance, the ACHD issued CO 243 to GMC. On July 1, 1997, PADEP submitted CO 243 to EPA on behalf of the ACHD as a SIP revision. CO 243 requires GMC not to exceed annual NO_X emissions of 99 tons per year, and also not to exceed the combined actual heat input to boilers number 1 and 2 of 355,651 MMBTUs/year. For the annual limits imposed in CO 243 to meet EPA's Federal enforceability criteria for limiting this source's potential to emit below the major source threshold, the annual limits imposed in CO 243 must be met on a rolling monthly basis over every consecutive 12 month period. Under CO 243, GMC must maintain records to demonstrate compliance with this CO and Article XXI, section 2105.06. Records shall include, but not be limited to the fuel type and amount of fuel usage for boilers number 1 and 2. All records shall be retained for at least two years.

B. Oakmont Steel, Inc.

Oakmont Steel, Inc. (OSI) is a steel production facility located in Oakmont, Allegheny County, Pennsylvania. OSI had the potential to emit more than 100 tpy of NO_X. In this instance, the ACHD issued CO 226 to OSI. On July 1, 1997, PADEP submitted CO 226 to EPA on behalf of the ACHD as a SIP revision. CO 226 requires OSI's annual NO_X emissions not to exceed 100 tons per year. For the annual limits imposed in CO 226 to meet EPA's Federal enforceability criteria for limiting this source's potential to emit below the major source threshold, the annual limits imposed in CO 226 must be met on a rolling monthly basis over every consecutive 12 month period. Under CO 226, OSI must maintain records to demonstrate compliance with this CO and Article XXI, section 2105.06. Records shall include the fuel type and fuel usage for the facility. All records shall be retained for at least two years.

C. The Peoples Natural Gas, Co.

The Peoples Natural Gas, Co. (PNG) is a natural gas compressor station located in Plum Borough, Allegheny County, Pennsylvania. PNG had the potential to emit more than 100 tpy of NO_X. In this instance, the ACHD issued CO 240 to PNG. On July 1, 1997, PADEP submitted CO 240 to EPA on behalf of the ACHD as a SIP revision. CO 240 requires PNG not to exceed the annual NO_X emissions of 95 tons per year. For the annual limits imposed in CO 240 to meet EPA's Federal enforceability criteria for limiting this source's potential to emit below the major source threshold, the annual limits imposed in CO 240 must be met on a rolling monthly basis over every consecutive 12 month period. Under CO 240, PNG must maintain records to demonstrate compliance with this CO and Article XXI, section 2105.06. Records shall include, but not limited to the fuel type and amount of fuel usage per engine, and the hours of operation of the engine. All records shall be retained for at least two years.

D. U.S. Bureau of Mines

U.S. Bureau of Mines (USBM) is a power manufacturing facility located in Pittsburgh, Allegheny County, Pennsylvania. USBM is a major NO_X emitting facility. In this instance, RACT has been established and imposed by ACHD in EO 215. On July 1, 1997, PADEP submitted this EO 215 to EPA on behalf of the ACHD as a SIP revision. EO 215 requires USBM not to allow the operating hours and NO_X emissions from the subject equipment to exceed the following limitations:

Unit	Annual operating hours	NO_X emissions	
		lbs/MMBTU	Tons/year
Boiler #1	6797	0.29	64.8
Boiler #3	6797	0.13	12.6
Boiler #4	6797	0.13	12.6

Unit	Annual operating hours	NO_X emissions	
		lbs/MMBTU	Tons/year
Total annual limits	20,391	.....	90.0

Under EO 215, USBM must maintain records to demonstrate compliance with this EO and Article XXI, section 2105.06. The annual limits imposed in EO 215 must be met on a rolling monthly basis over every consecutive 12 month period. Records shall include certifications from fuel suppliers for all types of fuel and for each shipment of distillate oils number 1 or 2; and a certification that the fuel complies with ASTM D396–78, ''Standard Specifications for Fuel Oils''. All records shall be retained for at least two years. USBM shall operate and maintain all process and emission control equipment according to good engineering practice.

III. EPA's Evaluation of the SIP Revisions

EPA is approving these SIP submittals because ACHD established and imposed requirements in accordance with the criteria set forth in SIP-approved regulations for imposing RACT or for limiting a source's potential to emit. The ACHD has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with these requirements.

IV. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP on behalf of ACHD to reduce NO_X from four sources located in the Pittsburgh area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 6, 2001 without further notice unless EPA receives adverse comment by September 21, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This 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 approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not

required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for four named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 22, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific requirements to control NO_X from four individual sources in Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen Oxides, Ozone, Reporting and recordkeeping requirements.

Dated: August 14, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(181) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(181) Revisions pertaining to NO_X RACT-related requirements for General Motors, Corp.; Oakmont Steel, Inc.; The Peoples Natural Gas, Co.; and U.S. Bureau Of Mines located in Allegheny County portion of the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on July 1, 1997.

(i) Incorporation by reference.

(A) Letter dated July 1, 1997, submitted by the Pennsylvania Department of Environmental Protection transmitting several source-specific VOC and/or NO_X RACT related determinations.

(B) Plan Approval and Agreement Upon Consent Orders (COs) and an Enforcement Order (EO) for the following sources:

(*1*) General Motors, Corp., CO 243, effective August 27, 1996, except for condition 2.5.

(*2*) Oakmont Steel, Inc., CO 226, effective May 14, 1996, except for condition 2.5.

(*3*) The Peoples Natural Gas, Co., CO 240, effective August 27, 1996, except for condition 2.5.

(*4*) U.S. Bureau of Mines, EO 215, effective March 8, 1996, except for condition 2.5.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the sources listed in paragraph (c)(181)(i)(B) of this section.

[FR Doc. 01–21148 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket# WA–01–002; FRL–7041–9]

Finding of Attainment for Carbon Monoxide (CO); Spokane CO Nonattainment Area, Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finding that the Spokane CO nonattainment area in Washington has attained the National Ambient Air Quality Standards (NAAQS) for CO by the deadline required by the Clean Air Act (CAA), December 31, 2000.

EFFECTIVE DATE: September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Christi Lee, Office of Air Quality Mail Code OAQ–107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101, (360) 753–9079.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' is used we mean EPA.

I. Background

EPA has the responsibility for determining whether a nonattainment area has attained the CO NAAQS by the applicable attainment date. In this case the EPA was required to make determinations concerning whether serious CO nonattainment areas attained the NAAQS by their December 31, 2000, attainment date. Pursuant to the CAA, the EPA is required to make attainment determinations for these areas by June 30, 2001, no later than six months following the attainment date for the areas. This proposal was based on all available, quality-assured data collected from the CO monitoring sites, which has been entered into the Aerometric Information Retrieval System (AIRS). This data was reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR 50.8, and in accordance with EPA policy and guidance as stated in a memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations,'' dated June 18, 1990.

On June 15, 2001 (66 FR 32595–32597), EPA proposed to find that the Spokane CO nonattainment area in Washington has attained the National Ambient Air Quality Standards (NAAQS) for CO as of December 31, 2000. A detailed discussion of EPA's proposal is contained in the June 15, 2001, proposed rule and will not be restated here. The reader is referred to the proposed rule for more details.

II. Public Comments

We received no comments in response to EPA's proposed action to find that the Spokane CO nonattainment area in Washington has attained the National Ambient Air Quality Standards (NAAQS) for carbon monoxide as of December 31, 2000.

III. Attainment Finding

EPA has determined that the Spokane serious CO nonattainment area has attained the CO NAAQS by the attainment date of December 31, 2000. Consistent with CAA section 188, the area will remain a serious CO nonattainment area with the additional planning requirements that apply to serious CO nonattainment areas. This finding of attainment should not be confused with a redesignation to attainment under CAA section 107(d). Washington has not submitted a maintenance plan as required under section 175A(a) of the CAA or met the other CAA requirements for redesignation to attainment. The designation status in 40 CFR part 81 will remain serious nonattainment for the Spokane CO nonattainment area until such time as EPA finds that Washington has met the CAA requirements for redesignation to attainment.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. 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 action merely makes a determination based on air quality data and does not impose any requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule does not impose any enforceable duty, 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 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 approves makes a determination based on air quality data, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2). This rule will be effective September 21, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 22, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Carbon monoxide, National parks, Reporting and record keeping requirements, Wilderness areas.

Dated: July 31, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 01–21195 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[FR–7039–1]

RIN 2090–AA22

Project XL Site-specific Rulemaking for Buncombe County Landfill, Alexander, Buncombe County, North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating today a site-specific rule proposed on April 16, 2001, to implement a project under the Project XL program. The rule provides site-specific regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), for the Buncombe County Solid Waste Management Facility, Alexander, Buncombe County, North Carolina (''Buncombe County''). The terms of the XL project are defined in a Final Project Agreement (FPA) signed by Buncombe County, the State of North Carolina, and EPA on September 18, 2000. Today's rule is applicable only to the Buncombe County Solid Waste Management Facility, to facilitate implementation of the XL project to use certain bioreactor techniques at its municipal solid waste landfill (MSWLF), specifically, the recirculation of landfill leachate, with the possible addition of water, to accelerate the biodegradation of landfill waste, to decrease the time it takes for the waste to reach stabilization in the landfill, and to promote recovery of landfill gas. The principal objective of this XL Project is to demonstrate that leachate can safely be recirculated over a liner that differs from the liner prescribed in EPA MSWLF regulations.

Under existing regulations, leachate recirculation in Cells 1 and 2 is authorized because those cells were constructed using the prescribed composite liner. Today's rule will allow leachate recirculation over an alternative liner for Buncombe County landfill Cells 3 through 10. It is conditioned on Buncombe County's implementation of the design in today's rule. The landfill liner design for Buncombe County will be enforceable in the same way that current RCRA standards for a landfill are enforceable to ensure that management of nonhazardous solid waste is performed in a manner protective of human health and the environment. Today's rule will not in any way affect the provisions or applicability of any existing or future regulations. EPA retains its full range of enforcement options under this rule.

DATES: This regulation is effective on August 22, 2001. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 22, 2001.

ADDRESSES: *Docket:* Three dockets contain supporting information used in developing this final rule, and are available for public inspection and copying at the EPA's docket office located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. Refer to RCRA Docket Number F–2000–BCLP–FFFFF. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies are $0.15 per page. Project materials are also available for review on the world wide web at *http://www.epa.gov.projectxl/* and in the regional office where the project is located.

FOR FURTHER INFORMATION CONTACT: Ms. Michelle Cook, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, GA 30303 or Ms. Sherri Walker, Office of Environmental Policy Innovation, U.S. EPA, 1200 Pennsylvania Ave., NW. (1807), Washington DC 20460. Further information on today's action may also be obtained on the world wide web at *http://www.epa.gov/projectxl/.* Questions to EPA regarding today's action can be directed to Ms. Cook at (404) 562–8674 *cook.michelle@epa.gov* or Ms. Walker at (202) 260–4295, *walker.sherri@epa.gov.*

SUPPLEMENTARY INFORMATION:

Outline of Today's Document

The information presented in this preamble is arranged as follows:

I. Authority
II. Background
A. What did EPA Propose and What Comments were Received?
B. What is Project XL?
C. What Are Bioreactor Landfills?
III. Overview of the Buncombe County Landfill XL Project
A. Description of the Project
B. What Are the Environmental Benefits Anticipated Through Project XL?
C. How Have Various Stakeholders Been Involved in this Project?
D. How Will this Project Result in Cost Savings and Paperwork Reduction?
IV. What Regulatory Changes Are Being Made to Implement this Project?
A. Existing Liquid Restrictions for MSWLFs (40 CFR 258.28)
B. Site-Specific Rule
1. Design Specifications
2. Operational Requirements
3. Monitoring and Reporting
4. Duration of Authority
V. Additional Information
A. Why is this Rule Immediately Effective?
B. How Does this Rule Comply with Executive Order 12866: Regulatory Planning and Review?
C. Is a Regulatory Flexibility Analysis Required?
D. Is an Information Collection Request Required for this Rule Under the Paperwork Reduction Act?
E. Does this Rule Trigger the Requirements of the Unfunded Mandates Reform Act?
F. How Does the Congressional Review Act Apply to this Rule?
G. How Does this Rule Comply with Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks?
H. How Does this Rule Comply With Executive Order 13132: Federalism
I. How Does this Rule Comply with Executive Order 13175: Consultation and Coordination with Indian Tribal Governments?
J. How Does this Rule Comply with the National Technology Transfer and Advancement Act?
K. Does this Rule Comply with Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use?

I. Authority

This rule is published under the authority of sections 1008, 2002, 4004, and 4010 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6907, 6912, 6945, and 6949).

II. Background

A. What Did EPA Propose and What Comments Were Received?

EPA proposed to amend 40 CFR 258.28(a) by adding a new paragraph (a)(3) to refer to a new section of the rules, § 258.41, 66 FR 19403, April 16, 2001). However, another Project XL rulemaking, published in the **Federal Register** on August 13, 2001 (66 FR 42441 for Yolo County Rulemaking) already has effected these proposed changes. Therefore, today's rulemaking is limited to that portion of EPA's proposed rule which proposed to add a new § 258.41(a). This new § 258.41(a) applies to the Buncombe County Solid Waste Management Facility in Buncombe County, North Carolina and allows Cells 1–10 of the landfill to utilize recirculation of leachate supplemented with river water, as long as each cells meets the design criteria, operational requirements, monitoring and other requirements set forth in § 258.41(a). See Section IV of this preamble for full description of the regulatory relief provided for this project.

Today's rule is being finalized with one other change, based on the one comment EPA received during the comment period on the proposal. The comment was from the American Society of Testing and Materials (ASTM), which pointed out that the proposed rule referenced an earlier version of their consensus voluntary standards ASTM D2216. The final rule correctly references the latest standard ASTM D2216–98.

Other than the removal of the proposed additions of new §§ 258.28(a)(3) and 258.41(b), which have already been effected, as noted above, no changes have been made to the proposed rule.

B. What Is Project XL?

Project XL is an EPA initiative to allow regulated entities to achieve better environmental results at less costs. Project XL—''eXcellence and Leadership''—was announced on March 16, 1995 as a central part of the National Performance Review and EPA's efforts to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). Specifically, Project XL gives a limited number of regulated entities the opportunity to develop their own pilot projects and alternative strategies to achieve environmental performance that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to the Agency's ability to test new regulatory strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. The Agency intends to evaluate the results of this and other XL projects to determine which specific elements of the projects, if any, should be more broadly applied to other regulated entities for the benefit of both the economy and the environment.

Project XL is intended to allow EPA to experiment with untried, potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis. EPA may modify rules, on a site specific or state specific basis, that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

Adoption of such alternative approaches or interpretations in the context of a given XL project is not an indication that EPA plans to adopt that interpretation as a general matter or even in the context of other XL projects. It would be inconsistent with the forward looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first determining whether they are viable in practice and successful for the particular project that embody them. These pilot projects are not intended to be a means for piecemeal revision of entire programs.

EPA believes that adopting alternative policy approaches and interpretations, on a limited site specific or state specific basis and in connection with a carefully selected pilot project is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (provided that the Agency acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing reevaluation of environmental programs, is reflected in a variety of statutory provisions (e.g., section 8001 of RCRA, 42 U.S.C. 6981).

Under Project XL, participants in four categories: facilities, industry sectors, governmental agencies, and communities are offered the opportunity to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements on the condition that they produce and demonstrate superior environmental performance. To participate in Project XL, applicants must develop alternative pollution reduction strategies pursuant to eight criteria: (1) Superior environmental performance; (2) cost savings and paperwork reduction; (3) stakeholder involvement and support; (4) test of an innovative strategy; (5) transferability; (6) feasibility; (7) identification of monitoring, reporting, and evaluation methods; and (8) avoidance of shifting risk burden. The project must have full support of affected federal, state, and tribal agencies to be selected. For more information about the XL criteria, readers should refer to two descriptive documents published in the **Federal Register** (60 FR 27282, published May 23, 1995 and 62 FR 19872, published April 23, 1997) and the document entitled ''Principles for Development of Project XL Final Project Agreements,'' dated December 1, 1995.

Development of a Project has four basic phases: the initial pre-proposal phase where the project sponsor comes up with an innovative concept that it would like EPA to consider as an XL pilot; the second phase where the project sponsor works with EPA and interested stakeholders in developing its XL proposal; the third phase where EPA, local regulatory agencies, and other interested stakeholders review the XL proposal; and the fourth phase where the project sponsor works with EPA, local regulatory agencies, and interested stakeholders in developing the FPA and legal mechanism. The XL pilot proceeds into the implementation phase and evaluation phase after promulgation of the required federal, state and local legal mechanisms and after the designated participants sign the FPA.

The Final Project Agreement (FPA) is a written agreement between the project sponsor and regulatory agencies. The FPA contains a detailed description of the pilot project. It addresses the eight Project XL criteria and discusses how EPA expects the project to meet that criteria. The FPA identifies performance goals and indicators which will enable the project sponsor to demonstrate superior environmental benefits. The FPA also discusses administration of the agreement, including dispute resolution and conditions for termination of the agreement. On September 18, 2000, EPA, Buncombe County, and the North Carolina Department of Environment and Natural Resources signed the FPA for the Buncombe County bioreactor landfill XL Project.

For more information about the XL criteria, readers should refer to the two descriptive documents published in the **Federal Register** (60 FR 27282, May 23, 1995 and 62 FR 19872, April 23, 1997), and the December 1, 1995 Principles for Development of Project XL Final Project Agreements document. For further discussion as to how the Buncombe County XL project addresses the XL criteria, readers should refer to the Final Project Agreement available from the EPA RCRA docket (see **ADDRESSES** section of today's preamble) or on the world wide web at *http://www.epa.gov/projectxl/.*

C. What Are Bioreactor Landfills?

A bioreactor landfill is generally defined as a landfill operated to transform and stabilize the readily and moderately decomposable organic constituents of the waste stream by purposeful control to enhance the microbiological process. Bioreactor landfills often employ liquid addition to supplement leachate for recirculation. A byproduct of the decomposition process is landfill gas, which includes methane, carbon dioxide, and volatile organic compounds (VOCs). Landfill gases are produced sooner in a bioreactor landfill than in a conventional landfill. Therefore, bioreactors often incorporate state of the art landfill gas collection.

On April 6, 2000, EPA published a document in the **Federal Register** (65 FR 18015) requesting information on bioreactor landfills because the Agency is considering whether and to what extent the Criteria for Municipal Solid Waste Landfills, 40 CFR part 258, should be revised to allow for leachate recirculation over alternative liners in MSWLF. EPA requested information about liquid additions and leachate recirculation in MSWLFs to the extent currently allowed, i.e., in MSWLFs designed and constructed with a composite liner as specified in 40 CFR 258.40(a)(2).

Proponents of bioreactor technology note that operation of MSWLFs as bioreactors provide a number of environmental benefits including: (1) Increasing the rate of waste decomposition which in turn extends the operating life of the landfill and lessens the need for additional landfill space or other disposal options; (2) decreasing or even eliminating the quantity, and increasing the quality of leachate requiring treatment and offsite disposal, leading to decreased risks and costs associated with leachate management, treatment and disposal; (3) reduced post-closure care costs and risks, due to the accelerated, controlled settlement of the solid waste during landfill operation; (4) lower long term potential for leachate migration into the subsurface environment; and (5) opportunity for recovery of methane gas for energy production.

There are several XL projects involving operation of landfills as bioreactors throughout the country. These landfill projects will enable EPA to evaluate benefits of different alternative liners and leachate recirculation systems under various terrains and operating conditions. As expressed in the above referenced April 2000 **Federal Register** document, EPA is interested in assessing the performance of landfills operated as bioreactors and these XL projects could contribute valuable data.

The Buncombe County project and other XL projects are expected to contribute additional information on the performance of MSWLFs when liquids are added to a landfill constructed with an alternative liner system. The Agency is also interested in assessing the performance of various types of alternative liners and how they meet the

design performance standard under bioreactor conditions.

The terms of the Buncombe County bioreactor project are contained in the FPA. The FPA is available to the public at the EPA RCRA Docket in Washington, DC, from the Region 4 XL Coordinator, and on the world wide web at http://www.epa.gov/projectxl/.

III. Overview of the Buncombe County Landfill XL Project

The Buncombe County Solid Waste Management Facility operates a RCRA Subtitle D municipal solid waste landfill in an area north of Asheville in Buncombe County, western North Carolina. The landfill began operation in 1997. The landfill facility encompasses approximately 600 acres although only a portion of that acreage is used for landfilling operations at this time. The French Broad River traces the south and west border of the landfill facility acreage. To date three cells of the planned 10 cells for the facility have been constructed and are in operation.

Cells 1 and 2 of the landfill facility were constructed in 1997 with the standard composite liner system prescribed in EPA regulations implementing RCRA Subtitle D for MSWLFs. The standard liner consists of 24 inches of compacted clay with a hydraulic conductivity of no more than 1×10^{-7} cm/sec overlain by a 60 millimeter High Density Polyethylene (HDPE) membrane. Cell 3 was constructed with an alternative liner system consisting of 18 inches of compacted clay with a hydraulic conductivity of no greater than 1×10^{-5} cm/sec overlain by a geosynthetic clay liner (GCL) with a hydraulic conductivity of no greater than 5×10^{-9} cm/sec and a 60-mil HDPE liner.

Cells 1, 2, and 3 were constructed with a leachate collection/drainage system consisting of two feet of crushed stone. A 28 oz. fabric cushion protects the underlying synthetic liner from penetration or abrasion from the stone. Interior walls of each cell (lift) slope to a collection sump where leachate is pumped out over the cell wall (i.e., no liner penetration). A central leachate collection line was also installed in Cell 3 to improve leachate collection due to the lesser interior slopes. Leachate is pumped from each of the cells to a 1.5 million gallon composite lined leachate holding pond. A tanker truck pumps leachate from the holding pond and hauls it to a wastewater treatment plant located seven miles from the landfill facility.

A. Description of the Project

Buncombe County intends to construct and operate a combined leachate recirculation and gas recovery system in prototype Cells 4 and 5 for which construction began in August, 2000. Cells 4 and 5 will be constructed with the same alternative liner system as was installed in Cell 3. If operation of these prototype cells is successful, Buncombe County will construct the remaining Cells 6–10 with the same alternative liner system and combined leachate recirculation and gas recovery system. Recirculation of leachate would not be permitted under the current federal regulations using the alternative liner by Buncombe County. Buncombe will begin recirculation of leachate in Cell 3 when this rule is finalized.

Prior to adding any supplemental liquids to the facility, Buncombe County will prepare a comprehensive landfill stability analysis under recirculation conditions with supplemental liquids. Buncombe County will submit this analysis to three university professors who are recognized as experienced in the field of geotechnical engineering in general and landfill slope stability. The County will incorporate comments from these professors into a final stability analysis for their review. The County will forward the analysis along with letters from the reviewing professors stating that the landfill should remain stable under the operating plan developed by the County, to the USEPA and the State of North Carolina for concurrence prior to adding any supplemental liquids.

As is the case with Cells 1, 2, and 3, Buncombe County will install an automatic submersible pump at the collection point at the bottom of each landfill cell with appurtenant piping to pump the leachate collected to the leachate holding pond. The pump engages automatically when the leachate reaches a certain depth above the pump. A new pump system and dedicated force main will be constructed at the leachate holding pond to direct leachate back to the landfill cells for recirculation.

During operation, solid waste will be added and compacted in layers above the landfill liner and leachate collection system. Additional piping will be installed in a horizontal configuration as the solid waste layers build. The piping will be used to redistribute leachate pumped from the leachate holding pond and to collect landfill gas.

As further protection against liner leakage, performance of the liner system will be monitored by an adjunct leak detection system underlying the compacted soil layer of the sump portion of each landfill cell. The leak detection system will consist of 60-mil HDPE liner placed on a prepared subgrade. Any leakage through the primary composite liner system will be captured on the 60 mil HDPE liner and fed to a sump. A 4-inch capped pipe will drain leachate collected in the sump out beyond the footprint of the landfill cell. The capped pipe will be sampled semi-annually to determine whether any leachate escaped the composite liner.

As required by 40 CFR 258.51, Buncombe County installed groundwater monitoring wells to monitor whether landfill operations impact groundwater. Two upgradient groundwater monitoring wells were installed and sampled prior to construction of the first cell to determine true background groundwater quality in the absence of any landfill construction or operation. Additional downgradient monitoring wells will continue to be installed with the construction of each landfill unit. These wells will continue to be sampled semi-annually for constituents listed in Appendix I of the North Carolina Solid Waste Management Rules.

Moisture content of the landfill waste will be monitored throughout the life of the project through a network of moisture sensors installed as waste is placed. Final design of the moisture detection system will occur with preparation of the permitting application.

Surface water quality is currently monitored at three stations around the facility. All surface water runoff from the site flows north through erosion control structures to Blevin Branch. Blevin Branch will continue to be monitored at the eastern end of the site where it originates and at the western end where it exits the landfill facility.

Leachate will be applied to landfill waste during operations to provide enhanced conditions for rapid waste decomposition. If additional water is needed to achieve optimal moisture level, this water will be drawn from the French Broad River.

Leachate will be injected below the landfill surface to prevent contact with employees or users of the landfill. In addition, the County may apply leachate to the working face after the landfill has stopped receiving customers and just before the day's waste is covered. At that time, the only people nearby will be the driver of the leachate spray truck and the heavy equipment operators placing the soil cover. These persons should not come in contact with the leachate. If supplemental river water is

used, it will first be discharged to the leachate collection pond before application to the landfill or the river water will be applied directly to the working face of the landfill by tanker truck. The recirculation system will be designed and operated to allow application of leachate in small, discreet areas as needed to maintain an optimum moisture level.

The volume of leachate and supplemental water added back to the landfill will be monitored throughout the life of the project. Recirculation quantities will be quantified using flow sensors installed on the leachate discharge line at the leachate holding pond and on the delivery lines to each cell. The objective is to determine the amount of leachate returned to each cell individually and determine an optimum moisture content and application rate.

Proponents of leachate recirculation claim that there is an improvement in leachate quality due to the aerobic and anaerobic decomposition of constituents which serve as a food source to the bacteria. Improved leachate quality is an indicator of a stabilized waste mass that poses a decreased threat to groundwater supplies should the containment system breach at some future date. Buncombe County will sample leachate from each cell semi-annually to determine whether leachate quality is improving.

Since effective degradation of the waste mass and gas production depend on optimizing the temperature within the landfill cell, temperature gauges will be installed along with the moisture sensors as waste is added to the landfill. As each cell reaches design grade, monuments will be installed to monitor settlement of the waste. Monument settlement will be evaluated semi-annually. Additionally, annual aerial topographic surveys will be conducted to evaluate settlement and the effectiveness of the leachate recirculation system.

B. What Are the Environmental Benefits Anticipated Through Project XL?

Under the FPA for the Buncombe County bioreactor project, the expected superior environmental benefits include: (1) maximizing landfill gas control and minimizing fugitive methane and VOC emissions; (2) greater recovery of landfill gas; (3) landfill life extension and/or reduced landfill use; and (4) minimizing leachate associated groundwater concerns.

1. Maximizing Landfill Gas Control and Minimizing Fugitive Methane and VOC Emissions.

Landfill gas contains roughly 50% methane, a potent greenhouse gas. In terms of climate effects, methane is second in importance only to carbon dioxide. Landfill gas also contains volatile organic compounds (VOC's) that are air pollutants of local concern. Buncombe County will immediately begin collecting landfill gas by installing a gas collection system consisting of a surface permeable gas collection layer overlain by a cover of soil with an embedded membrane. Gas will be withdrawn such that this permeable layer beneath surface containment will be at a slight vacuum. This system will minimize the amount of landfill gas emitted to the environment. Buncombe County will immediately begin collecting landfill gas once recirculation operations begin.

2. Expedited Methane Generation/ Recovery.

If the landfill were operated as a conventional landfill, the County would likely not have to install a gas collection system at this facility under New Source Performance Standards (NSPS) for several years. However, in the Buncombe bioreactor, the majority of the methane will be generated over a much earlier and shorter time period than a conventional landfill. The County has committed to installing the system and collecting gas as soon as recirculation begins which should make the total amount of gas collected at this site greater than if it operated conventionally and only complied with NSPS. This is expected to minimize the long-term low-rate methane generation often lost in conventional landfill practices.

3. Landfill Life Extension And/or Reduced Landfill Use.

The more rapid conversion of greater quantities of solid waste to gas reduces the volume of the waste. Volume reduction translates into either landfill life extension and/or less landfill use. Thus, this bioreactor landfill will be able to accept more waste over its working lifetime, subject to applicable State regulatory requirements. Additionally, fewer landfills may be needed to accommodate the same inflows of waste from a given population.

4. Minimizing Leachate-Associated Concerns.

Research has shown that bioreactor processes can reduce the concentration of many pollutants in leachate. These include organic acids and other soluble organic pollutants. Since a bioreactor operation brings pH to near-neutral conditions, metals of concern are largely precipitated and immobilized in the waste.

C. How Have Various Stakeholders Been Involved in this Project?

Buncombe County encouraged stakeholder involvement during the project development stage in several ways. The methods included communicating through the media (newspaper, e-mails, and XL website); directly contacting interested parties; and offering an educational program regarding the regulatory requirements impacted by the XL project. Buncombe County has continued to keep stakeholders informed on the project status via mailing lists, newspaper articles, and public meetings; and EPA has posted information on the website at URL: *http://www.epa.gov/projectxl/buncombe/index.htm*. In addition, Buncombe County has initiated stakeholder involvement by televising a presentation of the issues associated with the landfill originally presented to the Buncombe County Commissioners' Annual Retreat. The State of North Carolina and EPA are kept informed of issues as they arise.

Representatives from the local community and the Blue Ridge Environmental Defense League participated in conference calls and meetings with the Project XL team and provided comments during the development of the Final Project Agreement.

Few local stakeholders other than immediate residents have expressed interest in actively participating in the development of the project. Copies of all comment letters, as well as EPA's response to comment letters, are available on the website.

As this XL project is implemented, the stakeholder involvement program will shift its focus to ensure that: (1) Stakeholders are apprized of the status of project implementation; and, (2) stakeholders have access to information sufficient to judge the success of this Project XL initiative. Anticipated stakeholder involvement during the term of the project will likely include other general public meetings to present periodic status reports, availability of data and other information generated. Buncombe County will convene periodic meetings for interested stakeholders to brief them on progress during the duration of the XL Agreement. In addition to the reporting requirements of today's rule, the FPA includes provisions whereby the County will make copies of project reports available to all interested parties. A public file on this XL project has been maintained at the website throughout project development, and the EPA will continue to update it as the project is

implemented. Additional information is available at EPA's website at http://www.epa.gov/projectxl.

A detailed description of this program and the stakeholder support for this project is included in the Final Project Agreement, which is available through the docket or through EPA's Project XL site on the Internet (see **ADDRESSES** section of this preamble).

Buncombe County has preliminarily identified the following stakeholders, and additional stakeholders may be added over time:

—Buncombe County General Services Department
—Buncombe County Citizens, as represented by the Buncombe County Board of Commissioners
—Buncombe County Environmental Affairs Board, representing citizens of Buncombe County
—The North Carolina Chapter of the Solid Waste Association of North America (NCSWANA)
—The Western North Carolina Regional Air Pollution Control Agency (which has authority to issue a Title V Permit under the Clean Air Act)
—Blue Ridge Environmental Defense League
—Counsel of Independent Business Owners
—Nearby residents

D. How Will This Project Result in Cost Savings and Paperwork Reduction?

With respect to Cell 3, the alternative liner system saved Buncombe County nearly $400,000 as compared with the standard composite system. It is estimated that the County will save a total of $5 million through build-out of the facility if the alternative liner system is used. Other potential cost savings from the project include:

1. $5–$10 million in reduced construction costs for additional landfill capacity if an increase of 20%–30% in additional waste volume can be achieved due to rapid waste decomposition during operations; and,

2. $9 million if leachate hauling and off-site treatment can be eliminated. No appreciable reduction in paperwork is anticipated.

IV. What Regulatory Changes Are Being Made To Implement This Project?

A. Existing Liquids Restriction for MSWLFs (40 CFR 258.28)

Today's site-specific rule adds the Buncombe County landfill to those MSWLFs which are granted regulatory flexibility from 40 CFR 258.28 Liquid Restrictions under 40 CFR 258.28(a)(3). Under the existing rule, bulk or noncontainerized liquid waste is not allowed to be placed in a MSWLF unit unless (1) the waste is household waste other than septic waste, (2) the waste is leachate or gas condensate derived from the MSWLF unit and the MSWLF unit is designed with a composite liner and leachate collection system as described in § 258.40(a)(2), or (3) they are designated as Project XL MSWLF units meeting the applicable requirements set forth at 40 CFR 258.41. As stated above, Buncombe County seeks to recirculate leachate derived from the landfill, possibly supplemented with river water, to Cell 3 and future cells, all of which have or are expected to have a liner system that differs from the liner prescribed in 40 CFR 258.41(a)(2). Cells 1 and 2 were constructed with the prescribed liner, and therefore be allowed to receive leachate and gas condensate under 40 CFR 258.28(a)(2).

EPA has entered into Final Project Agreements for several bioreactor pilot projects. Each of these projects will require a site-specific rulemaking in order to be implemented.

B. Site-Specific Rule

Today's rule amends 40 CFR 258.41 by adding a new section, § 258.41(a). The new § 258.41(a) specifically applies to the Buncombe County Solid Waste Management Facility in Buncombe County, North Carolina and will allow Cells 1–10 of the landfill to utilize recirculation of leachate supplemented with river water, as long as each cell meets the design criteria and other requirements set forth in § 258.41(a).

1. Design Specifications

Currently, federal regulations outline two methods for complying with liner requirements for municipal solid waste landfills. The first method is a performance standard under 40 CFR 258.40(a)(1). This standard allows installation of any liner configuration provided the liner design is approved by an EPA-approved state and the design ensures that certain constituent concentrations are not exceeded in the uppermost aquifer underlying the landfill facility at the point of compliance.

The second method is set out in 40 CFR 258.40(a)(2) and (b). Section 258.40(b) sets forth a liner design which consists of two components: (1) an upper component comprising a minimum of 30 mil flexible membrane liner (60 mil if High Density Polyethylene (HDPE) is used); and (2) a lower component comprising at least two feet of compacted soil with a hydraulic conductivity no greater than $1x10^{-7}$ cm/sec.

As stated earlier, leachate recirculation in municipal landfills is allowed under 40 CFR 258.28(a)(2) but only if the liner system complies with the design standard set out under 40 CFR 258.40(b) and a leachate collection system as described in § 258.40(a)(2). The reason that the existing regulation requires a leachate collection system and a composite liner design as specified § 258.40(a)(2) is to ensure that contaminant migration to the aquifer is controlled. (56 FR 50978, 51056 (Oct. 9, 1991)).

Under today's proposal, 40 CFR 258.41(a) specifically addresses Buncombe County Landfill in Alexander, North Carolina and allows Cells 3–10 of that landfill to recirculate leachate over an alternative liner as long as those cells met the requirements set forth in that subsection. Section 258.41(a)(4) provides an alternative to the landfill liner design requirements set forth at 40 CFR 258.40(a)(2) and (b). These design criteria are identical to the liner design described in 40 CFR 258.40(b), except that the upper component includes a 60 mil HDPE liner overlying a GCL with a hydraulic conductivity of no greater than 5×10^{-9} cm/sec. The lower component of the composite liner consists of 18 inches of compacted soil with a hydraulic conductivity of not more than 1×10^{-5} cm/sec. The GCL will overlay and be in direct contact with the compacted soil layer.

The State of North Carolina reviewed the alternative liner system for Cell 3 prior to approval and authorization for construction. The state's alternative liner design showed a leakage rate through the standard Subtitle D liner system and compared that figure against rates calculated for the alternative liner system for Cell 3. The standard liner calculations produced a leakage rate of 1.12 gallons/acre/day while the alternative liner calculations produced a leakage rate of only 0.53 gallons/acre/day (North Carolina Permitting Guidance for Alternative Composite Liner Systems, June 1, 1998). The alternative liner's leakage rate is expected to be less than half that of the standard prescribed liner. The modeling performed to complete the demonstration of the acceptability (and superiority) of the alternative liner involves inputting the leakage rates into EPA's MULTIMED model, which simulates the movement of contaminants leaching from a landfill. The output of the MULTIMED model reflects the fact that the alternative liner is more protective than the standard regulatory liner. Based on this information, EPA is satisfied that the

liner design will afford as much, if not more, protection to groundwater as the standard composite liner specified in 40 CFR 258.41(a).

As further protection against liner leakage, this rule requires cells 3–10 to be constructed with an adjunct leak detection system underlying the compacted soil layer of the sump portion of each landfill cell. The leak detection system will be required to consist of 60-mil HDPE liner placed on a prepared subgrade. Any leakage through the primary composite liner system will be captured on the 60 mil HDPE liner and fed to a sump. The design specifications also require a 4-inch capped pipe to drain leachate collected in the sump out beyond the footprint of the landfill cell.

Based on the modeling for the alternative liner, in conjunction with the leak detection system, EPA believes that the addition of landfill leachate into cells 3–10 will not result in any increased leakage to groundwater from the bioreactor cells.

This rule does not change the requirement in 40 CFR 258.28(a)(2) that a leachate collection system as described in 40 CFR 258.40(a)(2) be in place in order for leachate to be recirculated in the landfill unit. Buncombe County's design for Cells 3–10 is required to have leachate collection systems designed to maintain leachate over the liner to a depth of no more than 30 cm.

2. Operational Requirements

This rule only allows certain liquid waste to be added to the Buncombe County facility. Section 258.41(a)(2) authorizes only leachate or gas condensate derived from the MSWLF, which may be supplemented with water from the French Broad River. Buncombe County will also be required to control liquids addition in order to assure that the average moisture content of the landfill does not exceed 50% by weight. EPA is allowing a moisture content of 50% by weight because this is in the middle of the 40%–70% range commonly accepted as needed for biological reaction to go forward in a bioreactor landfill.[1] The rule allows the State Director to establish a different maximum limit on landfill unit moisture content if the State Director determines that a different limit is either necessary to maintain the integrity of the landfill and its liner system or to increase the reaction rate, provided landfill and liner system integrity are maintained. As previously stated, prior to adding any supplemental liquids to the facility, Buncombe County will prepare a comprehensive landfill stability analysis under recirculation conditions with supplemental liquids and will submit this analysis to three university professors who are recognized as experienced in the field of geotechnical engineering in general, and landfill slope stability. This rule also includes, as a prerequisite to adding liquids, the requirement that Buncombe County receive an air quality permit from the Western North Carolina Regional Air Quality Agency incorporating requirements for Buncombe County Landfill XL project. The air quality permit is also referred to as the Federally-Enforceable State-Operating Permit (FESOP). The air permit addressing the potential for earlier gas generation was issued on November 13, 2000 and will be required to be in effect during the entire period of leachate recirculation and post closure period. As described above in section III.B., Expected Superior Environmental Performance, one result of adding liquids to a landfill is that landfill gases will be generated earlier and over a shorter period than in a conventional landfill.

3. Monitoring and Reporting

As discussed above in section III.A., Description of the Project, an important element of the project is the information about bioreactor operation, alternative liner performance, waste decomposition efficiency, and potential environmental impacts. This rule requires Buncombe County to monitor certain parameters which are not required for conventional MSWLFs under 40 CFR part 258. Some of this data, for example, moisture content, will be required in order to assess the physical stability of the landfill unit. This rule also requires Buncombe County to report data obtained from the required monitoring to the State and EPA on an annual basis.

4. Duration of Authority

The FPA calls for the project to continue for 25 years in order to take into account the bioreactor process in all 10 cells of the facility. Therefore, today's rule provides that 40 CFR 258.41(a) be in effect for 25 years from the effective date of the rule.

Today's rule also includes an early termination provision in the event of noncompliance with the requirements of 40 CFR 258.41(a). The EPA Regional Administrator for Region 4 is authorized to issue a notice of termination, stating the reason for the decision to terminate the authority under 40 CFR 258.41(a). The Regional Administrator could terminate the rule with respect to all or part of the landfill cells for which the site-specific authority to add liquids is required (Cells 3–10). Termination would take effect 60 days from the date of the notice, unless the Regional Administrator determined, in writing, to rescind the termination. In the event of termination, all the applicable regulatory requirements of 40 CFR part 258 that would have applied to the Buncombe County facility in the absence of 40 CFR 258.41(a) would be applicable. However, the Regional Administrator could establish an interim compliance period if deemed necessary to complete the transition from bioreactor operation to conventional ''dry tomb'' operation.

This provision for early termination of the rule is not exclusive. In addition to termination for noncompliance, the FPA allows any party to the agreement to terminate the project before the end of 25 years, for any reason. In the event that EPA determines that this project and site-specific rule should be terminated for reasons other than noncompliance before the end of the 25 year period and that the site-specific rule should be rescinded, the Agency would withdraw this rule through a subsequent rulemaking. This will afford all interested persons and entities the opportunity to comment on the proposed early termination and withdrawal of regulatory authority, and the proposed termination would also include any proposal for an interim compliance period while Buncombe County returned to full compliance with the existing requirements of 40 CFR part 258.

In addition, new laws or regulations may become applicable during the project term which might render the project impractical, or might contain regulatory requirements that supersede this XL Project. Or, during the project duration, EPA may decide to change the federal rule allowing recirculation over alternative liners and the addition of outside bulk liquids for all Subtitle D landfills. In that event, the FPA and site-specific rule for this project would no longer be needed.

V. Additional Information

A. Why Is This Rule Immediately Effective?

Under 5. U.S.C. 553(d), the rulemaking section of the Administrative Procedure Act, EPA is making this rule effective upon publication. Under 5 U.S.C. 553(d)(1), EPA is making this rule immediately effective because the rule relieves a

[1] Reinhart, Debra R. and Townsend, Timothy G., *Landfill Design and Operation* (Lewis Publ. 1998), p. 140.

restriction in that it allows Buncombe County to add to the landfill additional types of liquid waste beyond what is currently allowed under 40 CFR 258.28(a)(1) and (2). In addition, under 5. U.S.C. 553(d)(3), EPA finds good cause exists to make this rule effective immediately because Buncombe County is the only regulated entity affected by the rule, sought the conditional relief provided in this rule, and has had full notice of the rule. Making the rule immediately effective will allow Buncombe County to proceed sooner with the bioreactor project.

B. How Does This Rule Comply With Executive Order 12866: Regulatory Planning and Review?

Because this rule affects only one facility, it is not a rule of general applicability and therefore not subject to OMB review and Executive Order 12866. In addition, OMB has agreed that review of site specific rules under Project XL is not necessary.

C. Is a Regulatory Flexibility Analysis Required?

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and public comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. Only the definition of ''small governmental jurisdiction'' is relevant here. 5 U.S.C. 601(5) defines ''small governmental jurisdiction'' to mean governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand. According to Buncombe County officials, the county population in 1990 exceeded 150,000; thus, Buncombe County does not qualify as ''small governmental jurisdiction'' within the meaning of 5 U.S.C. 601(5).

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have an significant impact on a substantial number of small entities. This final rule will not impose any requirements on small entities because no small entities are subject to this rule.

D. Is an Information Collection Request Required for This Rule Under the Paperwork Reduction Act?

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* The requirements of this rule do not apply to 10 or more entities, therefore the PRA does not apply.

E. Does This Rule Trigger the Requirements of the Unfunded Mandates Reform Act?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments in the aggregate or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposal with significant Federal mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

As discussed above, this rulemaking has limited application. It applies only to the Buncombe County Solid Waste Management Facility. If adopted, this rule will result in a cost savings for Buncombe County when compared with the costs it would have had to incur if required to adhere to the requirements contained in the current rule. As such, this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for state, local, or tribal governments, in the aggregate, or the private sector in any one year. While this rule will have a unique affect for Buncombe County, the population of Buncombe County exceeds that which would qualify it as a ''small government,'' therefore, EPA is not required under section 203 of UMRA to develop a small government plan. However, EPA has worked with and continues to work with Buncombe County, affected citizens, and other stakeholders in seeking meaningful and timely input into the development of the Final Project Agreement and this rule. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

F. How Does the Congressional Review Act Apply to This Rule?

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

G. How Does This Rule Comply With Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks?

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant,'' as defined in Executive Order 12886; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to potentially effective and feasible alternatives considered by the Agency.

This rule is not subject to the Executive Order because it is not economically significant as defined in

Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This rule does not involve decisions based on environmental health or safety risks because it is limited to modifying a regulatory construction standard for a municipal solid waste liner that is expected to result in a liner which performs at least as well as the liner design specified in the current regulations and for a lesser construction cost.

H. How Does This Rule Comply With Execute Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial and 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 does not have federalism implications. It will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of powers and responsibilities among various levels of government, as specified in Executive Order 13132. This rulemaking will only affect one local governmental entity and state and will provide regulatory flexibility for each entity concerned. Thus, Executive Order 13132 does not apply to this rule.

I. How Does This Rule Comply With Executive Order 13175: Consultation and Coordination With Indian Tribal Governments?

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. EPA is currently unaware of any Indian tribes located in the vicinity of the landfill or Buncombe County. Thus, Executive Order 13175 does not apply to this rule.

J. Does This Rule Comply With the National Technology Transfer and Advancement Act?

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, requires that EPA use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, material specifications, test methods, sampling procedures, and business practices) developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. EPA has decided to use existing voluntary consensus standards developed by the American Society of Testing and Materials (ASTM). EPA is using ASTM D5261 and ASTM D2216–98 as standards for the geosynthetic liner specified in 40 CFR 258.41(a)(4)(iii). These standards assure the proper standards of production for geotextiles and geosynthetic clay liners addressed in today's rule. ASTM D5261 was approved on June 15, 1992. ASTM D2216–98 was approved in 1998. These standards are available from ASTM through their website, http://www.astm.org/, or by contacting ASTM at 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428–2959. The ASTM is a voluntary consensus standards-setting body under the NTTAA.

K. Does This Rule Comply With Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use?

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 258

Environmental protection, Incorporation by reference, Landfill, Solid waste.

Dated: August 14, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble, part 258 of title 40 Chapter I of the Code of Federal Regulations is amended as follows:

PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS—[AMENDED]

1. The authority citation for part 258 continues to read as follows:

Authority: 33 U.S.C. 1345(d) and (e); 42 U.S.C. 6902(a), 6907, 6912(a), 6944, 6945(c), and 6949a(c).

Subpart D—Design Criteria

2. Section 258.41 is amended by adding paragraph (a) to read as follows:

§ 258.41 Project XL Bioreactor Landfill Projects.

(a) Buncombe County, North Carolina Project XL Bioreactor Landfill Requirements. Paragraph (a) of this section applies to Cells 1, 2, 3, 4, and 5 of the Buncombe County Solid Waste Management Facility located in the County of Buncombe, North Carolina, owned and operated by the Buncombe County Solid Waste Authority, or its successors. This paragraph (a) will also apply to Cells 6, 7, 8, 9, and 10, provided that the EPA Regional Administrator for Region 4 and the State Director determine that the pilot project in Cells 3, 4, and 5 is performing as expected and that the pilot project has not exhibited detrimental environmental results.

(1) The Buncombe County Solid Waste Authority is allowed to place liquid waste in the Buncombe County Solid Waste Management Facility, provided that the provisions of paragraphs (a)(2) through (9) of this section are met.

(2) The only liquid waste allowed under this section is leachate or gas

condensate derived from the MSWLF, which may be supplemented with water from the French Broad River. The owner or operator shall control any liquids to the landfill to assure that the average moisture content of the landfill does not exceed 50% by weight. Liquid addition and recirculation is allowed only to the extent that the integrity of the landfill including its liner system is maintained, as determined by the State Director.

(3) The MSWLF unit shall be designed and constructed with a liner and leachate collection system as described in § 258.40(a)(2) or paragraphs (a)(4) and (5) of this section. The owner or operator must place documentation of the landfill design in the operating record and notify the State Director that it has been placed in operating record;

(4) Cells 3–10 shall be constructed with a liner system consisting of the components described in paragraphs (a)(4)(i) through (v) of this section, or an equivalent or superior liner system as determined by the State Director:

(i) A lower component consisting of at least 18 inches of compacted soil with a hydraulic conductivity of no more than 1×10^{-5} cm/sec., and

(ii) An upper component consisting of a minimum 30-millimeter (''mil'') flexible membrane liner (FML) or 60-mil if High Density Polyethylene (''HDPE'') is used, and

(iii) A geosynthetic clay liner (GCL) overlaying and in direct contact with the 18 inches of compacted soil in paragraph (a)(4) of this section and having the following properties:

(A) The GCL shall be formulated and manufactured from polypropylene geotextiles and high swelling containment resistant sodium bentonite. The bentonite-geotextile liner shall be manufactured using a minimum of one pound per square foot as determined using the Standard Test Method for Measuring Mass per Unit Area of Geotextiles, ASTM D–5261–92 (reapproved in 1996). The high swelling sodium montmorillonite clay shall be at 12% moisture content as determined by the Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock by Mass, ASTM D2216–98. The Director of the Federal Register approves this incorporation by reference with 5 U.S.C. 552(a) and 1 CFR part 51. These methods are available from The American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959. These methods may be inspected at EPA's docket office located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(B) The encapsulating geotextile shall be polypropylene and shall have a minimum weight of 6 oz./square yard.

(iv) The upper component shall be installed in direct and uniform contact with an overlaying soil cushioning component.

(v) Underlying the above liner system, there shall also be installed a leak detection system consisting of a 60-mil HDPE liner placed on a prepared subgrade.

(A) A 4 inch capped pipe will drain liquid collected in the sump out beyond the footprint of the landfill cell.

(B) Water collected on the leak detection liner shall be monitored at least semi-annually as directed by the State Director to determine whether any leachate escaped the liner system.

(5) Cells 3–10 shall be designed and constructed with a leachate collection system to maintain less than 30 centimeters depth of leachate is present at the sump location. The leachate collection system shall include a continuous monitoring system to monitor depth of leachate.

(6) The owner/operator shall keep the Federally Enforceable State Operating Permit (FESOP) issued by the Western North Carolina Air Quality Agency for the Buncombe County Solid Waste Management Facility in effect, and shall comply with the provisions of the FESOP, during the entire period of leachate recirculation and the post closure period. The FESOP was issued on November 13, 2000 and contains the air quality requirements for the Buncombe County Landfill XL project.

(7) Monitoring and Reporting Requirements. The owner or operator of the Buncombe County Solid Waste Management Facility shall monitor for the parameters listed in paragraphs (a)(7)(i) through (xiii) of this section and submit an annual report on the XL project to the EPA Regional Administrator for Region 4 and the State Director. The first report is due coincident with the October 2001 report to the state. The report should state what progress has been made toward the superior environmental performance and other commitments as stated in the Final Project Agreement. The report shall include, at a minimum, the following data:

(i) Amount of landfill gas generated;

(ii) Percent capture of landfill gas, if known;

(iii) Quality of the landfill gas, amount and type of liquids applied to the landfill;

(iv) Method of liquids application to the landfill;

(v) Quantity of waste placed in the landfill;

(vi) Quantity and quality of leachate collected;

(vii) Quantity of leachate recirculated back into the landfill;

(viii) Information on the pretreatment of waste applied to the landfill;

(ix) Data collected on landfill temperature and moisture content;

(x) Data on the leachate pressure (head) on the liner;

(xi) Observations, information, and studies made on the physical stability of the MSWLF units that are developed during the project term, if any.

(xii) The above data may be summarized, and, at a minimum shall contain, the minimum, maximum, median, and average data points as well as the frequency of monitoring as applicable.

(xiii) The method and frequency of monitoring shall be specified by the State Director.

(8) Termination and Withdrawal.

(i) Paragraph (a) of this section will terminate August 22, 2026, unless a subsequent rulemaking is issued or terminated earlier pursuant to paragraph (a)(8)(ii) of this section.

(ii) In the event of noncompliance with paragraph (a) of this section, EPA may terminate the authority under paragraph (a) of this section and the authority to add liquid wastes to all or part of cells 3–10 under § 258.28(a)(3). The EPA Regional Administrator will provide written notice of intent to terminate to the Buncombe County Solid Waste Authority with a copy to the State Director. The notice will state EPA's intent to terminate under the rules and will include a brief statement of EPA's reasons for its action. The termination will take effect 60 days from the date of the notice, unless the EPA Regional Administrator for Region 4 issues a written notice rescinding the termination.

(9) *Compliance requirements in the event of termination or withdrawal.* The Buncombe County Solid Waste Management Facility will be subject to all regulatory provisions applicable to MSWLFs upon termination of authority under this section. In the event of early termination of this section, the EPA Regional Administrator for Region 4 may provide an interim period of compliance to allow Buncombe County a reasonable period of time for transition following cessation of liquids addition.

* * * * *

[FR Doc. 01–20894 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7031–5]

Idaho: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

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

DATES: This final authorization will become effective on November 20, 2001 unless EPA receives adverse written comment by September 21, 2001. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Jeff Hunt, U.S. EPA, Region 10, 1200 Sixth Avenue, Mail stop WCM–122, Seattle, WA 98101, phone, (206) 553–0256. You can view and copy Idaho's application from 9 a.m. to 4 p.m. at the following addresses: Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, phone, (208) 373–0502 and EPA Region 10, Library, 1200 Sixth Avenue, Seattle, WA, 98101, phone (206) 553–1289.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, U.S. EPA Region 10, Office of Waste and Chemicals Management, 1200 Sixth Avenue, Mail Stop WCM–122, Seattle, WA, 98101, 206–553–0256.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

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

B. What Decisions Have We Made in This Rule?

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

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

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

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

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

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes. If EPA receives comments which oppose this authorization, or portion(s) thereof, that document will serve as a proposal to authorize such changes.

E. What Happens If EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If EPA receives comments that oppose only the authorization of a particular change to the State hazardous waste program, we may withdraw that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Idaho Previously Been Authorized for?

Idaho initially received final authorization on March 26, 1990, effective April 9, 1990 (55 FR 11015) to implement the RCRA hazardous waste management program. We granted

authorization for changes to their program on April 6, 1992, effective June 5, 1992 (57 FR 11580), June 11, 1992, effective August 10, 1992 (57 FR 24757), April 12, 1995, effective June 11, 1995 (60 FR 18549), and October 21, 1998, effective January 19, 1999 (63 FR 56086).

Through three codification actions dated December 6, 1990 (55 FR 50327), June 11, 1992 (57 FR 24757), and June 25, 1999 (64 FR 34180) the EPA has codified at 40 CFR part 272, subpart N all authorization actions for the State of Idaho RCRA program, which reflect non-HSWA and HSWA requirements promulgated as of July 1, 1996, with the exception of the Organic Air Emission Standards for Tanks, Surface Impoundments and Containers (subpart CC standards).

G. What Changes Are We Authorizing With Today's Action?

On May 1, 2001, Idaho submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Idaho's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Idaho final authorization for all delegable hazardous waste regulations promulgated as of July 1, 1998, as incorporated by reference in IDAPA 16.01.05.(002)-(016) and 16.01.05.997.[1]

H. What Are the State Rules That Are Not Authorized?

Any subsequent changes to the Federal program that occurred after July 1, 1998 are not part of Idaho's authorized RCRA program. EPA is not authorizing IDAPA 16.01.05.000; 16.01.05.001; 16.01.05.006.02; 16.01.05.015.02(a), (b); 16.01.05.(017)-(996); 16.01.05.998; and 16.01.05.999.

I. Who Handles Permits After the Authorization Takes Effect?

Idaho will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until the timing and process for effective transfer to the State are mutually agreed upon. Until such time as formal transfer of the EPA permit responsibility to the State occurs, EPA and the State agree to coordinate the administration of permits in order to maintain consistency. EPA will continue to implement and issue permits for HSWA requirements for which Idaho is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Idaho?

Idaho is not authorized to carry out its hazardous waste program in Indian country within the State. Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

K. What Is Codification and Is EPA Codifying Idaho's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart N for the codification of Idaho's program changes until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This

[1] Sections of the Federal hazardous waste program are not delegable to the states. These sections are 40 CFR part 262, subparts E, F, & H; 40 CFR 268.5; 40 CFR 268.42(b); 40 CFR 268.44(a)-(g); and 40 CFR 268.6. Authority for implementing the provisions contained in these sections remains with EPA.

action will be effective November 20, 2001.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 1, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 01–20211 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7039–6]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Schuylkill Metals Corporation Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces the deletion of the Schuylkill Metals Corporation Superfund Site from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the Florida Department of Environmental Protection (FDEP) have determined that the Site poses no significant threat to public health or the environment and therefore, further response measures pursuant to CERCLA are not appropriate.

EFFECTIVE DATE: August 22, 2001.

ADDRESSES: Comprehensive information on this site is available through the EPA Region 4 public docket, which is available for viewing at the information repositories at two locations. Locations, contacts, phone numbers and viewing hours are: U.S. EPA Region 4 Records Center, attn. Ms. Debbie Jourdan, Atlanta Federal Center, 61 Forsyth Street, Atlanta, Georgia 30303–8909, (404) 562–8862, hours: 8:00 a.m. to 4:00 p.m., Monday through Friday by appointment only;

Bruton Memorial Library, 302 McLendon Street, Plant City, Florida 33566–3299, (813) 757–9215, hours: 9:00 a.m. to 9:00 p.m., Monday through Thursday 9:00 a.m. to 6:00 p.m., Friday 10:00 a.m. to 6:00 p.m., Saturday, closed, Sunday.

FOR FURTHER INFORMATION CONTACT: Galo Jackson, U.S. EPA Region 4, Mail Code: WD-SSMB, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–8960, (404) 562–8937.

SUPPLEMENTARY INFORMATION: EPA announces the deletion of the Schuylkill Metals Corporation Superfund Site in Plant City, Hillsborough County, Florida from the NPL, which constitutes appendix B of 40 CFR part 300. EPA published a Notice of Intent to Delete the Schuylkill Metal Corporation Superfund Site from the NPL on June 12, 2001 in the **Federal Register**, (66 FR 31580). EPA received no comments on the proposed deletion; therefore, no responsiveness summary is necessary for this Notice of Deletion.

EPA identifies sites on the NPL that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject to remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to 40 CFR 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions if conditions at the site warrant such action. Deletion of a site from the NPL does not affect the responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 5, 2001.

Russell Wright,

Acting Regional Administrator, Region 4.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

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

Authority: 33 U.S.C. 1321 (c) (2); 42 U.S.C. 9601–9657; E.O. 12777, 56FR 54757, 3 CFR, 1991 Comp.; p. 351: E.O. 12580, 52 FR 2923, 3CFR, 1987 Comp.; p.193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the site ''Schuylkill Metals Corp., Plant City, Florida.''

[FR Doc. 01–20896 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1168–06; I.D. 011101B]

RIN 0648–A082

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures and 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska; Correction

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

ACTION: Emergency interim rule; correction.

SUMMARY: This document corrects the July 17, 2001, emergency interim rule by adding footnote reference numbers and their corresponding footnotes, which were inadvertently omitted or published with errors to tables in the preamble and in the regulatory text.

DATES: Effective July 18, 2001, through December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, NMFS, 907–586–7228 or e-mail at *melanie.brown@noaa.gov.*

SUPPLEMENTARY INFORMATION: The emergency interim rule that was published July 17, 2001 (66 FR 37167), implements Steller sea lion protection measures and announces final 2001 harvest specifications for the groundfish fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska. As published, the final regulations contain errors that need to be corrected in Tables 7 and 27 to the preamble and in Tables 21 through 24 to 50 CFR part 679 by adding footnote reference numbers and footnotes.

Table 7 to the preamble inadvertently omitted a footnote. Table 27 to the

preamble, which lists the final 2001 GOA groundfish harvest limitations (sideboards), inadvertently omitted entries for pollock C Season and D Season. That portion of Table 27 is reprinted in this document.

Tables 21 through 24 to 50 CFR part 679 are corrected by this document and are reprinted in their entirety.

Correction

Accordingly, in the emergency interim rule published on July 17, 2001 (66 FR 37167), FR Doc. 01–17850, is corrected as follows:

1. In Table 7 to the preamble, page 37173:

a. In the first column under the fourth entry from the top, ''Hook-and-line Catcher Processors (≥ 60 ft LOA)'' add a footnote reference number ''3'' to read: ''Hook-and-line Catcher Processors (≥ 60 ft LOA)[3]'', and

b. Add the footnote at the end of Table 7 to read as follows: ''[3]Harvest of Pacific cod made by catcher processors less than 60 ft LOA using hook-and-line gear will accrue to the 80 percent allocation under § 679.20(a)(7)(i)(C)(*1*)(*i*) when the other non-trawl halibut mortality bycatch allowance becomes available on August 1, 2001.''

2. In Table 27 to the preamble, page 37176:

a. Correct the spelling of the second entry ''Pacific code'' to read: ''Pacific cod''.

b. The following entries, which were inadvertently omitted from ''Pollock'', ''C Season (W/C areas only)'' are added in this document. This portion of Table 27 should be inserted between the entries ''Pollock'' and ''Pacific cod'':

TABLE 27—FINAL 2001 GOA NON-EXEMPT AFA CATCHER VESSEL (CV) GROUNDFISH HARVEST LIMITATIONS (SIDEBOARDS). (VALUES ARE IN MT)

Species	Apportionments and allocations by area/season/ processor/gear	Ratio of 1995-1997 Non-Exempt AFA CV catch to 1995-1997 TAC	2001 TAC	2001 Non-Exempt AFA catcher vessel sideboard
* *	* * *	*		*
Pollock	*C Season (W/C areas only)*			
	August 20 - September 15			
	Shumagin (610)	0.6238	10,998	6,861
	Chirikof (620)	0.1262	6,546	826
	Kodiak (630)	0.1984	8,610	1,708
	D Season (W/C areas only)			
	October 1-November 1			
	Shumagin (610)	0.6238	9,165	5,717
	Chirikof (620)	0.1262	5,465	688
	Kodiak (630)	0.1984	7,175	1,424
	Annual			
	WYK (640)	0.3642	2,235	814
	SEO (650)	0.3642	6,460	2,353
* *	* * *	*		*

Table 21 to 50 CFR Part 679 [Corrected]

3. Table 21 to part 679, beginning on page 37183, is correctly revised to read as follows:

BILLING CODE 3510–22–S

Table 21 to 50 CFR Part 679 Steller Sea Lion Protection Areas 3nm No Groundfish Fishing Sites

Column Number 1	2	3	4	5	6	7	8	9	10
Site name	Management Region	Boundaries from		Boundaries to [1]		Site Type	No transit [2] 3 nm	Vessels < 60 ft. (18.3m) using non-trawl gear exempt from 3 nm fishing closure[3]	Jig vessels exempt from 3 nm fishing closure[4]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)				
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			H		Y	Y
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			H		Y	Y
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			H		Y	Y
St Paul I./Sea Lion Rock	Bering Sea	57 06.00 N	170 17.50 W			H		Y	Y
St Paul I./NE Pt.	Bering Sea	57 15.00 N	170 06.50 W			H		Y	Y
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			R	Y		
St. George I./Dalnoi Pt.	Bering Sea	56 36.00 N	169 46.00 W			H		Y	Y
St. George I./S Rookery	Bering Sea	56 33.50 N	169 40.00 W			H		Y	Y
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			H		Y	Y
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			H		Y	Y
Attu I./Cape Wrangell	Aleutian Islands	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	R	Y		
Agattu I./Gillon Pt	Aleutian Islands	52 24.13 N	173 21.31 E			R	Y		
Attu I./Chirikof Pt.	Aleutian Islands	52 49.75 N	173 26.00 E			H		Y	Y
Agattu I./Cape Sabak	Aleutian Islands	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	R	Y		
Alaid I.	Aleutian Islands	52 46.50 N	173 51.50 E	52 45.00 N	173 56.50 E	H		Y	Y
Shemya I.	Aleutian Islands	52 44.00 N	174 08.70 E			H		Y	Y
Buldir I.	Aleutian Islands	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	R	Y		
Kiska I./Cape St. Stephen	Aleutian Islands	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	R	Y		
Kiska I./Sobaka & Vega	Aleutian Islands	51 49.50 N	177 19.00 E	51 48.50 N	177 20.50 E	H		Y	Y
Kiska I./Llef Cove	Aleutian Islands	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	R	Y		
Kiska I./Sirius Pt.	Aleutian Islands	52 08.50 N	177 36.50 E			H		Y	Y
Tanadak I. (Kiska)	Aleutian Islands	51 56.80 N	177 46.80 E			H		Y	Y
Segula I.	Aleutian Islands	51 59.90 N	178 05.80 E	52 03.06 N	178 08.80 E	H		Y	Y
Ayugadak Point	Aleutian Islands	51 45.36 N	178 24.30 E			R	Y		
Rat I./Krysi Pt.	Aleutian Islands	51 49.98 N	178 12.35 E			H		Y	Y
Little Sitkin I.	Aleutian Islands	51 59.30 N	178 29.80 E			H		Y	Y
Amchitka I./Column Rocks	Aleutian Islands	51 32.32 N	178 49.28 E			R	Y		
Amchitka I./East Cape	Aleutian Islands	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E	R	Y		
Amchitka I./Cape Ivakin	Aleutian Islands	51 24.46 N	179 24.21 E			H		Y	Y
Semisopochnoi/Petrel Pt.	Aleutian Islands	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E	R	Y		
Semisopochnoi I./Pochnoi Pt.	Aleutian Islands	51 57.30 N	179 46.00 E			R	Y		
Amatignak I./Nitrof Pt.	Aleutian Islands	51 13.00 N	179 07.80 W			H		Y	Y
Unalga & Dinkum Rocks	Aleutian Islands	51 33.67 N	179 04.25 W	51 35.09 N	179 03.66 W	H		Y	Y
Ulak I./Hasgox Pt.	Aleutian Islands	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W	R	Y		
Kavalga I.	Aleutian Islands	51 34.50 N	178 51.73 W	51 34.50 N	178 49.50 W	H		Y	Y
Tag I.	Aleutian Islands	51 33.50 N	178 34.50 W			R	Y		
Ugidak I.	Aleutian Islands	51 34.95 N	178 30.45 W			H		Y	Y
Gramp Rock	Aleutian Islands	51 28.87 N	178 20.58 W			R	Y		

Column Number 1	2	3	4	5	6	7	8	9	10
Site name	Management Region	Boundaries from		Boundaries to [1]		Site Type	No transit [2] 3 nm	Vessels < 60 ft. (18.3m) using non-trawl gear exempt from 3 nm fishing closure[3]	Jig vessels exempt from 3 nm fishing closure[4]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)				
Tanaga I./Bumpy Pt.	Aleutian Islands	51 55.00 N	177 58.50 W	51 55.00 N	177 57.10 W	H		Y	Y
Bobrof I.	Aleutian Islands	51 54.00 N	177 27.00 W			H		Y	Y
Kanaga I./Ship Rock	Aleutian Islands	51 46.70 N	177 20.72 W			H		Y	Y
Kanaga I./North Cape	Aleutian Islands	51 56.50 N	177 09.00 W			H		Y	Y
Adak I.	Aleutian Islands	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	R	Y		
Little Tanaga Strait	Aleutian Islands	51 49.09 N	176 13.90 W			H		Y	Y
Great Sitkin I.	Aleutian Islands	52 06.00 N	176 10.50 W	52 06.60 N	176 07.00 W	H		Y	Y
Anagaksik I.	Aleutian Islands	51 50.86 N	175 53.00 W			H		Y	Y
Kasatochi I.	Aleutian Islands	52 11.11 N	175 31.00 W			R	Y		
Atka I./N. Cape	Aleutian Islands	52 24.20 N	174 17.80 W			H		Y	Y
Amlia I./Sviech. Harbor	Aleutian Islands	52 01.80 N	173 23.90 W			H		Y	Y
Sagigik I.	Aleutian Islands	52 00.50 N	173 09.30 W			H		Y	Y
Amlia I./East	Aleutian Islands	52 05.70 N	172 59.00 W	52 05.75 N	172 57.50 W	H		Y	Y
Tanadak I. (Amlia)	Aleutian Islands	52 04.20 N	172 57.60 W			H		Y	Y
Agligadak I.	Aleutian Islands	52 06.09 N	172 54.23 W			R	Y		
Seguam I./Saddleridge Pt.	Aleutian Islands	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	R	Y		
Seguam I./Finch Pt.	Aleutian Islands	52 23.40 N	172 27.70 W	52 23.25 N	172 24.30 W	H		Y	Y
Seguam I./South Side	Aleutian Islands	52 21.60 N	172 19.30 W	52 15.55 N	172 31.22 W	H		Y	Y
Amukta I. & Rocks	Aleutian Islands	52 27.25 N	171 17.90 W			H		Y	Y
Chagulak I.	Aleutian Islands	52 34.00 N	171 10.50 W			H		Y	Y
Yunaska I.	Aleutian Islands	52 41.40 N	170 36.35 W			R	Y		
Uliaga	Bering Sea	53 04.00 N	169 47.00 W	53 05.00 N	169 46.00 W	H		Y	Y
Chuginadak	Gulf of Alaska	52 46.70 N	169 41.90 W			H			Y
Kagamil	Bering Sea	53 02.10 N	169 41.00 W			H		Y	Y
Samalga	Gulf of Alaska	52 46.00 N	169 15.00 W			H			Y
Adugak I.	Bering Sea	52 54.70 N	169 10.50 W			R	Y		
Umnak I./Cape Aslik	Bering Sea	53 25.00 N	168 24.50 W			H		Y	Y
Ogchul I.	Gulf of Alaska	52 59.71 N	168 24.24 W			R	Y		
Bogoslof I./Fire Island	Bering Sea	53 55.69 N	168 02.05 W			R	Y		
Polivnoi Rock	Gulf of Alaska	53 15.96 N	167 57.99 W			H			Y
Emerald I.	Gulf of Alaska	53 17.50 N	167 51.50 W			H			Y
Unalaska/Cape Izigan	Gulf of Alaska	53 13.64 N	167 39.37 W			H			Y
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W			H		Y	Y
Akutan I./Reef-lava	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	H		Y	Y
Unalaska I./Cape Sedanka	Gulf of Alaska	53 50.50 N	166 05.00 W			H			Y
Old Man Rocks	Gulf of Alaska	53 52.20 N	166 04.90 W			H			Y
Akutan I./Cape Morgan	Gulf of Alaska	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	R	Y		

Column Number 1	2	3	4	5	6	7	8	9	10
Site name	Management Region	Boundaries from		Boundaries to [1]		Site Type	No transit [2] 3 nm	Vessels < 60 ft. (18.3m) using non-trawl gear exempt from 3 nm fishing closure [3]	Jig vessels exempt from 3 nm fishing closure [4]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)				
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	R	Y		
Rootok	Gulf of Alaska	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W	H			Y
Tanginak I.	Gulf of Alaska	54 12.00 N	165 19.40 W			H			Y
Tigalda/Rocks NE	Gulf of Alaska	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W	H			Y
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 56.80 W			H		Y	Y
Aiktak	Gulf of Alaska	54 10.99 N	164 51.15 W			H			Y
Ugamak I.	Gulf of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	R	Y		
Round (GOA)	Gulf of Alaska	54 12.05 N	164 46.60 W			H			Y
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			R	Y		
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	H		Y	Y
Bird I.	Gulf of Alaska	54 40.00 N	163 17.2 W			H			Y
Caton I.	Gulf of Alaska	54 22.70 N	162 21.30 W			H			Y
South Rocks	Gulf of Alaska	54 18.14 N	162 41.3 W			H			Y
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W			R	Y		
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W			R	Y		
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W			R	Y		
Sushilnoi Rocks	Gulf of Alaska	54 49.30 N	161 42.73 W			H			Y
Olga Rocks	Gulf of Alaska	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W	H			Y
Jude I.	Gulf of Alaska	55 15.75 N	161 06.27 W			H			Y
Sea Lion Rocks (Shumagins)	Gulf of Alaska	55 04.70 N	160 31.04 W			H			Y
Nagai I./Mountain Pt.	Gulf of Alaska	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	H			Y
The Whaleback	Gulf of Alaska	55 16.82 N	160 05.04 W			H			Y
Chernabura I.	Gulf of Alaska	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	R	Y		
Castle Rock	Gulf of Alaska	55 16.47 N	159 29.77 W			H			Y
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			R	Y		
Spitz I.	Gulf of Alaska	55 46.60 N	158 53.90 W			H			Y
Mitrofania	Gulf of Alaska	55 50.20 N	158 41.90 W			H			Y
Kak	Gulf of Alaska	56 17.30 N	157 50.10 W			H			Y
Lighthouse Rocks	Gulf of Alaska	55 46.79 N	157 24.89 W			H			Y
Sutwik I.	Gulf of Alaska	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	H			Y
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	R	Y		
Nagai Rocks	Gulf of Alaska	55 49.80 N	155 47.50 W			H			Y
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	R	Y		
Puale Bay	Gulf of Alaska	57 40.60 N	155 23.10 W			H			Y
Kodiak/Cape Ikolik	Gulf of Alaska	57 17.20 N	154 47.50 W			H			Y
Takli I.	**Gulf of Alaska**	**58 01.75 N**	**154 31.25 W**			H			Y
Cape Kuliak	Gulf of Alaska	58 08.00 N	154 12.50 W			H			Y
Cape Gull	Gulf of Alaska	58 11.50 N	154 09.60 W	58 12.50 N	154 10.50 W	H			Y
Kodiak/Cape Ugat	Gulf of Alaska	57 52.41 N	153 50.97 W			H			Y
Sitkinak/Cape Sitkinak	Gulf of Alaska	56 34.30 N	153 50.96 W			H			Y
Shakun Rock	Gulf of Alaska	58 32.80 N	153 41.50 W			H			Y
Twoheaded I.	Gulf of Alaska	56 54.50 N	153 32.75 W	56 53.90 N	153 33.74 W	H			Y

Column Number 1	2	3	4	5	6	7	8	9	10
Site name	Management Region	Boundaries from		Boundaries to [1]		Site Type	No transit [2] 3 nm	Vessels < 60 ft. (18.3m) using non-trawl gear exempt from 3 nm fishing closure[3]	Jig vessels exempt from 3 nm fishing closure[4]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)				
Cape Douglas (Shaw I.)	Gulf of Alaska	59 00.00 N	153 22.50 W			H			Y
Kodiak/Cape Barnabas	Gulf of Alaska	57 10.20 N	152 53.05 W			H			Y
Kodiak/Gull Point	Gulf of Alaska	57 21.45 N	152 36.30 W			H			Y
Latax Rocks	Gulf of Alaska	58 40.10 N	152 31.30 W			H			Y
Ushagat I./SW	Gulf of Alaska	58 54.75 N	152 22.20 W			H			Y
Ugak I.	Gulf of Alaska	57 23.60 N	152 17.50 W	57 21.90 N	152 17.40 W	H			Y
Sea Otter I.	Gulf of Alaska	58 31.15 N	152 13.30 W			H			Y
Long I.	Gulf of Alaska	57 46.82 N	152 12.90 W			H			Y
Sud I.	Gulf of Alaska	58 54.00 N	152 12.50 W			H			Y
Kodiak/Cape Chiniak	Gulf of Alaska	57 37.90 N	152 08.25 W			H			Y
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			R	Y		
Sea Lion Rocks (Marmot)	Gulf of Alaska	58 20.53 N	151 48.83 W			H			Y
Marmot I.	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	R	Y		
Nagahut Rocks	Gulf of Alaska	59 06.00 N	151 46.30 W			H			Y
Perl	Gulf of Alaska	59 05.75 N	151 39.75 W			H			Y
Gore Point	Gulf of Alaska	59 12.00 N	150 58.00 W			H			Y
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	R	Y		
Steep Point	Gulf of Alaska	59 29.05 N	150 15.40 W			H			Y
Seal Rocks (Kenai)	Gulf of Alaska	59 31.20 N	149 37.50 W			H			Y
Chiswell Islands	Gulf of Alaska	59 36.00 N	149 34.00 W			H			Y
Rugged Island	Gulf of Alaska	59 50.00 N	149 23.10 W	59 51.00 N	149 24.70 W	H			Y
Point Elrington	Gulf of Alaska	59 56.00 N	148 15.20 W			H			Y
Perry I.	Gulf of Alaska	60 44.00 N	147 54.60 W			H			Y
The Needle	Gulf of Alaska	60 06.64 N	147 36.17 W			H			Y
Point Eleanor	Gulf of Alaska	60 35.00 N	147 34.00 W			H			Y
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			R			
Glacier Island	Gulf of Alaska	60 51.30 N	147 14.50 W			H			Y
Seal Rocks (Cordova)	Gulf of Alaska	60 09.78 N	146 50.30 W			R			
Cape Hinchinbrook	Gulf of Alaska	60 14.00 N	146 38.50 W			H			Y
Middleton I.	Gulf of Alaska	59 28.30 N	146 18.80 W			H			Y
Hook Point	Gulf of Alaska	60 20.00 N	146 15.60 W			H			Y
Cape St. Elias	Gulf of Alaska	59 47.50 N	144 36.20 W			H			Y

H = haulout

R = rookery

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] See 50 CFR 223.202(a)(2)(i) for regulations regarding 3 nm no transit zones.

[3] See 679.22(a)(13)(i)(B)

[4] See 679.22(a)(13)(i)(A) and (b)(7)(i)

Table 22 to 50 CFR Part 679 [Corrected]

4. Table 22 to part 679, beginning on page 37187, is correctly revised to read as follows:

Table 22 to 50 CFR Part 679 Steller Sea Lion Protection Areas for Pollock Fisheries

Column Number 1	2	3	4	5	6	7	8
Site name	Management Reglon	Boundaries from		Boundaries to[1]		Pollock no fishing zone[2,7] (nm)	(18.3m) using non-trawl gear exempt from pollock fishing closures[3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)		
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20	Y
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20	Y
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20	Y
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			10	Y
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20	Y
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20	Y
Chuginadak	Gulf of Alaska	52 46.70 N	169 41.90 W			20	
Samalga	Gulf of Alaska	52 46.00 N	169 15.00 W			20	
Ogchul I.	Gulf of Alaska	52 59.71 N	168 24.24 W			20	
Polivnoi Rock	Gulf of Alaska	53 15.96 N	167 57.99 W			20	
Emerald I.	Gulf of Alaska	53 17.50 N	167 51.50 W			20	
Unalaska/Cape Izigan	Gulf of Alaska	53 13.64 N	167 39.37 W			20	
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W			10	Y
Akutan I./Reef-lava	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	10	Y
Unalaska I./Cape Sedanka	Gulf of Alaska	53 50.50 N	166 05.00 W			20	
Old Man Rocks	Gulf of Alaska	53 52.20 N	166 04.90 W			20	
Akutan I./Cape Morgan	Gulf of Alaska	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	20	
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10	Y
Rootok	Gulf of Alaska	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W	20	
Tanginak I.	Gulf of Alaska	54 12.00 N	165 19.40 W			20	
Tigalda/Rocks NE	Gulf of Alaska	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W	20	
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 56.80 W			10	Y
Aiktak	Gulf of Alaska	54 10.99 N	164 51.15 W			20	
Ugamak I.	Gulf of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	20	
Round (GOA)	Gulf of Alaska	54 12.05 N	164 46.60 W			20	
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			10	Y
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10	Y
Bird I.	Gulf of Alaska	54 40.00 N	163 17.2 W			10	Y
Caton I.	Gulf of Alaska	54 22.70 N	162 21.30 W			10	Y
South Rocks	Gulf of Alaska	54 18.14 N	162 41.3 W			10	Y
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W			10	Y
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W			10	Y
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W			10	Y
Sushilnoi Rocks	Gulf of Alaska	54 49.30 N	161 42.73 W			10	Y
Olga Rocks	Gulf of Alaska	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W	10	Y
Jude I.	Gulf of Alaska	55 15.75 N	161 06.27 W			10	Y
Sea Lion Rocks (Shumagins)	Gulf of Alaska	55 04.70 N	160 31.04 W			10	Y
Nagai I./Mountain Pt.	Gulf of Alaska	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	10	Y
The Whaleback	Gulf of Alaska	55 16.82 N	160 05.04 W			10	Y

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from		Boundaries to [1]		Pollock no fishing zone[2,7] (nm)	(18.3m) using non-trawl gear exempt from pollock fishing closures[3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)		
Chernabura I.	Gulf of Alaska	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	10	Y
Castle Rock	Gulf of Alaska	55 16.47 N	159 29.77 W			10	Y
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			10	Y
Spitz I.	Gulf of Alaska	55 46.60 N	158 53.90 W			10	Y
Mitrofania	Gulf of Alaska	55 50.20 N	158 41.90 W			10	Y
Kak	Gulf of Alaska	56 17.30 N	157 50.10 W			20	
Lighthouse Rocks	Gulf of Alaska	55 46.79 N	157 24.89 W			20	
Sutwik I.	Gulf of Alaska	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	20	
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	20	
Nagai Rocks	Gulf of Alaska	55 49.80 N	155 47.50 W			20	
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	20	
Kodiak/Cape Ugat	Gulf of Alaska	57 52.41 N	153 50.97 W			20	Y
Shakun Rock	Gulf of Alaska	58 32.80 N	153 41.50 W			20	Y
Cape Douglas (Shaw I.)	Gulf of Alaska	59 00.00 N	153 22.50 W			20	Y
Latax Rocks	Gulf of Alaska	58 40.10 N	152 31.30 W			20	Y
Ushagat I./SW	Gulf of Alaska	58 54.75 N	152 22.20 W			20	Y
Sea Otter I.	Gulf of Alaska	58 31.15 N	152 13.30 W			20	Y
Long I.[4]	Gulf of Alaska	57 46.82 N	152 12.90 W			20	Y
Sud I.	Gulf of Alaska	58 54.00 N	152 12.50 W			20	Y
Kodiak/Cape Chiniak[4,6]	Gulf of Alaska	57 37.90 N	152 08.25 W			20	Y
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			20	
Sea Lion Rocks (Marmot)	Gulf of Alaska	58 20.53 N	151 48.83 W			20	Y
Marmot I.	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	20	
Nagahut Rocks	Gulf of Alaska	59 06.00 N	151 46.30 W			20	Y
Perl	Gulf of Alaska	59 05.75 N	151 39.75 W			20	Y
Gore Point	Gulf of Alaska	59 12.00 N	150 58.00 W			20	Y
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	20	
Steep Point	Gulf of Alaska	59 29.05 N	150 15.40 W			20	Y
Seal Rocks (Kenai)	Gulf of Alaska	59 31.20 N	149 37.50 W			20	Y
Chiswell Islands	Gulf of Alaska	59 36.00 N	149 34.00 W			20	Y
Rugged Island	Gulf of Alaska	59 50.00 N	149 23.10 W	59 51.00 N	149 24.70 W	20	Y
Point Elrington[5]	Gulf of Alaska	59 56.00 N	148 15.20 W			20	
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			20	
Seal Rocks (Cordova)	Gulf of Alaska	60 09.78 N	146 50.30 W			20	
Cape Hinchinbrook	Gulf of Alaska	60 14.00 N	146 38.50 W			20	
Middleton I.	Gulf of Alaska	59 28.30 N	146 18.80 W			20	
Hook Point	Gulf of Alaska	60 20.00 N	146 15.60 W			20	
Cape St. Elias	Gulf of Alaska	59 47.50 N	144 36.20 W			20	

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base

[2] See 679.22(a)(11)(iv) and (b)(3)(iv).

[3] See 679.22(a)(13)(iv) and (b)(7)(iii).

[4] Pollock fishing closure to 10 nm from October 1 through December 31.

[5] Pollock fishing closure extends 20 nm into federal waters outside of Prince William Sound only.

[6] The pollock no fishing area extends in an arc from 3nm to 20 nm to a line connecting the point 57°31'3" N lat./152°17'48" W long. with the point 57°24'36" N lat./151°40'29" W long

[7] No fishing zones are the waters within 3 nm to the nm specified in columns 7 around each site.

Table 23 to Part 679 [Corrected]

5. Table 23 to part 679, beginning on page 37189, is correctly revised to read as follows:

Table 23 to 50 CFR Part 679 Steller Sea Lion Protection Areas for Pacific Cod Fisheries

Column Number 1	2	3	4	5	6	7	8	9	10	11
Site name	Management Reglon	Boundaries from		Boundaries to [1]		All P. Cod no fishing zone[3, 8]	Trawl Gear P. Cod no fishing Zone[4, 8]	Non-trawl Gear P. Cod no fishing Zone[5, 8]	Vessels < 60 ft. (18.3m) using non-trawl gear exempt from column 7 P. cod fishing closures[6]	All pot vessels exempt from P. cod fishing closures[7]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)		
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20			Y	Y
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20			Y	Y
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20			Y	Y
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			10			Y	Y
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20			Y	Y
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20			Y	Y
Attu I./Cape Wrangell	Aleutian Island	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E		20	3		
Agattu I./Gillon Pt	Aleutian Island	52 24.13 N	173 21.31 E				20	3		
Attu I./Chirikof Pt.	Aleutian Island	52 49.75 N	173 26.00 E				20			
Agattu I./Cape Sabak	Aleutian Island	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E		20	3		
Alaid I.	Aleutian Island	52 46.50 N	173 51.50 E	52 45.00 N	173 56.50 E		20			
Shemya I.	Aleutian Island	52 44.00 N	174 08.70 E				20			
Buldir I.	Aleutian Island	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	20			Y	
Kiska I./Cape St. Stephen	Aleutian Island	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E		20	3		
Kiska I./Sobaka & Vega	Aleutian Island	51 49.50 N	177 19.00 E	51 48.50 N	177 20.50 E		20			
Kiska I./Lief Cove	Aleutian Island	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E		20	3		
Kiska I./Sirius Pt.	Aleutian Island	52 08.50 N	177 36.50 E				20			
Tanadak I. (Kiska)	Aleutian Island	51 56.80 N	177 46.80 E				20			
Segula I.	Aleutian Island	51 59.90 N	178 05.80 E	52 03.06 N	178 08.80 E		20			
Ayugadak Point	Aleutian Island	51 45.36 N	178 24.30 E				20	3		
Rat I./Krysi Pt.	Aleutian Island	51 49.98 N	178 12.35 E				20			
Little Sitkin I.	Aleutian Island	51 59.30 N	178 29.80 E				20			
Amchitka I./Column Rocks	Aleutian Island	51 32.32 N	178 49.28 E				20	3		
Amchitka I./East Cape	Aleutian Island	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E		20	3		
Amchitka I./Cape Ivakin	Aleutian Island	51 24.46 N	179 24.21 E				20			
Semisopochnoi/Petrel Pt.	Aleutian Island	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E		20	3		
Semisopochnoi I./Pochnoi Pt.	Aleutian Island	51 57.30 N	179 46.00 E				20	3		
Amatignak I./Nitrof Pt.	Aleutian Island	51 13.00 N	179 07.80 W				20			
Unalga & Dinkum Rocks	Aleutian Island	51 33.67 N	179 04.25 W	51 35.09 N	179 03.66 W		20			
Ulak I./Hasgox Pt.	Aleutian Island	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W		20	3		
Kavalga I.	Aleutian Island	51 34.50 N	178 51.73 W	51 34.50 N	178 49.50 W		20			
Tag I.	Aleutian Island	51 33.50 N	178 34.50 W				20	3		
Ugidak I.	Aleutian Island	51 34.95 N	178 30.45 W				20			
Gramp Rock[10]	Aleutian Island	51 28.87 N	178 20.58 W				20	3		
Adak I.	Aleutian Island	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	10			Y	
Kasatochi I.	Aleutian Island	52 11.11 N	175 31.00 W			10			Y	
Agligadak I.	Aleutian Island	52 06.09 N	172 54.23 W			20			Y	
Seguam I./Saddleridge Pt.	Aleutian Island	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	20			Y	
Yunaska I.	Aleutian Island	52 41.40 N	170 36.35 W			10			Y	
Chuginadak	Gulf of Alaska	52 46.70 N	169 41.90 W			20				
Samalga	Gulf of Alaska	52 46.00 N	169 15.00 W			20				
Ogchul I.	Gulf of Alaska	52 59.71 N	168 24.24 W			20				

Column Number 1	2	3	4	5	6	7	8	9	10	11
Site name	Management Region	Boundaries from		Boundaries to [1]		All P. Cod no fishing zone[3, 8]	Trawl Gear P. Cod no fishing Zone[4, 8]	Non-trawl Gear P. Cod no fishing Zone[5, 8]	Vessels < 60 ft. (18.3m) using non-trawl gear exempt from column 7 P. cod fishing closures[6]	All pot vessels exempt from P. cod fishing closures[7]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)		
Polivnoi Rock	Gulf of Alaska	53 15.96 N	167 57.99 W			20				
Emerald I.	Gulf of Alaska	53 17.50 N	167 51.50 W			20				
Unalaska/Cape Izigan	Gulf of Alaska	53 13.64 N	167 39.37 W			20				
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W			10			Y	Y
Akutan I./Reef-lava	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	10			Y	Y
Unalaska I./Cape Sedanka	Gulf of Alaska	53 50.50 N	166 05.00 W			20				
Old Man Rocks	Gulf of Alaska	53 52.20 N	166 04.90 W			20				
Akutan I./Cape Morgan	Gulf of Alaska	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	20				
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10			Y	Y
Rootok	Gulf of Alaska	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W	20				
Tanginak I.	Gulf of Alaska	54 12.00 N	165 19.40 W			20				
Tigalda/Rocks NE	Gulf of Alaska	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W	20				
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 56.80 W			10			Y	Y
Aiktak	Gulf of Alaska	54 10.99 N	164 51.15 W			20				
Ugamak I.	Gulf of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	20				
Round (GOA)	Gulf of Alaska	54 12.05 N	164 46.60 W			20				
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			10			Y	
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10			Y	
Bird I.	Gulf of Alaska	54 40.00 N	163 17.2 W			10			Y	
Caton I.	Gulf of Alaska	54 22.70 N	162 21.30 W			10			Y	
South Rocks	Gulf of Alaska	54 18.14 N	162 41.3 W			10			Y	
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W			10			Y	
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W			10			Y	
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W			10			Y	
Sushilnoi Rocks	Gulf of Alaska	54 49.30 N	161 42.73 W			10			Y	
Olga Rocks	Gulf of Alaska	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W	10			Y	
Jude I.	Gulf of Alaska	55 15.75 N	161 06.27 W			10			Y	
Sea Lion Rocks (Shumagins)	Gulf of Alaska	55 04.70 N	160 31.04 W			10			Y	
Nagai I./Mountain Pt.	Gulf of Alaska	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	10			Y	
The Whaleback	Gulf of Alaska	55 16.82 N	160 05.04 W			10			Y	
Chernabura I.	Gulf of Alaska	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	10			Y	
Castle Rock	Gulf of Alaska	55 16.47 N	159 29.77 W			10			Y	
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			10			Y	
Spitz I.	Gulf of Alaska	55 46.60 N	158 53.90 W			10			Y	
Mitrofania	Gulf of Alaska	55 50.20 N	158 41.90 W			10			Y	
Kak	Gulf of Alaska	56 17.30 N	157 50.10 W			20				
Lighthouse Rocks	Gulf of Alaska	55 46.79 N	157 24.89 W			20				
Sutwik I.	Gulf of Alaska	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	20				
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	20				
Nagai Rocks	Gulf of Alaska	55 49.80 N	155 47.50 W			20				
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	20				
Kodiak/Cape Ugat	Gulf of Alaska	57 52.41 N	153 50.97 W			20			Y	
Shakun Rock	Gulf of Alaska	58 32.80 N	153 41.50 W			20			Y	
Cape Douglas (Shaw I.)	Gulf of Alaska	59 00.00 N	153 22.50 W			20			Y	

Column Number 1	2	3	4	5	6	7	8	9	10	11
Site name	Management Region	Boundaries from		Boundaries to [1]		All P. Cod no fishing zone[3, 8]	Trawl Gear P. Cod no fishing Zone[4, 8]	Non-trawl Gear P. Cod no fishing Zone[5, 8]	Vessels < 60 ft. (18.3m) using non-trawl gear exempt from column 7 P. cod fishing closures[6]	All pot vessels exempt from P. cod fishing closures[7]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)		
Latax Rocks	Gulf of Alaska	58 40.10 N	152 31.30 W			20			Y	
Ushagat I./SW	Gulf of Alaska	58 54.75 N	152 22.20 W			20			Y	
Sea Otter I.	Gulf of Alaska	58 31.15 N	152 13.30 W			20			Y	
Long I.[2]	Gulf of Alaska	57 46.82 N	152 12.90 W			20			Y	
Sud I.	Gulf of Alaska	58 54.00 N	152 12.50 W			20			Y	
Kodiak/Cape Chiniak[2,9]	Gulf of Alaska	57 37.90 N	152 08.25 W			20			Y	
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			20				
Sea Lion Rocks (Marmot)	Gulf of Alaska	58 20.53 N	151 48.83 W			20			Y	
Marmot I.	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	20				
Nagahut Rocks	Gulf of Alaska	59 06.00 N	151 46.30 W			20			Y	
Perl	Gulf of Alaska	59 05.75 N	151 39.75 W			20			Y	
Gore Point	Gulf of Alaska	59 12.00 N	150 58.00 W			20			Y	
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	20				
Steep Point	Gulf of Alaska	59 29.05 N	150 15.40 W			20			Y	
Seal Rocks (Kenai)	Gulf of Alaska	59 31.20 N	149 37.50 W			20			Y	
Chiswell Islands	Gulf of Alaska	59 36.00 N	149 34.00 W			20			Y	
Rugged Island	Gulf of Alaska	59 50.00 N	149 23.10 W	59 51.00 N	149 24.70 W	20			Y	
Point Elrington	Gulf of Alaska	59 56.00 N	148 15.20 W			20				
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			20				
Seal Rocks (Cordova)	Gulf of Alaska	60 09.78 N	146 50.30 W			20				
Cape Hinchinbrook	Gulf of Alaska	60 14.00 N	146 38.50 W			20				
Middleton I.	Gulf of Alaska	59 28.30 N	146 18.80 W			20				
Hook Point	Gulf of Alaska	60 20.00 N	146 15.60 W			20				
Cape St. Elias	Gulf of Alaska	59 47.50 N	144 36.20 W			20				

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point

[2] Fishing closure zone is 10 nm between October 1 through December 31.

[3] See 679.22(a)(11)(iii) and (a)(12)(v)

[4] See 679.22(a)(12)(vi)

[5] See 679.22(a)(12)(vii).

[6] See 679.22(a)(13)(iii)(B).

[7] See 679.22(a)(13)(iii)(C).

[8] No fishing zones are the waters within 3 nm to the nm specified in columns 7, 8, and 9 around each site.

[9] The Pacific cod no fishing area extends in an arc from 3nm to 20 nm to a line connecting the point 57°31'3" N lat./152°17'48" W long. with the point 57°24'36" N lat./151° 40'29" W long

[10] The 20 nm Pacific cod trawl closure around the Gramp Rock rookery is established only for that portion of the area west of 178° W long.

Table 24 to Part 679 [Corrected]

6. Table 24 to part 679, beginning on page 37192, is corrected revised to read as follows:

Table 24 to 50 CFR Part 679 Steller Sea Lion Protection Areas for Atka Mackerel Fisheries

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from		Boundaries to[1]		Atka mackerel no fishing zone[2,4]	All pot vessels exempt from Atka mackerel fishing closures[3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20	Y
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20	Y
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20	Y
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			10	Y
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20	Y
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20	Y
Attu I./Cape Wrangell	Aleutian Island	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	10	
Agattu I./Gillon Pt	Aleutian Island	52 24.13 N	173 21.31 E			10	
Agattu I./Cape Sabak	Aleutian Island	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	10	
Buldir I.	Aleutian Island	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	20	
Kiska I./Cape St. Stephen	Aleutian Island	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	10	
Kiska I./Lief Cove	Aleutian Island	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	10	
Ayugadak Point	Aleutian Island	51 45.36 N	178 24.30 E			10	
Amchitka I./Column Rocks	Aleutian Island	51 32.32 N	178 49.28 E			10	
Amchitka I./East Cape	Aleutian Island	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E	10	
Semisopochnoi/Petrel Pt.	Aleutian Island	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E	10	
Semisopochnoi I./Pochnoi Pt.	Aleutian Island	51 57.30 N	179 46.00 E			10	
Ulak I./Hasgox Pt.	Aleutian Island	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W	10	
Tag I.	Aleutian Island	51 33.50 N	178 34.50 W			10	
Gramp Rock	Aleutian Island	51 28.87 N	178 20.58 W			10	
Tanaga I./Bumpy Pt.[5]	Aleutian Island	51 55.00 N	177 58.50 W	51 55.00 N	177 57.10 W	20	
Bobrof I.	Aleutian Island	51 54.00 N	177 27.00 W			20	
Kanaga I./Ship Rock	Aleutian Island	51 46.70 N	177 20.72 W			20	
Kanaga I./North Cape	Aleutian Island	51 56.50 N	177 09.00 W			20	
Adak I.	Aleutian Island	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	20	
Little Tanaga Strait	Aleutian Island	51 49.09 N	176 13.90 W			20	
Great Sitkin I.	Aleutian Island	52 06.00 N	176 10.50 W	52 06.60 N	176 07.00 W	20	
Anagaksik I.	Aleutian Island	51 50.86 N	175 53.00 W			20	
Kasatochi I.	Aleutian Island	52 11.11 N	175 31.00 W			20	
Atka I./N. Cape	Aleutian Island	52 24.20 N	174 17.80 W			20	
Amlia I./Sviech. Harbor	Aleutian Island	52 01.80 N	173 23.90 W			20	
Sagigik I.	Aleutian Island	52 00.50 N	173 09.30 W			20	
Amlia I./East	Aleutian Island	52 05.70 N	172 59.00 W	52 05.75 N	172 57.50 W	20	
Tanadak I. (Amlia)	Aleutian Island	52 04.20 N	172 57.60 W			20	
Agligadak I.	Aleutian Island	52 06.09 N	172 54.23 W			20	
Seguam I./Saddleridge Pt.	Aleutian Island	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	20	
Seguam I./Finch Pt.	Aleutian Island	52 23.40 N	172 27.70 W	52 23.25 N	172 24.30 W	20	
Seguam I./South Side	Aleutian Island	52 21.60 N	172 19.30 W	52 15.55 N	172 31.22 W	20	
Amukta I. & Rocks	Aleutian Island	52 27.25 N	171 17.90 W			20	
Chagulak I.	Aleutian Island	52 34.00 N	171 10.50 W			20	
Yunaska I.	Aleutian Island	52 41.40 N	170 36.35 W			20	
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W			10	Y
Akutan I./Reef-lava	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	10	Y
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10	Y

Column Number 1	2	3		4		5	6	7	8
Site name	Management Region	Boundaries from				Boundaries to [1]		Atka mackerel no fishing zone[2,4]	All pot vessels exempt from Atka mackerel fishing closures[3]
		Latitude (N)	Longitude (W)			Latitude (N)	Longitude (W)	(nm)	
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 56.80 W					10	Y
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W					10	
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W			55 26.15 N	163 08.50 W	10	

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] See 679.22(a)(12)(viii)

[3] See 679.22(a)(13)(ii)(B)

[4] No fishing zones are the waters within 3 nm to the nm specified in columns 7 around each site.

[5] The 20 nm Atka mackerel fishery closure around the Tanaga I./Bumpy Pt. Rookery is established only for that portion of the area east of 178° W long.

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

Dated: August 14, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–21205 Filed 8–21–01; 8:45 am]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 66, No. 163
Wednesday, August 22, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. FV01–982–3 PR]

Hazelnuts Grown in Oregon and Washington; Establishment of Reporting Requirements for Imported Hazelnuts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would establish reporting requirements for hazelnuts imported by handlers of hazelnuts grown in Oregon and Washington. The rule would require handlers to report the receipt and disposition of hazelnuts grown outside of the United States and was recommended by the Hazelnut Marketing Board (Board), the agency responsible for local administration of the marketing order regulating the handling of hazelnuts grown in Oregon and Washington. This rule also announces the Agricultural Marketing Service's (AMS) intention to request a revision to the currently approved information collection requirements issued under the marketing order. This proposed reporting requirement would provide the Board with more accurate information on the total supply of hazelnuts being handled in Oregon and Washington. This would facilitate the Board's preparation of its annual marketing policy and would help in its ability to track both domestic and foreign product.

DATES: Comments must be received by October 22, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525–S, Washington, DC 20090–6456; Fax: (202) 720–8938; or E-mail: *moab.docketclerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: http://www.ams.usda.gov/fv/moab.html.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204; telephone: (503) 326–2724; Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement No. 115 and Order No. 982 both as amended (7 CFR part 982), regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule would establish reporting requirements for hazelnuts imported by handlers of hazelnuts grown in Oregon and Washington. The rule would require handlers to report the receipt and disposition of hazelnuts grown outside of the United States. The proposed reporting requirement would provide the Board with more accurate information on the total supply of hazelnuts being handled in Oregon and Washington.

At its November 14, 2000, meeting, the Board passed a general recommendation to require handlers to report imported hazelnuts. After developing procedures and a form necessary for implementation, the Board submitted its recommendation to the Department in May 2001.

Sections 982.64 through 982.67 of the order currently authorize the Board to require certain specific reports from handlers, including creditable promotion and advertising reports, carryover reports, shipment reports, and reports on the disposition of restricted hazelnuts. Section 982.68 of the order provides additional authority for the Board, with the approval of the Secretary, to require such other reports as the Board may require to perform its duties under the order.

The Board believes that more accurate information on the total supply of hazelnuts moving in and out of Oregon and Washington—both foreign and domestic product—would facilitate the administration of the order. The Board would use this information to more efficiently track the receipt and disposition of hazelnuts by handlers in Oregon and Washington. Furthermore, the Board would use this information in

its marketing policy deliberations each fall when it reviews the crop estimate, handler carryover, and other factors to determine whether volume regulation would be appropriate. In addition, the Board is concerned that imported hazelnuts might be included in handler inventory reports of Oregon and Washington hazelnuts.

In addition to the domestic crop, of which 100 percent is produced in Oregon and Washington, hazelnuts are imported into the United States from Canada and Turkey, and occasionally from Italy. Hazelnuts produced in Oregon and Washington generally represent from 3 to 5 percent of the world crop. According to USDA statistics, the majority of hazelnuts imported into the United States are in kernel form, of which about 96 percent are from Turkey. A small percentage of imports are inshell hazelnuts and generally are from British Columbia, Canada, and enter the U.S. through Washington State. Although information pertaining to the quantity of imported hazelnuts is currently available, information specific to the receipt and disposition by Oregon and Washington hazelnut handlers is lacking.

A major concern of the Board is the inshell hazelnuts imported from Canada by Oregon and Washington handlers. As production in Canada has increased, there has been an increase in Canadian hazelnuts imported into Oregon and Washington. These hazelnuts are generally the same variety (Barcelona) as are produced in Oregon and Washington. If these hazelnuts are placed in the domestic inshell market without its knowledge, the Board's marketing policy calculations could be inaccurate. The Board wants to collect import hazelnut data to see how much is being imported and disposed of by domestic handlers.

According to the National Agricultural Statistics Service, the 10-year average annual production of hazelnuts grown in Oregon and Washington is 29,800 inshell tons. Of that total, an average of 4,253 tons was sold in the domestic market. Furthermore, according to the Foreign Agricultural Service, imports during the same 10-year period averaged 316 tons. The five-year average for imports is 534 tons, however, indicating the increase may well be significant enough to impact the inshell domestic market.

The proposed report, *F/H Form 1f,* would be submitted to the Board monthly when imported hazelnuts are received and shipped by the handler to a buyer in the United States or exported inshell or shelled. The Board estimates that these reports would only be submitted five times per year by each importing handler. The report would include the quantity of such hazelnuts received, country of origin, inspection certificate number, whether such hazelnuts were inshell or kernels, the disposition outlet (domestic, export, inshell, or shelled, etc.), and the shipment date of such hazelnuts.

The Board also recommended that, with each report, the handler submit a copy of the inspection certificate issued by the Federal-State Inspection Service (FSIS) for compliance purposes. The inspection certificate would indicate the name of the person from whom the hazelnuts were received, the date the hazelnuts were received by the handler, the number of tons and U.S. Custom Service entry number, whether the product is inshell or shelled, the quantity of hazelnuts, country of origin, the name of the FSIS inspector who issued the certificate, and the date such certificate was issued. The Board believes inspection certificates are necessary to verify handler receipt and disposition reports for imported hazelnuts.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 800 growers of hazelnuts in the production area and approximately 24 handlers subject to regulation under the order. Small agricultural growers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on the SBA definition, the Board estimates that 21 of the 24 handlers and all of the growers are small entities. Board records show that in the 1999–2000 marketing year approximately 9 percent of the handlers shipped over 7,692,308 pounds of hazelnuts, and 91 percent of the handlers shipped under 7,692,308 pounds of hazelnuts. Thus, based on an average price of $0.65 per pound at the point of first sale, it can be concluded that the majority of hazelnut handlers may be classified as small entities, excluding receipts from other sources.

Board meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

This rule would add a new § 982.467 to the order's administrative rules and regulations which would require handlers to report to the Board the receipt and disposition of hazelnuts grown outside of the United States. This would provide the Board with more accurate information on the total available supply of hazelnuts—foreign and domestic product—and would help facilitate program administration. Authority for requiring handlers to submit this information to the Board is provided in § 982.68 of the order.

Regarding the impact of the proposed action on affected entities, this rule should impose minimal additional costs. The Board estimates that about five handlers have imported hazelnuts over the past few years. Such handlers would be required to submit an additional monthly report to the Board when imported hazelnuts are received and shipped, along with inspection certificates or other information required by the Board for verification purposes. The Board estimates that each affected handler would submit about five of these reports annually.

An alternative to the proposal would be to continue the current practice of not collecting information from handlers on the receipt and disposition of imported hazelnuts. However, as previously mentioned, the Board believes it can better administer the order by obtaining more accurate information on the total available supply of hazelnuts being received and disposed of by Oregon and Washington handlers, including foreign and domestic product. The only way this information can be obtained by the Board is to directly collect it from handlers. This information would facilitate program administration by improving the Board's base of information from which to make decisions.

Another alternative the Board considered was whether it would be useful to collect information on hazelnuts grown outside of Oregon and Washington, but within the United States. However, Board members agreed that the quantity of domestic hazelnuts grown outside the production area and handled by regulated handlers is insignificant commercially, and, therefore, not needed.

If implemented, this proposed rule would impose and added reporting and recordkeeping burden on handlers that receive hazelnuts from outside of the United States. The Board has estimated that five handlers may import hazelnuts during the marketing year. Such handlers would be required to submit a receipt and disposition report (*F/H Form 1f*) to the Board monthly when imported hazelnuts are received and shipped. The Board estimates that these reports would be submitted about five times per year per handler, and would require that each handler spend about five minutes to complete each report. Thus, the annual burden associated with this information collection should total no more than two hours for the industry. The information would be collected on *F/H Form 1f*. That form is being submitted to the Office of Management and Budget (OMB) for approval under OMB Control No. 0581–0178 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. The Department has identified one relevant Federal rule regarding requirements for hazelnuts grown outside of the United States. Under section 608e of the Act, whenever certain specified commodities are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestic commodity. Hazelnuts are included under section 608e of the Act. Thus, importers of hazelnuts are required to have such hazelnuts inspected by the Federal-State inspection service. Importers whose hazelnuts meet section 608e requirements do not have to submit any paperwork to the USDA. However, importers whose hazelnuts fail section 608e requirements, or whose hazelnuts are being sent to designated outlets (animal feed, processing, or charity) have to submit paperwork to the USDA. Only a small amount of information required by the USDA in these instances or by the Board through this rule would be duplicative.

In addition, the Board's meeting was widely publicized throughout the hazelnut industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the November 14, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the AMS is seeking Office of Management and Budget (OMB) approval for F/H Form 1f. This form will be used under the marketing order for hazelnuts grown in Oregon and Washington. The collection requirements for the hazelnut marketing order are included in the vegetable and specialty crops information collection package.

Title: Vegetable and Specialty Crops.

OMB Number: 0581–0178.

Expiration Date of Approval: April 30, 2004.

Type of Request: Revision of a currently approved information collection.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the Oregon-Washington hazelnut marketing order program, which has been operating since 1949. On November 14, 2000, the Board passed a general recommendation to require handlers to report to the Board the receipt and disposition of hazelnuts grown outside of the United States. After developing procedures and the form needed for implementation, the Board submitted its recommendation in May 2001. This information would be reported on *F/H Form 1f*. This notice concerns this report, in addition to the accompanying regulation previously discussed regarding requiring this report be submitted by handlers to the Board.

The Board would like to have better information on the total supply of hazelnuts available which includes both foreign and Oregon-Washington product. The Board would use this information in its marketing policy deliberations each fall when it reviews the crop estimate, handler carryover, and other factors to determine whether volume regulation would be appropriate. In addition, the Board has some concerns that imported hazelnuts could be included in handler inventory reports of Oregon-Washington hazelnuts. Accurate information regarding the supply of hazelnuts is needed by the Board in its administration of the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs regional and headquarter's staff, and authorized employees of the Board. Authorized Board employees and the industry are the primary users of the information and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Oregon-Washington hazelnut handlers who receive hazelnuts grown outside of the United States.

Estimated Number of Respondents: 5.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Burden on Respondents: 2 hours.

Comments: Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–NEW and the Marketing Order for Hazelnuts grown in Oregon and Washington and be sent to the USDA in care of the Docket Clerk at the address above. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

A 60-day comment period is provided to allow interested persons to respond to this proposal.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 982 is proposed to be amended as follows:

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 982 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 982.467 is added to read as follows:

§ 982.467 Report of receipts and dispositions of hazelnuts grown outside the United States.

Each handler who receives hazelnuts grown outside the United States shall report to the Board monthly on *F/H Form 1f* the receipt and disposition of such hazelnuts. All reports submitted shall include transactions through the end of each month, or other reporting periods established by the Board, and are due in the Board office on the tenth day following the end of the reporting period. The report shall include the quantity of such hazelnuts received, the country of origin for such hazelnuts, inspection certificate number, whether such hazelnuts are inshell or kernels, the disposition outlet, and shipment date of such hazelnuts. With each report, the handler shall submit copies of the applicable inspection certificates.

Dated: August 16, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–21176 Filed 8–21–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–86–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2, A300 B4, A300 B4–600, and A300 B4–600R Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

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

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all Airbus Model A300 B2 and A300 B4 series airplanes, and all A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600) series airplanes. The original notice of proposed rulemaking (NPRM) would have required repetitive inspections for cracking of certain fittings, corrective action if necessary, and, for certain airplanes, a modification; and would have provided for optional terminating action for the repetitive inspections. That proposal was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. This supplemental NPRM revises the original NPRM by including additional variables for determination of the compliance times, allowing an optional repair for certain cracking conditions, and removing certain airplanes from the applicability. The actions specified by this new proposed AD are intended to detect and correct propagation of cracks on the frame 40 aft fittings due to local stress concentrations at the frame 40 upper flange runout, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by September 17, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–86–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–86–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to

Docket Number 99–NM–86–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–86–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to all Airbus Model A300 B2 and A300 B4 series airplanes, and all Model A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600) series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on January 9, 2001 (66 FR 1612). That original NPRM would have required modifying the frame 40 aft fittings for certain airplanes. For all airplanes, the original NPRM would have required repetitive nondestructive test inspections to detect cracking of the frame 40 aft fittings, and corrective action if necessary; and would have provided for optional terminating action for the repetitive inspections. The original NPRM was prompted by reports that cracks were found on the frame 40 aft fittings at stringer 33 on the left and right sides of the fuselage; the cracks were caused by a local stress concentration at the frame 40 upper flange runout. That condition, if not corrected, could result in reduced structural integrity of the airplane.

Comments

Due consideration has been given to comments received in response to the original NPRM.

Request To Include Flight Hours in Compliance Time Determination

One commenter, the manufacturer, requests that flight hours also be included as a variable in the compliance time determination for the initial and repetitive inspections. The manufacturer and the FAA have agreed that both flight cycles and flight hours should be considered when determining the appropriate compliance threshold and repetitive interval for the inspections.

The FAA concurs with the request, finding that this method of determining the compliance times will ensure an adequate level of safety. The compliance times in Table 3 of this supplemental NPRM have been revised accordingly.

Request To Allow Repair for Certain Conditions

One commenter requests that the original NPRM be revised to allow rework of cracks in the aft fitting (in accordance with Airbus Service Bulletin A300–53–0296 or A300–53–6048) if the cracks are 10 mm or less in length. (The original NPRM would have required replacement of the cracked fitting.) The commenter considers that immediate replacement of a cracked fitting (in accordance with Airbus Service Bulletin A300–53–0297 or A300–57–6053) for these smaller cracks is not economically acceptable.

The FAA concurs. The FAA has determined that, for cracks that are 10 mm or less in length, either reworking the cracked area or replacing the cracked fitting would be acceptable for affected airplanes to continue to safely operate until the next inspection. For cracks that are more than 10 mm in length, this supplemental NPRM would require either replacement of the cracked fitting in accordance with the applicable service bulletin referenced above, or a repair in accordance with a method approved by the FAA or the DGAC. These conditional actions based on crack length are consistent with those actions described in Service Bulletin A300–53–0296 or A300–53–6048. Therefore, this supplemental NPRM has been revised to simply state that repair would be required in accordance with those service bulletins. In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this supplemental NPRM, a repair approved by either the FAA or the DGAC would be acceptable for compliance.

Request To Remove Certain Airplanes From Applicability

One commenter requests that Model A300 F4–622R series airplanes be removed from the applicability of the original NPRM to correspond to the applicability of the revised parallel French airworthiness directive, which specifically excludes those airplanes because the actions proposed by this supplemental NPRM have been accomplished on those airplanes in production.

The FAA concurs and has accordingly revised the applicability of this supplemental NPRM.

Request for Credit for Inspection

Two commenters request that the proposed AD be revised to provide credit for an inspection already performed in accordance with the original issue of Airbus Service Bulletin A300–53–6048. (The original NPRM would have required compliance in accordance with Revision 01 or 03, and would have provided credit for Revision 02.) The original issue of the parallel French airworthiness directive (1998–481–270(B)) was based on the original service bulletin.

The FAA concurs. The actions specified by the original service bulletin do not vary significantly from those proposed in this supplemental NPRM. Note 2 of this supplemental NPRM has been revised to add credit for an inspection done in accordance with the original service bulletin.

Request To Change Sequence of Certain Actions

One commenter suggests that the original NPRM be revised to change the sequence of the subparagraphs of paragraph (d) so that subparagraph (d)(3) immediately precedes paragraph (d)(1). The modification specified by Service Bulletins A300–53–0297 and A300–57–6053 cancels the inspection specified by Service Bulletins A300–53–0268 and A300–57–6052; therefore, the commenter suggests that the corrective actions of paragraph (d) of the original NPRM list the inspection requirement before the modification requirement.

The FAA agrees that the sequence of instructions as written in the original NPRM may be confusing. This supplemental NPRM has been revised to distinguish the terminating action as a separate action, which is included as new paragraph (e).

Request To Provide for Optional Terminating Action for Certain Conditions

Two commenters request that the original NPRM be revised to provide for optional terminating action on Model A300 B4–600 and A300 B4–600R series airplanes if no cracks are found and no subsequent rework is required.

The FAA partially concurs. Paragraph (b)(8) of the original NPRM does provide for Service Bulletin A300–57–6053 (and Airbus Service Bulletin A300–53–0297 for Model A300 B2 and A300 B4 series airplanes) as terminating action—whether cracks are found or not. However, the FAA agrees that clarification of the associated text in the original NPRM may be necessary. Therefore, paragraph (b)(8) and new paragraph (e) of this supplemental NPRM have been revised to clarify that the modification would terminate the proposed requirements, regardless of the inspection results.

Additional Change to Original NPRM

Airbus Service Bulletin A300–53–6048, described previously, refers to Airbus Service Bulletin A300–53–6063 as an additional source of service information for accomplishment of certain repairs. New Note 3 of this supplemental NPRM identifies this secondary reference.

Conclusion

Since these changes expand the scope of the original NPRM, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

The FAA estimates that 70 airplanes of U.S. registry would be affected by this proposed AD.

For affected airplanes, it would take approximately 92 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Required parts would cost as much as $874 per airplane. Based on these figures, the cost impact of the proposed modification is estimated to be as much as $6,394 per airplane.

It would take approximately 10 work hours 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 inspection on U.S. operators is estimated to be $42,000, or $600 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 99–NM–86–AD.

Applicability: All Model A300 B2, A300 B4, A300 B4–600, and A300 B4–600R 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 detect and correct propagation of cracks on the frame 40 aft fittings due to local stress concentrations at the upper flange runout of frame 40, which could result in reduced structural integrity of the airplane, accomplish the following:

Modification

(a) For airplanes on which Airbus Modification 10430 has not been done before the effective date of this AD: Concurrently with the inspection required by paragraph (b) of this AD, modify the profile of frame 40 aft fittings per the service information specified in Table 1, as follows:

TABLE 1.—SERVICE INFORMATION

For model	Do the actions in accordance with either	Of airbus service bulletin	Dated
(1) A300 B2 and A300 B4 series airplanes	(i) Revision 01 or	A300–53–0296	September 30, 1998.
	(ii) Revision 02	A300–53–0296	May 12, 1999.
(2) A300 B4–600 and A300 B4–600R series airplanes.	(i) Revision 01 or	A300–53–6048	September 30, 1998.
	(ii) Revision 03	A300–53–6048	February 21, 2000.

Note 2: For Model A300 B4–600 and A300 B4–600R series airplanes: Actions performed in accordance with Airbus Service Bulletin A300–53–6048, dated January 16, 1996; or Revision 02, dated May 12, 1999, are acceptable for compliance with the applicable requirements of this AD.

Note 3: Airbus Service Bulletin A300–53–6048 refers to Airbus Service Bulletin A300–53–6063 as an additional source of service information for accomplishment of certain repairs.

Inspection

(b) For all airplanes, inspect the airplane per Table 2, as follows:

TABLE 2.—INSPECTION REQUIREMENTS

Requirements	Description
(1) Area to inspect	The frame 40 AFT fitting.
(2) Type of inspection	Nondestructive test (NDT).
(3) Compliance time	As specified by paragraph (c) of this AD.
(4) Discrepancies to detect	Cracking.
(5) Service information	Inspect in accordance with the applicable service bulletin listed in Table 1 of this AD.
(6) Follow-on actions if you find no cracking	Repeat the inspection thereafter at the applicable interval specified by Table 3 of this AD.
(7) Corrective actions if you find cracking	Do the actions specified by paragraph (d) of this AD.
(8) Terminating action	The modification specified by paragraph (e) of this AD terminates the requirements of this AD.

Note 4: An NDT per Part 6 53–15–30 procedure C of the NDT manual is also acceptable for compliance with the requirements of paragraph (b) of this AD.

(c) Perform the inspection required by paragraph (b) of this AD per the schedule in Table 3 of this AD. For airplanes on which this inspection has been accomplished before the effective date of this AD, the initial compliance time may be extended by the repetitive interval following the date the inspection was accomplished. Table 3 follows:

TABLE 3.—COMPLIANCE TIMES FOR INSPECTION

For Model	If the total flight cycles accumulated on the airplane as of the effective date of this AD is	Then inspect	And repeat the inspection at least every
(1) A300 B4–600 and A300 B4–600R series airplanes, pre-Modification 10430.	(i) Fewer than 6,200	Before the airplane accumulates 7,700 total flight cycles or 17,710 total flight hours, whichever occurs first.	7,500 flight cycles or 17,250 flight hours, whichever occurs first.
	(ii) At least 6,200 and fewer than 9,700.	Within 1,500 flight cycles or 3,450 flight hours after the effective date of this AD, whichever occurs first.	7,500 flight cycles or 17,250 flight hours, whichever occurs first.
	(iii) At least 9,700	Within 750 flight cycles or 1,725 flight hours after the effective date of this AD, whichever occurs first.	7,500 flight cycles or 17,250 flight hours, whichever occurs first.
(2) A300 B4–600 and A300 B4–600R series airplanes, post-Modification 10430.	(i) Fewer than 19,600	Before the airplane accumulates 21,100 total flight cycles or 48,530 total flight hours, whichever occurs first.	7,500 flight cycles, or 17,250 flight hours, whichever occurs first.
	(ii) At least 19,600 and fewer than 23,100.	Within 1,500 flight cycles or 3,450 flight hours after the effective date of this AD, whichever occurs first.	7,500 flight cycles or 17,250 flight hours, whichever occurs first.
	(iii) At least 23,100	Within 750 flight cycles or 1,725 flight hours after the effective date of this AD, whichever occurs first.	7,500 flight cycles or 17,250 flight hours, whichever occurs first.
(3) A300 B2 series airplanes	(i) Fewer than 12,000	Before the airplane accumulates 14,000 total flight cycles or 15,120 total flight hours, whichever occurs first.	5,500 flight cycles or 5,940 flight hours, whichever occurs first.
	(ii) At least 12,000 and fewer than 17,000.	Within 2,000 flight cycles or 2,160 flight hours after the effective date of this AD, whichever occurs first.	5,500 flight cycles or 5,940 flight hours, whichever occurs first.
	(iii) At least 17,000	Within 1,000 flight cycles or 1,080 flight hours after the effective date of this AD, whichever occurs first.	5,500 flight cycles or 5,940 flight hours, whichever occurs first.
(4) A300 B4–100 series airplanes.	(i) Fewer than 9,500	Before the airplane accumulates 11,500 total flight cycles or 15,295 total flight hours, whichever occurs first.	4,500 flight cycles or 5,985 flight hours, whichever occurs first.
	(ii) At least 9,500 and fewer than 14,500.	Within 2,000 flight cycles or 2,660 flight hours after the effective date of this AD, whichever occurs first.	4,500 flight cycles or 5,985 flight hours, whichever occurs first.
	(iii) At least 14,500	Within 1,000 flight cycles or 1,330 flight hours after the effective date of this AD, whichever occurs first.	4,500 flight cycles or 5,985 flight hours, whichever occurs first.
(5) A300 B4–200 series airplanes.	(i) Fewer than 8,500	Before the airplane accumulates 10,500 total flight cycles or 21,840 total flight hours, whichever occurs first.	4,000 flight cycles or 8,320 flight hours, whichever occurs first.
	(ii) At least 8,500 and fewer than 13,500.	Within 2,000 flight cycles or 4,160 flight hours after the effective date of this AD, whichever occurs first.	4,000 flight cycles or 8,320 flight hours, whichever occurs first.
	(iii) At least 13,500	Within 1,000 flight cycles or 2,080 flight hours after the effective date of this AD, whichever occurs first.	4,000 flight cycles or 8,320 flight hours, whichever occurs first.

Note 5: An NDT inspection is also required by AD 98–25–07, amendment 39–10933, to be repetitively performed on Model A300 B4–600 and A300 B4–600R series airplanes on which Airbus Modification 10453 has not been installed. For those airplanes, if the inspection is done within the applicable compliance time specified by paragraph (c) of this AD, the threshold for the initial inspection of paragraph (b) of this AD may be extended by 1,500 flight cycles.

Corrective Actions

(d) If any cracking is found during any inspection required by paragraph (b) of this AD: Except as required by paragraph (f) of this AD, prior to further flight, perform all applicable corrective actions in accordance with the applicable service bulletin identified in Table 1 of this AD.

Terminating Action

(e) Accomplishment of the applicable modification specified by paragraph (e)(1) or (e)(2) of this AD terminates the requirements of this AD.

(1) For Model A300 B4–600 and A300 B4–600R series airplanes: Perform the modification in accordance with Airbus Service Bulletin A300–57–6053, Revision 1, dated October 31, 1995; or Revision 02, dated June 2, 1999.

(2) For Model A300 B2 and A300 B4 series airplanes: Perform the modification in accordance with Airbus Service Bulletin A300–53–0297, Revision 2, dated October 31, 1995.

Exceptions to Service Bulletin Instructions

(f) During any inspection required by this AD, if the service bulletin specifies to contact the manufacturer for an appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

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, International Branch, ANM–116. 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 6: 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

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

Note 7: The subject of this AD is addressed in French airworthiness directive 1998–481–270(B) R1, dated July 12, 2000.

Issued in Renton, Washington, on August 15, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–21106 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–24–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. The proposed AD would require you to inspect the cargo doors to identify front and rear end frames with plain lightening holes and install reinforcing plates on any frame with plain lightening holes. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by the proposed AD are intended to prevent cracking at the edges of the unflanged lightening holes, which could result in major structural damage to the airplane. Such damage could result in possible loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before September 21, 2001.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–24–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on the proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. The FAA will consider all comments received on or before the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

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

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

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket

No. 2001–CE–24–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA that an unsafe condition may exist on all Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA reports that, during production, some PC–12 and PC–12/45 airplanes were equipped with cargo doors that do not have reinforcing flanges on the lightening holes in the front and rear end of the cargo door frames.

What are the consequences if the condition is not corrected? If not detected and corrected, cracking at the edges of the unflanged lightening holes could result in major structural damage to the airplane. Such damage could result in possible loss of control of the airplane.

Is there service information that applies to this subject? Pilatus has issued Service Bulletin No. 52–004, dated April 20, 2001.

What are the provisions of this service bulletin? The service bulletin includes procedures for:

—Inspecting the cargo doors to identify front and rear end frames with plain lightening holes; and

—Installing reinforcing plates on any frame with plain lightening holes.

What action did FOCA take? The FOCA classified this service bulletin as mandatory and issued Swiss AD Number HB 2001–389, dated June 25, 2001, in order to assure the continued airworthiness of these airplanes in Switzerland.

Was this in accordance with the bilateral airworthiness agreement? These airplane models are manufactured in Switzerland and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the FOCA has kept FAA informed of the situation described above.

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

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

—The unsafe condition referenced in this document exists or could develop on other Pilatus PC–12 and PC–12/45 airplanes of the same type design;

—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What would the proposed AD require? This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

The Swiss AD and the manufacturer's service information applies to manufacturer serial numbers (MSN) 301 through 370 and all part-number (P/N) 552.30.12.051 and P/N 552.30.12.052, held as spares. We are expanding the applicability of this proposed AD to all serial numbered airplanes. We are expanding the inspection and installation actions to cover MSN 101 through MSN 370, instead of MSN 301 through MSN 370, because these cargo doors may have been installed on MSN 101 through MSN 370 through field approval or other methods. Since cargo doors, part-number P/N 552.30.12.051 and P/N 552.30.12.052, held as spares, may be installed on airplanes not covered by the applicability of the service information, the cargo doors on all serial numbered airplanes would have to be inspected and modified if necessary, prior to installation.

Cost Impact

How many airplanes would the proposed AD impact? We estimate that the proposed AD affects 230 airplanes in the U.S. registry.

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

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 workhour × $60 per hour = $60	No parts required for the inspection	$60	$13,800.

We estimate the following costs to accomplish any necessary modifications that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such modification:

Labor cost	Parts cost	Total cost per airplane
2 workhours × $60 per hour = $120	Provided by the manufacturer free of charge	$120.

Regulatory Impact

Would this proposed AD impact various entities? 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 proposed rule would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pilatus Aircraft Ltd.: Docket No. 2001–CE–24–AD

(a) *What airplanes are affected by this AD?* This AD affects Models PC–12 and PC–12/45 airplanes, all serial numbers, that are certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent cracking at the edges of the unflanged lightening holes, which could result in major structural damage to the airplane. Such damage could result in possible loss of control of the airplane.

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

Actions	Compliance	Procedures
(1) For manufacturer serial numbers (MSN) 101 through 370, inspect the front and rear frames of the cargo door for lightening holes with plain rims.	Within the next 50 hours time-in-service (TIS) after the effective date of this AD.	In accordance the with Accomplishment Instructions section of Pilatus Service Bulletin No. 52–004, datedApril 20, 2001.
(2) If, during the inspection required in paragraph (d)(1) of this AD, a plain rim is found, install a reinforcing plate.	Prior to further flight after the inspection required in paragraph (d)(1) of this AD.	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 52–004, dated April 20, 2001.
(3) For all serial numbered airplanes, do not install any cargo door, part-number (P/N) 552.30.12.051 or P/N 552.30.12.052 (or FAA-approved equivalent part number), unless it is has been inspected as required in paragraph (d)(1) of this AD and modified as required in paragraph (d)(2) of this AD.	As of the effective date of this AD	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 52–004, dated April 20, 2001.

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

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

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

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

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

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in Swiss AD HB 2001–389, dated June 25, 2001.

Issued in Kansas City, Missouri, on August 16, 2001.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–21140 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AK03

State Department as Agent of Department of Veterans Affairs

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) regulation that authorizes diplomatic and consular officers of the State Department to act as agents of VA. The intended effect of this amendment is to present the existing regulation in ''plain language''.

DATES: Comments must be received on or before October 22, 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–AK03''. All comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Bob White, Team Leader, Plain Language Regulations Project, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420. Telephone: 202/273–7228 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA proposes to rewrite 38 CFR 3.108 in plain language. This regulation authorizes diplomatic and consular officers of the State Department to act as agents of VA. It is currently located in

Subpart A of Part 3. We propose to create a new § 3.2125 to restate the current regulation. The proposed section would be located in Subpart D, Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title.

Paragraph (a) of proposed § 3.2125 would authorize State Department diplomatic and consular officers to accept informal and formal claims filed in a foreign country. It would also authorize them to accept evidence submitted in support of those claims. Paragraph (b) would provide that such claims and evidence will be considered to be filed with VA on the date they are received by a State Department officer. This restates the text currently found at 38 CFR 3.108. No substantive changes have been made.

This rulemaking reflects VA's goal of making government more responsive, accessible, and comprehensible to the public. The Plain Language Regulations Project was developed as a long-term comprehensive project to reorganize and rewrite in plain language the adjudication regulations in Part 3 of Title 38, Code of Federal Regulations. This proposed rule is part of a series of proposed revisions to those regulations.

Unfunded Mandates

The Unfunded Mandates Reform Act, Public Law 104–4, March 22, 1995, requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This proposed rule will have no consequential effect on State, local, or tribal governments.

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 certifies that the adoption of this proposed rule would 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. The proposed rule will not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance program numbers for this document are 64.102, 64.104, 64.105, 64.109, 64.110, and 64.127.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: August 14, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to amend 38 CFR Part 3 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for Part 3, Subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.108 [Removed]

2. Section 3.108 is removed.

Subpart D—Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title

3. The authority citation for Part 3, Subpart D continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

4. New § 3.2125 is added under the undesignated center heading ''GENERAL'' to read as follows:

§ 3.2125 How can I file a claim if I live outside of the United States?

(a) Diplomatic and consular officers of the State Department are authorized to act as agents for the Department of Veterans Affairs (VA). Officers at U.S. Embassies and Consulates may accept formal and informal claims filed in foreign countries. They may also accept evidence submitted in support of those claims. (See 38 CFR 3.202.)

(b) Claims and evidence are considered filed with VA on the date they are received by a State Department officer.

(Authority: 38 U.S.C. 5106)

[FR Doc. 01–21135 Filed 8–21–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4147b; FRL–7040–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Requirements for Four Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania to establish and require reasonably available control technology (RACT) related requirements to limit nitrogen oxides (NO_X) from four sources. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section or paragraph of that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by September 21, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103;

Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814–2182, the EPA Region III address above or by e-mail at *quinto.rose@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: August 14, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–21149 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4141b; FRL–7036–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Determinations for Armco Inc., Butler Operations Main Plant and Butler Operations Stainless Plant in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for two major sources of nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by September 21, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Michael Ioff at (215) 814–2166, the EPA Region III address above or by e-mail at Ioff.mike@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: August 8, 2001.

Thomas C. Voltaggio,

Deputy Regional Administrator, Region III.

[FR Doc. 01–21151 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0045; CO–001–0046; CO–001–0047; CO–001–0052; CO–001–0053; CO49–1–7187; CO–001–0061; CO–001–0062; CO–001–0064 FRL–7042–1]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver Carbon Monoxide Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of Related Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On May 10, 2000, the Governor of Colorado submitted a request to redesignate the Denver-Boulder metropolitan (hereafter, Denver) ''serious'' carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). The Governor also submitted a CO maintenance plan. In conjunction with the maintenance plan, the Governor submitted revisions to Colorado's Regulation No. 11 ''Motor Vehicle Emissions Inspection Program'', and Colorado's Regulation No. 13 ''Oxygenated Fuels Program''. In addition, on May 7, 2001, the Governor submitted a revision to the Colorado State Implementation Plan (''United States Postal Service (USPS) revision'') that is intended to be a substitute for a Clean Fuel Fleet Program. In this action, EPA is proposing approval of the Denver CO redesignation request, the maintenance plan, the revisions to Regulation No. 11 and Regulation No. 13, and the USPS revision.

DATES: Written comments must be received on or before September 21, 2001.

ADDRESSES: Written comments may be mailed to:

Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices:

United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; and,

United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at: Colorado Air Pollution Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado, 880246–1530.

FOR FURTHER INFORMATION CONTACT: For Denver redesignation questions, contact Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, telephone number: (303) 312–6479.

For questions regarding the Regulation No. 11, Regulation No. 13, and the U.S. Postal Service revisions, contact Kerri Fiedler, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, telephone number: (303) 312–6493.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used we mean the Environmental Protection Agency.

I. What Is the Purpose of This Action?

In this action, we are proposing approval of a change in the legal designation of the Denver area from nonattainment for CO to attainment, we're proposing approval of the maintenance plan that is designed to keep the area in attainment for CO for the next 12 years, we're proposing approval of changes to the State's Regulation No. 11 for the implementation of motor vehicle emissions inspections, we're proposing approval of changes to the State's Regulation No. 13 for the implementation of the wintertime oxygenated fuels program, and we're proposing approval of the USPS revision that requires the destruction, relocation, and replacement with cleaner vehicles of certain USPS vehicles, as a substitute for a Clean Fuel Fleet Program for the Denver metropolitan area.

We originally designated Denver as nonattainment for CO under the provisions of the 1977 CAA Amendments (see 43 FR 8962, March 3, 1978). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C) of the Clean Air Act (CAA), we designated the Denver area as nonattainment for CO because the area had been designated as nonattainment before November 15, 1990. Under section 186 of the CAA, Denver was originally classified as a ''moderate'' CO nonattainment area with a design value greater than 12.7 parts per million (ppm), and was required to attain the CO NAAQS by December 31, 1995. See 56 FR 56694, November 6, 1991. The Denver area, however, violated the CO NAAQS in 1995. With our final rule of March 10, 1997 (62 FR 10690), we approved the State's 1994 State Implementation Plan (SIP) submittal and bumped-up the Denver area to a ''serious'' CO nonattainment classification. Further information regarding these classifications and the accompanying requirements are described in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.'' See 57 FR 13498, April 16, 1992.

Under the CAA, we can change designations if acceptable data are available and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless:

(i) the Administrator determines that the area has attained the national ambient air quality standard;

(ii) the Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

Before we can approve the redesignation request, we must decide that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur simultaneously with final approval of the redesignation request. That's why we are also proposing approval of the revisions to Regulation No. 11, Regulation No. 13, and the USPS revision.

II. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a State to us.

The Colorado Air Quality Control Commission (AQCC) held a public hearing for the Denver CO redesignation request, the maintenance plan, the revisions to Regulation No. 11, and the revisions to Regulation No. 13 on January 10, 2000. The AQCC adopted the redesignation request, maintenance plan, and revisions to Regulation No. 11 and Regulation No. 13 directly after the hearing. These SIP revisions became State effective March 1, 2000, and were submitted by the Governor to us on May 10, 2000.

We have evaluated the Governor's submittal and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, Appendix V and determined that the Governor's submittal was administratively and technically complete. Our completeness determination was sent on August 7, 2000, through a letter from Rebecca W. Hanmer, Acting Regional Administrator, to Governor Bill Owens.

For the USPS revision, the Colorado AQCC held a public hearing on March 16, 2000. The AQCC adopted the USPS revisions directly after the hearing. The USPS revision became State effective May 30, 2000, and was submitted by the Governor to us on May 7, 2001. On May 30, 2001, the Colorado Attorney General's Office submitted administrative corrections to the USPS revision to us.

We have evaluated the Governor's submittal of the USPS revision and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, Appendix V and determined that the Governor's submittal, with the subsequent administrative corrections, was administratively and technically

complete. Our completeness determination was sent on June 15, 2001, through a letter from Jack W. McGraw, Acting Regional Administrator, to Governor Bill Owens.

III. EPA's Evaluation of the Denver Redesignation Request and Maintenance Plan

We have reviewed the Denver CO redesignation request and maintenance plan and believe that approval of the request is warranted, consistent with the requirements of CAA section 107(d)(3)(E). The following are descriptions of how the section 107(d)(3)(E) requirements are being addressed.

(a) Redesignation Criterion: The Area Must Have Attained The Carbon Monoxide (CO) NAAQS

Section 107(d)(3)(E)(i) of the CAA states that for an area to be redesignated to attainment, the Administrator must determine that the area has attained the applicable NAAQS. As described in 40 CFR 50.8, the national primary ambient air quality standard for carbon monoxide is 9 parts per million (10 milligrams per cubic meter) for an 8-hour average concentration not to be exceeded more than once per year. 40 CFR 50.8 continues by stating that the levels of CO in the ambient air shall be measured by a reference method based on 40 CFR part 50, Appendix C and designated in accordance with 40 CFR part 53 or an equivalent method designated in accordance with 40 CFR part 53. Attainment of the CO standard is not a momentary phenomenon based on short-term data. Instead, we consider an area to be in attainment if each of the CO ambient air quality monitors in the area doesn't have more than one exceedance of the CO standard over a one-year period. 40 CFR 50.8 and 40 CFR part 50, Appendix C. If any monitor in the area's CO monitoring network records more than one exceedance of the CO standard during a one-year calendar period, then the area is in violation of the CO NAAQS. In addition, our interpretation of the CAA and EPA national policy [1] has been that an area seeking redesignation to attainment must show attainment of the CO NAAQS for at least a continuous two-year calendar period. In addition, the area must also continue to show attainment through the date that we promulgate the redesignation in the **Federal Register**.

Colorado's CO redesignation request for the Denver area is based on an analysis of quality assured ambient air quality monitoring data that are relevant to the redesignation request. As presented in Part II, Chapter 3, section B of the State's maintenance plan, ambient air quality monitoring data for consecutive calendar years 1996 through 1999 show a measured exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the Denver nonattainment area. All of these data were collected and analyzed as required by EPA (see 40 CFR 50.8 and 40 CFR part 50, Appendix C) and have been archived by the State in our Aerometric Information and Retrieval System (AIRS) national database. Further information on CO monitoring is presented in Part II, Chapter 3, section B of the maintenance plan and in the State's Technical Support Document (TSD). We have evaluated the ambient air quality data and have determined that the Denver area has not violated the CO standard and continues to demonstrate attainment.

The Denver nonattainment area has quality-assured data showing no violations of the CO NAAQS for 1996 and 1999 which are the years the State used to support the redesignation request. In addition, data from the most recent consecutive two-calendar-year period (i.e., 1999 and 2000) also show no violations. Therefore, we believe the Denver area has met the first component for redesignation: demonstration of attainment of the CO NAAQS. We note too that the State of Colorado has also committed, in the maintenance plan, to continue the necessary operation of the CO monitors in compliance with all applicable federal regulations and guidelines.

(b) Redesignation Criterion: The Area Must Have Met All Applicable Requirements Under Section 110 And Part D Of The CAA.

To be redesignated to attainment, section 107(d)(3)(E)(v) requires that an area must meet all applicable requirements under section 110 and part D of the CAA. We interpret section 107(d)(3)(E)(v) to mean that for a redesignation to be approved by us, the State must meet all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. In our evaluation of a redesignation request, we don't need to consider other requirements of the CAA that became due after the date of the submission of a complete redesignation request.

1. CAA Section 110 Requirements

On March 10, 1997, we approved the Denver CO element revisions to Colorado's SIP as meeting the requirements of section 110(a)(2) of the CAA (see 62 FR 10690). In addition, we have analyzed the SIP elements that we are proposing approval of as part of this action and we have determined they comply with the relevant requirements of section 110(a)(2).

2. Part D Requirements

Before the Denver ''serious'' CO nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, whether classified or nonclassifiable. Subpart 3 of part D contains specific provisions for ''serious'' CO nonattainment areas.

The relevant subpart 1 requirements are contained in sections 172(c) and 176. Our General Preamble (see 57 FR 13529, 13533, April 16, 1992) provides EPA's interpretations of the CAA requirements for ''serious'' CO areas.

The General Preamble (see 57 FR 13530, et seq.) provides that the applicable requirements of CAA section 172 are 172(c)(3) (emissions inventory), 172(c)(5) (new source review permitting program), 172(c)(7) (the section 110(a)(2) air quality monitoring requirements), and 172(c)(9) (contingency measures). It is also worth noting that we interpreted the requirements of sections 172(c)(2) (reasonable further progress—RFP) and 172(c)(6) (other measures) as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. See EPA's September 4, 1992, John Calcagni memorandum entitled, ''Procedures for Processing Requests to Redesignate Areas to Attainment'', and the General Preamble, 57 FR at 13564, dated April 16, 1992. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(4) (identification of certain emissions increases) and 172(c)(8) (equivalent techniques). Thus, these provisions are also not relevant to this redesignation request.

Regarding the requirements of sections 172(c)(3) (inventory) and 172(c)(9) (contingency measures), please refer to our discussion below of sections 187(a)(1) and 187(a)(3), which are provisions of subpart 3 of Part D of the CAA that address the same requirements as sections 172(c)(3) and 172(c)(9).

For the section 172(c)(5) New Source Review (NSR) requirements, the CAA requires all nonattainment areas to meet several requirements regarding NSR,

[1] Refer to EPA's September 4, 1992, John Calcagni policy memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment.''

including provisions to ensure that increased emissions will not result from any new or modified stationary major sources and a general offset rule. The State of Colorado has a fully-approved NSR program (59 FR 42500, August 18, 1994) that meets the requirements of CAA section 172(c)(5). The State also has a fully approved Prevention of Significant Deterioration (PSD) program (59 FR 42500, August 18, 1994) that will apply if we approve the redesignation to attainment.

For the CAA section 172(c)(7) provisions (compliance with the CAA section 110(a)(2) Air Quality Monitoring Requirements), our interpretations are presented in the General Preamble (57 FR 13535). CO nonattainment areas are to meet the ''applicable'' air quality monitoring requirements of section 110(a)(2) of the CAA.

Information concerning CO monitoring in Colorado is included in the Monitoring Network Review (MNR) prepared by the State and submitted to EPA. Our personnel have concurred with Colorado's annual network reviews and have agreed that the Denver network remains adequate. In Part II, Chapter 4, section D., of the maintenance plan, the State commits to the continued operation of the existing CO monitors, according to all applicable Federal regulations and guidelines, even after the Denver area is redesignated to attainment for CO.

Section 176 of the CAA contains requirements related to conformity. Although EPA's regulations (see 40 CFR 51.396) require that states adopt transportation conformity provisions in their SIPs for areas designated nonattainment or subject to an EPA-approved maintenance plan, we have decided that a transportation conformity SIP is not an applicable requirement for purposes of evaluating a redesignation request under section 107(d) of the CAA. This decision is reflected in EPA's 1996 approval of the Boston carbon monoxide redesignation. (See 61 FR 2918, January 30, 1996.)

The relevant Subpart 3 provisions were created when the CAA was amended on November 15, 1990. The new CAA requirements for ''serious'' CO areas, such as Denver, required that the SIP be revised to include a 1990 base year emissions inventory (CAA section 187(a)(1)), vehicle miles traveled tracking (CAA section 187(a)(2)(A)), a special rule for Denver for transportation control measures (TCM) (CAA section 187(a)(2)(B)), contingency provisions (CAA section 187(a)(3)), corrections to existing motor vehicle inspection and maintenance (I/M) programs (CAA section 187(a)(4)), periodic emission inventories (CAA section 187(a)(5)), enhanced motor vehicle I/M program (CAA section 187(a)(6)), a modeled attainment demonstration with specific annual emissions reductions (CAA section 187(a)(7)), and the implementation of an oxygenated fuels program (CAA section 211(m)(1)). How the State met these requirements and our approvals, are described in our March 10, 1997, final rule approving the Denver CO nonattainment area SIP revision (see 62 FR 10690). Additional information and further discussions on these CAA requirements can also be found in our proposed rulemaking regarding the Denver CO SIP revision of July 9, 1996 (61 FR 36004) and December 6, 1996 (61 FR 64647).

Regarding section 187(a)(5) of the CAA (periodic emission inventories), the Governor submitted a SIP revision for a 1993 periodic emission inventory for Denver on September 16, 1997, and a SIP revision for a 1996 periodic emission inventory for Denver on May 10, 2000. We approved these revisions on July 15, 1998 (see 63 FR 38087) and on October 24, 2000 (65 FR 63546), respectively.

In addition to the above, the requirements for clean-fuel vehicle fleets also applied to the Denver area (CAA section 246(a)(2)(B)). We describe how the State addressed the clean-fuel requirements in section VII below.

(c) Redesignation Criterion: The Area Must Have A Fully Approved SIP Under Section 110(k) Of The CAA

Section 107(d)(3)(E)(ii) of the CAA states that for an area to be redesignated to attainment, it must be determined that the Administrator has fully approved the applicable implementation plan for the area under section 110(k).

As noted above, EPA previously approved SIP revisions for the Denver CO nonattainment area that were required by the 1990 amendments to the CAA (see 62 FR 10690, March 10, 1997). In this action, we are also proposing approval of revisions to Colorado's Regulation No. 11 and Regulation No. 13, the USPS revision, and the State's commitment to maintain an adequate monitoring network (contained in the maintenance plan.) Thus, with a final rule to approve the Denver redesignation request, maintenance plan, revisions to Regulation No. 11 and Regulation No. 13, and USPS revision, we will have fully approved the Denver CO element of the SIP under section 110(k) of the CAA.

(d) Redesignation Criterion: The Area Must Show That The Improvement In Air Quality Is Due To Permanent And Enforceable Emissions Reductions

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan, implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions.

The Denver CO element of the Colorado SIP was adopted by the AQCC on June 16, 1994, and was approved by the EPA on March 10, 1997 (62 FR 10690). The 1994 SIP element's emission control plan was primarily based on emission reductions from the Federal Motor Vehicle Control Program (FMVCP), Colorado's Automobile Inspection and Readjustment Program, Colorado's Oxygenated Gasoline Program, and Colorado's Residential Wood Burning Control Measures. The anticipated date for Denver to attain the 8-hour CO NAAQS was December 31, 2000. These programs are further described in Part II, Chapter 3, section D. of the maintenance plan.

In general, the FMVCP provisions require vehicle manufacturers to meet more stringent vehicle emission limitations for new vehicles in future years. These emission limitations are phased in (as a percentage of new vehicles manufactured) over a period of years. As new, lower emitting vehicles replace older, higher emitting vehicles (''fleet turnover''), emission reductions are realized for a particular area such as Denver. For example, EPA promulgated lower hydrocarbon (HC) and CO exhaust emission standards in 1991, known as Tier I standards for new motor vehicles (light-duty vehicles and light-duty trucks) in response to the 1990 CAA amendments. These Tier I emissions standards were phased in with 40% of the 1994 model year fleet, 80% of the 1995 model year fleet, and 100% of the 1996 model year fleet.

As described in Part II, Chapter 3, section D. of the maintenance plan, significant additional emission reductions were realized from Denver's basic I/M program (applicable to 1981 and older vehicles) and, beginning in 1995, the enhanced I/M or I/M240 program (applicable to 1982 and newer vehicles). Colorado's Regulation No. 11, ''Motor Vehicle Emissions Inspection Program'', contains a full description of the requirements for both of Denver's I/M programs.

Oxygenated fuels are gasolines that are blended with additives that increase

the level of oxygen in the fuel and, consequently, reduce CO tailpipe emissions. Colorado's Regulation 13, ''Oxygenated Fuels Program'', contains the oxygenated fuels provisions for the Denver nonattainment area. As approved by EPA on August 25, 1999 (see 64 FR 46279), Regulation 13 required all Denver-area gas stations to sell fuels containing a 3.1% minimum oxygen content (by weight) during the wintertime CO high pollution maximum blending season. The use of oxygenated fuels contributed to the area's attainment of the CO NAAQS.

Denver has also been implementing the requirements of Regulation No. 4 ''New Wood Stoves and the use of Certain Woodburning Appliances During High Pollution Days.'' The primary strategy of Regulation No. 4 is the mandatory wood burning curtailment program that prohibits most wood burning activity on ''high pollution days'' between November 1st and March 31st of each year in the Denver metropolitan area. Regulation No. 4 also requires all new wood burning stoves and fireplace inserts sold in Colorado to meet both State and Federal emission control standards.

We have evaluated the various State and Federal control measures, the original 1990 base year emission inventory, the original 2001 attainment year emission inventory, and the 1993 and 1996 periodic emission inventories, and believe that the improvement in air quality in the Denver nonattainment area has resulted from emission reductions that are permanent and enforceable.

(e) Redesignation Criterion: The Area Must Have A Fully Approved Maintenance Plan Under CAA Section 175A

Section 107(d)(3)(E)(iv) of the CAA provides that for an area to be redesignated to attainment, the Administrator must have fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the promulgation of the redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation, that are adequate to assure prompt correction of a violation. In addition, we issued further maintenance plan interpretations in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992), ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental'' (57 FR 18070, April 28, 1992), and the EPA guidance memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' from John Calcagni, Director, Air Quality Management Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, dated September 4, 1992 (hereafter the September 4, 1992 Calcagni Memorandum). In this **Federal Register** action, EPA is proposing approval of the maintenance plan for the Denver CO nonattainment area because we believe, as detailed below, that the State's maintenance plan submittal meets the requirements of section 175A and is consistent with the documents referenced above. Our analysis of the pertinent maintenance plan requirements, with reference to the Governor's May 10, 2000, submittal, is provided as follows:

1. Emissions Inventories—Attainment Year and Projections

EPA's interpretations of the CAA section 175A maintenance plan requirements are generally provided in the General Preamble (see 57 FR 13498, April 16, 1992) and the September 4, 1992, Calcagni Memorandum referenced above. Under our interpretations, areas seeking to redesignate to attainment for CO may demonstrate future maintenance of the CO NAAQS either by showing that future CO emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration. However, under the CAA, many areas (such as Denver) were required to submit a modeled attainment demonstration to show that reductions in emissions would be sufficient to attain the applicable NAAQS. For these areas, the maintenance demonstration is to be based on the same level of modeling (see the September 4, 1992, Calcagni Memorandum). For the Denver area, this involved the use of EPA's Urban Airshed Model (UAM) in conjunction with intersection Hotspot modeling using the CAL3QHC model (see 62 FR 10690, March 10, 1997).

The maintenance plan that the Governor submitted on May 10, 2000, included comprehensive inventories of CO emissions for the Denver area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. The State used the 2001 attainment year inventory, from the March 10, 1997, EPA-approved attainment SIP (see 62 FR 10690) and included an interim-year projection for 2006 along with the final maintenance year of 2013. Additional mobile source emission inventories were provided for the years 2002, 2003, 2004, and 2005. These particular mobile source inventories present CO emissions during the phase-in period of the revisions to Regulation No. 11 for the Remote Sensing Device (RSD) program, the phase-in of more stringent cutpoints for the I/M240 program, and the phase-down of the oxygenated gasoline program under the revisions to Regulation No. 13. More detailed descriptions of the 2001 attainment year inventory from the approved nonattainment SIP for Denver, the 2006 projected inventory, the 2013 projected inventory, and the 2002, 2003, 2004, and 2005 mobile source projected inventories are documented in the maintenance plan in Part II, Chapter 4, section B, and in the State's TSD. The State's submittal contains detailed emission inventory information that was prepared in accordance with EPA guidance. Summary emission figures from the 2001 attainment year and the interim projected years are provided in Table III.–1 below.

TABLE III–1.—SUMMARY OF CO EMISSIONS IN TONS PER DAY FOR DENVER

	2001	2002	2003	2004	2005	2006	2013
Point sources	70.2	.....	.....	.....	.....	46.7	46.7
Area sources	198.2	.....	.....	.....	.....	172.8	172.6
Non-road mobile sources	59.9	.....	.....	.....	.....	61.2	64.9
On-road mobile sources	*875.2	*851	*850	*827	*850	*844.7	*867.2

TABLE III–1.—SUMMARY OF CO EMISSIONS IN TONS PER DAY FOR DENVER—Continued

	2001	2002	2003	2004	2005	2006	2013
Total	*1203.3					*1125.4	*1151.4

*These figures represent CO emissions for the Denver CO modeling domain which is slightly larger than the Denver CO nonattainment area.

We note in Table III–1 there are significant reductions projected in years 2006 and 2013 for point sources and area sources. The majority of the area source projected reductions are from the State's estimates for less woodburning in future years. We believe this projection of less woodburning is reasonable. For point sources, the original Denver CO nonattainment plan modeled all point sources at their potential-to-emit (PTE) for 2001, and Table III–1 retains these values for 2001. For years 2006 and 2013, the State projected emissions for elevated point sources at PTE, but projected emissions from surface point sources based on actual emissions. This accounts for the reduction in emissions from point sources in 2006 and 2013. The State's approach follows EPA guidance on projected emissions and we believe it is acceptable.[2] Further information on these projected emissions may also be found in Section 2 ''Emission Inventories'' of the State's TSD.

2. Demonstration of Maintenance

The September 4, 1992, Calcagni Memorandum states that where modeling was relied on to demonstrate maintenance, the plan is to contain a summary of the air quality concentrations expected to result from the application of the control strategies. Also, the plan is to identify and describe the dispersion model or other air quality model used to project ambient concentrations.

For the Denver CO redesignation maintenance demonstration, the State used the Urban Airshed dispersion Model (UAM) in conjunction with concentrations derived from the CAL3QHC intersection (or ''hotspot'') model. This was the same level of modeling as was used for the 1994 Denver CO SIP attainment demonstration, which was approved by EPA on March 10, 1997 (62 FR 10690), and addressed the requirements of section 187(a)(7) of the CAA. The UAM and CAL3QHC models were applied to the 2006 and 2013 inventories using meteorological data from December 5, 1988. This was the episode day used in the modeling in the EPA-approved 1994 Denver CO nonattainment SIP revision and was thought to represent the worst-case meteorological conditions. For the CAL3QHC intersection component, six intersections were selected for modeling based on the latest information from Denver Regional Council Of Governments (DRCOG) regarding the highest volume and most congested intersections in the Denver CO nonattainment area. This was done consistent with our modeling guidance.

After an analysis, the State concluded that the Continuous Air Monitoring Project (CAMP) ambient air quality monitor, located at the intersection of Broadway and Champa Street, was still the maximum concentration monitor for the Denver CO nonattainment area. This analysis is further detailed in Part II, Chapter 4, section C of the maintenance plan and in the State's TSD. We agree with the State's conclusion regarding the maximum concentration monitor. The results of the State's modeling for 2006 and 2013 are presented in Part II, Chapter 4, section C, of the maintenance plan, in the State's TSD, and are reproduced in Table III–2 below:

TABLE III–2.—DISPERSION MODELING AND INTERSECTION MODELING RESULTS

[in parts per million]

Intersection	2006			2013		
	UAM [1]	CAL3QHC [2]	Total	UAM	CAL3QHC	Total
Broadway & Champa [3]	7.59	1.12	8.71	7.88	1.08	8.96
Foothills & Arapahoe	0.9	4.8	5.7	0.9	4.7	5.6
1st & University	4.0	4.3	8.3	3.9	4.2	8.0
Hampden & University	1.9	3.6	5.5	1.9	4.3	6.2
Parker & Illiff	2.7	3.2	5.8	2.6	3.0	5.6
Arapahoe & University	1.3	3.6	5.0	1.3	3.9	5.3

[1] UAM (Urban Airshed Model). This column represents the dispersion model's calculated background CO concentration at each location.
[2] CAL3QHC (Intersection Model). This column represents the intersection model's calculated CO component concentration.
[3] The use of two significant figures by the State for the Broadway and Champa intersection, where the CAMP monitor is located, reflects the fact that the modeling done for the maximum concentration location was more detailed.

The modeling results presented in the Denver CO maintenance plan, the State's TSD, and as repeated in Table III–2 above show that CO concentrations are not estimated to exceed the 9.0 ppm 8-hour average CO NAAQS during the maintenance period's time frame through 2013. Therefore, we believe the Denver area has satisfactorily demonstrated maintenance of the CO NAAQS.

3. Monitoring Network and Verification of Continued Attainment

Continued attainment of the CO NAAQS in the Denver area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in two sections of the Denver CO maintenance plan. In Part II, Chapter 4, sections E and F.2, the State commits to continue the operation of the CO monitors in the Denver area and to annually review this

[2] ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas'', signed by D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.

monitoring network and make changes as appropriate.

Also, in Part II, Chapter 4, sections E and F.2, the State commits to track mobile sources' CO emissions (which are the largest component of the inventories) through the ongoing regional transportation planning process that is done by DRCOG. Since revisions to Denver's transportation improvement programs are prepared every two years, and must go through a transportation conformity finding, the State will use this process to periodically review the Vehicle Miles Traveled (VMT) and mobile source emissions projections used in the maintenance plan. This regional transportation process is conducted by DRCOG in coordination with the Denver Regional Air Quality Council (RAQC), the State's Air Pollution Control Division (APCD), the AQCC, and EPA.

Based on the above, we are proposing approval of these commitments as satisfying the relevant requirements. We note that a final rulemaking approval will render the State's commitments federally enforceable.

4. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures.

As stated in Part II, Chapter 4, section F of the maintenance plan, the contingency measures for the Denver area will be triggered by a violation of the CO NAAQS. (However, the maintenance plan does note that an exceedance of the CO NAAQS may initiate a voluntary, local process by the RAQC and APCD to identify and evaluate potential contingency measures.)

The RAQC, in coordination with the APCD and AQCC, will initiate a subcommittee process to begin evaluating potential contingency measures no more than 60 days after being notified by the APCD that a violation of the CO NAAQS has occurred. The subcommittee will present recommendations to the RAQC within 120 days of notification and the RAQC will present recommended contingency measures to the AQCC within 180 days of notification. The AQCC will then hold a public hearing to consider the contingency measures recommended by the RAQC, along with any other contingency measures that the AQCC believes may be appropriate to effectively address the violation of the CO NAAQS. The necessary contingency measures will be adopted and implemented within one year after the violation occurs.

The potential contingency measures that are identified in Part II, Chapter 4, section F of the Denver CO maintenance plan include; (1) a 3.1% oxygenated fuels program from November 8th through February 7th, with a 2.0% oxygen content required from November 1st through November 7th, (2) reinstatement of the enhanced I/M program in effect before January 10, 2000, and (3) Transportation Control Measures (TCM) such as financial incentives for Ecopass, Auraria transit pass, and improved traffic signalization. A more complete description of the triggering mechanism and these contingency measures can be found in Part II, Chapter 4, section F of the maintenance plan.

Based on the above, we find that the contingency measures provided in the State's Denver CO maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA.

5. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, Colorado has committed to submit a revised maintenance plan eight years after our approval of the redesignation. This provision for revising the maintenance plan is contained in Part II, Chapter 4, section G of the Denver CO maintenance plan.

IV. EPA's Evaluation of the Transportation Conformity Requirements

One key provision of our conformity regulation requires a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budget(s) in the SIP (40 CFR sections 93.118 and 93.124). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment or maintenance area. The rule's requirements and EPA's policy on emissions budgets are found in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62193–96) and in the sections of the rule referenced above.

The maintenance plan defines the CO motor vehicle emissions budget in the Denver CO attainment/maintenance area as 800 tons per day for all years 2002 and beyond. This budget is equal to the maintenance year (2013) mobile source emissions inventory for CO for the attainment/maintenance area. We have scaled the modeling domain emissions projections for 2002 to the attainment/maintenance area values and believe the 800 tons per day value is essentially equivalent to the mobile source inventory for the attainment/maintenance area in 2002. In addition, our analysis indicates that the 800 tons per day budget is consistent with maintenance of the CO NAAQS throughout the maintenance period. Therefore, we are proposing to approve the 800 tons per day CO emissions budget for the Denver area.

Pursuant to section 93.118(e)(4) of EPA's transportation conformity rule, as amended, EPA must determine the adequacy of submitted mobile source emissions budgets. EPA reviewed the Denver CO budget for adequacy using the criteria in 40 CFR 93.118(e)(4), and determined that the budget was adequate for conformity purposes. EPA's adequacy determination was made in a letter to the Colorado APCD on July 12, 2000, and was announced in the **Federal Register** on August 3, 2000 (65 FR 47726). As a result of this adequacy finding, the 800 ton per day budget took effect for conformity determinations in the Denver metro area on August 18, 2000. However, we are not bound by that determination in acting on the maintenance plan.

V. EPA's Evaluation of the Regulation No. 11 Revisions

Colorado's Regulation No. 11 is entitled ''Motor Vehicle Emissions Inspection Program'' (hereafter referred to as Regulation No. 11). In developing the Denver CO maintenance plan, the RAQC and State evaluated a number of options for revising the current motor vehicle emissions inspection programs. A description of the RAQC and State's process for the evaluation of potential options for Regulation No. 11 is found in Part I, Chapter 2 of the Governor's submittal. We note that Part I, Chapter 2 is only for informational purposes and was not submitted as a revision to the SIP. Part II, Chapter 4, is the maintenance plan that we are proposing to approve and it reflects the AQCC-adopted revisions, as an amendment to the SIP, to Regulation No. 11. These revisions to Regulation No. 11 were submitted, as a revision to the SIP, for our approval in conjunction with the maintenance plan and appear as Appendix A to the plan.

We note that the Governor submitted several other revisions to Regulation No. 11 prior to or at the same time as the revision that he submitted with the Denver CO redesignation request and maintenance plan. These other revisions to Regulation No. 11, that we never

approved, were submitted on September 16, 1997, August 19, 1998, November 5, 1999, and May 10, 2000 (for Larimer and Weld Counties, Colorado). The version of Regulation No. 11 that was adopted on January 10, 2000, became effective on March 1, 2000, and was submitted by the Governor in conjunction with the Denver CO redesignation request and maintenance plan supersedes and replaces the other revisions of Regulation No. 11.

Current programs: Since 1995, the Denver metropolitan area has operated an Enhanced Inspection/Maintenance (I/M) program, also referred to as the I/M240 program, that includes a biennial test for vehicles manufactured 1982 and later; new vehicles are exempted from the test for their first four years. The Denver area also operates an annual, idle test for model year 1981 and older vehicles. Both the I/M240 and idle test stations are required to be ''test-only'' facilities, meaning that they are not permitted to perform repairs or sell automotive parts. The programs also include waiver provisions for hardship cases and for motorists who spend $450 on repairs. All vehicles in the Denver program area are required to be tested upon change of ownership.

With the development of the Denver CO maintenance plan, the RAQC and State evaluated several options for revising Regulation No. 11 to reduce the cost of the I/M programs and improve motorist convenience without jeopardizing maintenance of the CO standard. In their evaluations, the RAQC and State retained four components of the current I/M programs: (1) A test-only requirement for both the I/M240 transient program and the idle test program, (2) the requirement for the idle test for 1981 and older vehicles, (3) the current waiver policies, and (4) the requirement for testing upon change of ownership. In addition, the testing exemption for the first 4 years for a new vehicle was also retained. The major change to Regulation No. 11 for the Denver CO maintenance plan involved the implementation of a remote sensing device (RSD), clean-screen program for the Denver area. Remote sensing technology takes an instantaneous measurement of a vehicle's emissions as it is driven on the road past an RSD equipment location. RSD technology essentially involves the use of a light beam emitting device and reflector. As a vehicle passes through the light beam, the emissions are instantly recorded. Vehicle data, correlated from the license plate and hence registration, is then compared with the particular vehicle's model year emission specifications as stated in Regulation No. 11. Vehicles identified as ''clean,'' would be exempt from one inspection cycle.

Based on a Greeley, Colorado pilot study and an additional pilot study in Denver, conducted by the Colorado Department of Public Health and Environment (CDPHE), implementing remote emissions sensing technology as an alternative inspection procedure brings with it some losses in emissions reduction compared to traditional inspection procedures. Use of remote sensing for clean screening will typically reduce the credit ascribable to the I/M program because some vehicles with high tailpipe emissions may appear clean in a remote sensing test and will be excused from I/M tailpipe testing and repair for that I/M cycle. Also, remote sensing cannot identify low versus high emitting vehicles with respect to evaporative hydrocarbon emissions. The AQCC concluded that this loss of emissions reduction will have no negative impact on compliance with the NAAQS for the Larimer County, Weld County, and Denver metropolitan program areas.

We are proposing to approve the implementation of a clean-screen program for Larimer County, Weld County, and metropolitan Denver in accordance with EPA's final rule, ''Additional Flexibility Amendments to Vehicle Inspection Maintenance Program Requirements, Amendment to the Final Rule,'' as published in the **Federal Register** on July 24, 2000 (65 FR 45526), and EPA's Technical Highlights document, ''Clean Screening in Inspection and Maintenance Programs'' (EPA420–F–98–023).

To implement the clean-screen program for metropolitan Denver (Adams County-part, Arapahoe County-part, Boulder County-part, Denver County, Douglas County, and Jefferson County), the State will develop a network of RSD sites to achieve the clean-screen program percentages described below.

In order to show continued compliance with the CO NAAQS, the Denver RSD clean-screen program will be phased-in starting in 2002. The program is designed to evaluate 20% of the fleet in 2003, 40% of the fleet in 2004, 60% of the fleet in 2005, and 80% of the fleet in 2006. The RSD clean-screen program will continue through 2013. In conjunction with the new RSD clean-screen program, Regulation No. 11's I/M240 program for Denver will also continue to apply to evaluate the remainder of the applicable fleet and those vehicles that did not pass the clean-screen evaluation by the RSD clean-screen program. Also, the I/M240 CO cutpoints will be tightened from the current levels of 20 grams per mile (through 2005) to 10 grams per mile in 2006 through 2013.

As we discussed above, the emission reductions associated with the revisions to Regulation No. 11 were incorporated by the State into both the 2006 and 2013 UAM/CAL3QHC Denver modeling evaluations and maintenance of the CO NAAQS was successfully demonstrated.

For the Larimer County (Fort Collins area) and Weld County (Greeley area) programs, we conducted our own analysis, based on State-provided data, of the potential impacts from the implementation of RSD in these areas. These remote sensing programs are designed to exempt 35% of the I/M eligible vehicles from a periodic emissions inspection, which is estimated to result in a 4% decrease in overall I/M benefit. This translates into an increase in CO emissions of 1.28 tons per day for the Fort Collins area (out of a total CO inventory of approximately 134 tons per day) and an increase of 0.26 tons per day for the Greeley area (out of a total inventory of approximately 44 tons per day).

We also reviewed CO ambient air quality data for both areas for the complete years of 1995, 1996, 1997, 1998, 1999, and 2000. For the Fort Collins area, the highest 8-hour CO value was 5.8 ppm with a six-year average of 5.3 ppm. For the Greeley area, the highest 8-hour CO value was 7.5 ppm with a six-year average of 5.3 ppm. Because the estimated emissions increases are minimal and the CO ambient monitored values are well below the standard (the 8-hour CO NAAQS is 9.0 ppm), we believe the revisions to Regulation No. 11 for Larimer and Weld Counties will not affect the ability of these areas to continue to show attainment of the CO NAAQS.

We have reviewed, and are proposing approval of, these State-adopted changes to Regulation No. 11.

VI. EPA's Evaluation of the Regulation No. 13 Revisions

Colorado's Regulation No. 13 is entitled ''Oxygenated Fuels Program'' (hereafter referred to as Regulation No. 13). The purpose of this regulation is to reduce CO emissions from gasoline powered motor vehicles in the Denver area through the wintertime use of oxygenated gasolines. Section 211(m) of the CAA originally required the State to implement an oxygenated fuels program in the Denver Consolidated Metropolitan Statistical Area (CMSA). Section 211(m) states that the oxygenated fuels program must cover no less than a four month period each year

unless EPA approves a shorter period. We can approve a shorter implementation period if a State submits a demonstration that a reduced implementation period will still assure that there will be no exceedances of the CO NAAQS outside of this reduced period. This was done previously when we approved revisions to Regulation No. 13 for the Denver area that shortened the oxygenated fuels season and oxygenate content (see 62 FR 10690, March 10, 1997 and 64 FR 46279, August 25, 1999). When an area is redesignated to attainment, the oxygenated fuels program may be further shortened or eliminated entirely as long as the State is able to show the program is not needed to demonstrate maintenance of the CO NAAQS (see 65 FR 80779, December 22, 2000).

In developing the Denver CO maintenance plan, the RAQC and State evaluated a number of options for revising the current oxygenated gasoline program. A description of the RAQC and State's process for the evaluation of potential options for Regulation No. 13 is found in Part I, Chapter 2 of the Governor's submittal. We note that Part I, Chapter 2 is only for informational purposes and was not submitted as a revision to the SIP. Part II, Chapter 4, is the maintenance plan that we are proposing to approve and it reflects the AQCC-adopted revisions, as an amendment to the SIP, to Regulation No. 13. These revisions to Regulation No. 13 were submitted for our approval in conjunction with the maintenance plan and appear as Appendix B to the plan.

The current EPA-approved oxygenated gasoline program for the Denver area has the following four requirements: (1) The control period is from November 1st through February 7th of each winter season, (2) an oxygen content of at least 2.0% by weight is required from November 1st through November 7th, (3) an oxygen content of at least 2.7% by weight is required from November 8th through February 7th, with a requirement for maximum allowable oxygenate blending between November 8th and January 31st. The maximum blending for ethanol is 10% by volume (this provides a 3.5% by weight oxygen content), and (4) if the market does not achieve an average oxygenate content of 3.1% by weight for the area during the maximum blending period, a mandatory program to achieve 3.1% shall be implemented.

With the submittal of the Denver CO maintenance plan, the State of Colorado is seeking EPA's approval of revisions to Regulation No. 13 that would shorten the oxygenated fuels season and reduce the required oxygen content of the fuels. The specific revisions to Regulation No. 13 adopted by the AQCC are presented in Table VI–1:

TABLE VI–1.—REGULATION NO. 13 CHANGES TO THE OXYGENATED GASOLINE PROGRAM

[All percentages represent oxygen content by weight]

Winter season	Nov. 1st to Nov. 7th	Nov. 8th to Jan. 31st	Feb. 1st to Feb. 7th
2001–2002	2.0%	2.7%	2.7%
2002–2003	2.0%	2.6%	1.5%
2003–2004	2.0%	2.0%	1.5%
2004–2005	1.9%	1.9%	0.0%
2005–2006 up through 2011–20012	1.5%	1.5%	0.0%
2012–2013	1.7%	1.7%	0.0%

As we discussed above, the emission reductions associated with the revisions to Regulation No. 13 were incorporated by the State into both the 2006 and 2013 UAM/CAL3QHC modeling evaluations and maintenance of the CO NAAQS was successfully demonstrated.

We have reviewed, and are proposing to approve, these State-adopted changes to Regulation No. 13 as demonstrating maintenance of the CO NAAQS and as meeting the requirements of section 211(m) of the CAA.

VII. EPA's Evaluation of the USPS Revision

Section 246(a)(2)(B) of the CAA requires areas, such as the Denver CO nonattainment area, to have a clean fuel vehicle program in the EPA-approved SIP. Although the State submitted various revisions to Colorado's Regulation No. 17 over the years to try to meet the requirements of section 246(a)(2)(B) (Governor's submittals dated October 17, 1994, August 20, 1996, and September 16, 1997), we never acted favorably on any of these revisions because they either did not meet the requirements of the CAA or the State withdrew the authority for Regulation No. 17.

We advised the State that we would be unable to redesignate the Denver area to attainment for CO unless the Governor submitted a clean fuel vehicle program meeting the requirements of section 246(a)(2)(B) of the CAA or a substitute program pursuant to CAA section 182(c)(4).[3] The State has chosen to submit a substitute program.

On May 22, 2000, the State, EPA, and USPS entered into an agreement under EPA's Project eXcellence and Leadership program (Project XL) and Colorado's Environmental Leadership Program under which the USPS agreed to destroy or relocate several hundred pre-1984 high-emitting postal delivery vehicles and replace them with low-emitting vehicles (LEV[4]) and low-emitting flexible fuel vehicles.[5] As part of this agreement, the USPS agreed that the State could incorporate the major components of the agreement into a SIP revision that the State could use as a substitute for a clean fuel vehicle program.

The AQCC adopted the USPS revision on March 16, 2000, and the revision became State-effective on May 30, 2000. The Governor submitted the USPS SIP revision to us on May 7, 2001.

On May 30, 2001, the Colorado Attorney General's Office submitted administrative corrections to the USPS SIP revision[6] and we are acting on the corrected version of the SIP revision.

[3] Section 182(c)(4)(B) of the CAA refers to ozone-producing emissions; however, EPA has interpreted this section to allow for substitute programs for CO as well.

[4] A LEV is any vehicle certified to the low emission vehicle standards specified in 40 CFR 86, subpart R.

[5] A flexible fuel vehicle or dual fuel vehicle is a vehicle which operates on the combination of gasoline and an alternative fuel (any fuel other than gasoline and diesel fuel, such as methanol, ethanol, and gaseous fuels (40 CFR 86.000–2)), such as E–85 (gasoline blended with 85% ethanol).

[6] Following adoption of the USPS revision, the AQCC inadvertently neglected to put the revision in final form before sending it to the Governor's office for submitted to EPA. In correcting the USPS revision, State Staff merely removed headings that indicated the USPS revision was ''draft'', dated and titled the revision, and inserted the correct date for the USPS Project XL agreement.

Our approval of the USPS revision is necessary in order for the State to meet the redesignation requirements of section 107(d)(3)(E)(v) of the CAA.

We are proposing approval of the USPS SIP revision because we have performed an emissions reduction analysis (included with the docket for this action) and have determined that the State will achieve greater reductions in emissions of CO with the USPS revision than would have been achieved by the clean fuels vehicle program required by CAA section 246(a)(2)(B).

VIII. Proposed Rulemaking Action and Request for Public Comment

We are soliciting public comment on all aspects of this proposed SIP rulemaking action. As stated above, we are proposing approval of the Governor's May 10, 2000, request to redesignate the Denver carbon monoxide nonattainment area to attainment, the maintenance plan, the revisions to Regulation No. 11, the revisions to Regulation No. 13, and the USPS revision. Send your comments in duplicate to the address listed at the front of this proposed rule. We will consider your comments in deciding our final action if your letter is received before September 21, 2001.

Administrative Requirements

(a) Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

(b) Executive Order 13045

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

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

(c) Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely proposes approval of 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. In addition, redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the Clean Air Act does not impose any new requirements. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

(d) Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. This action does not involve or impose any requirements that affect Indian Tribes. Thus, Executive Order 13175 does not apply to this proposed rule.

(e) Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211 ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

(f) Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed approval will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because a Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2). Redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the Clean Air Act does not impose any new

requirements. Redesignation to attainment is an action that affects the legal designation of a geographical area and does not impose any regulatory requirements. Therefore, because the redesignation to attainment does not create any new requirements, I certify that the proposed approval of the redesignation request will not have a significant economic impact on a substantial number of small entities.

(g) Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes approval of pre-existing requirements under State or local law and of the State's redesignation request, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 15, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 01–21197 Filed 8–22–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7031–4]

Idaho: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Idaho has applied to EPA for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Idaho. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date established in the final rule, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by September 21, 2001.

ADDRESSES: Send written comments to Jeff Hunt, U.S. EPA, Region 10, 1200 Sixth Avenue, Mail stop WCM–122, Seattle, WA 98101, phone (206) 553–0256. You can examine copies of the materials submitted by Idaho during normal business hours at the following locations: EPA Region 10 Library,1200 Sixth Avenue, Seattle, WA, 98101, phone (206) 553–1289; or Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, phone (208) 373–0502.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553–0256 and at address listed above.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: August 1, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 01–20212 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OEI–100006; FRL 6722–7]

RIN 2025–AA00

Report on the Corrosion of Certain Alloys; Community Right-to-Know Toxic Chemical Release Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; request for comments.

SUMMARY: EPA is announcing the availability of a document titled ''Report on the Corrosion of Certain Alloys'' (''Alloys Report''). The Alloy Report contains information on the corrosion of stainless steel, brass, and bronze alloys and the availability of chromium, nickel, and copper from these alloys. Chromium, nickel, and copper contained in stainless steel, brass, and bronze alloys are listed toxic chemicals under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), and therefore may be reportable pursuant to EPCRA section 313 and section 6607 of the Pollution Prevention Act of 1990 (PPA). EPA is requesting comments on the technical contents of this document and its conclusions. Depending upon the comments received, EPA may propose to delist chromium, nickel, and copper when contained in some or all physical forms of stainless steel, brass and bronze alloys from the EPCRA section 313 list of toxic chemicals.

DATES: Written comments, identified by the docket control number OEI–100006, must be received by EPA on or before December 20, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Daniel R. Bushman, Petitions Coordinator, (202) 260–3882, e-mail: bushman.daniel@epa.gov, for specific information on this document, or for more information on EPCRA section 313, the Emergency Planning and

Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: (703) 412–9877 or Toll free TDD: 1–800–553–7672. Information concerning this notice is also available on EPA's Web site at http://www.epa.gov/tri.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Notice Apply to Me?

You may be interested in this notice if you manufacture, process, or otherwise use metal alloys. Potentially interested categories and entities may include, but are not limited to:

Category	Examples of Potentially Interested Entities
Industry	SIC major group codes 10 (except 1011, 1081, and 1094), 12 (except 1241), or 20 through 39; industry codes 4911 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4931 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. section 6921 *et seq.*), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis)
Federal Government	Federal facilities

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in this notice. Other types of entities not listed in the table could also be interested. To determine whether your facility may be interested in this notice, you should carefully examine the applicability criteria in part 372, subpart B of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this notice to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Additional Information or Copies of This Document, the Alloys Report, or Other Support Documents?

1. *Electronically.* You may obtain electronic copies of this document from the EPA internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/. The Alloys Report is available for downloading at http://www.epa.gov/tri/.

2. *In person.* The Agency has established an official record for this action under docket control number OEI–100006. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number (i.e., ''OEI–100006'') in your correspondence.

1. *By mail.* Submit written comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is: (202) 260–7093.

3. *Electronically.* Submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov.'' Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OEI–100006. Electronic comments on this document may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Want to Submit to the Agency?

You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person identified in the **FOR FURTHER INFORMATION CONTACT** section.

II. Background Information

A. What Is the Purpose of This Notice?

The purpose of this notice is to make available for comment a document titled ''Report on the Corrosion of Certain Alloys.'' The Alloys Report contains information on the corrosion of stainless steel, brass, and bronze alloys. The report discusses the major types of environmental conditions and how these environmental conditions can affect the corrosion resistance of the stainless steel, brass, and bronze alloys. The Alloys Report focuses on the

availability of chromium, nickel, and copper from stainless steel, brass, and bronze alloys as a result of corrosion under environmental conditions. EPA requests comments on the technical contents and conclusions of the Alloys Report. Depending upon the comments received, EPA may propose to delist, pursuant to EPCRA section 313(d)(2), chromium, nickel, and copper when contained in some or all physical forms of stainless steel, brass, and bronze alloys from the EPCRA section 313 list of toxic chemicals.

B. Why Has EPA Prepared the Alloys Report?

Because alloys are solid-solid mixtures, chromium, nickel, copper, and other EPCRA section 313 listed toxic metals contained in alloys are subject to EPCRA section 313 and PPA section 6607 reporting. As with all mixtures in the EPCRA section 313 program, the weight percent of any listed toxic chemical in an alloy must be factored into threshold determinations and release and other waste management calculations.

In 1992 EPA received three petitions requesting the delisting of chromium, nickel, and copper when found in stainless steel, brass, and bronze from the EPCRA section 313 list of toxic chemicals. The petitions were from Russell Harrington Cutlery, Inc. (June 12, 1992), Bath Iron Works Corporation (September 25, 1992), and Stillwater Fasteners Inc. (October 1, 1992). EPA denied these petitions on June 29, 1993 (58 FR 34738) based on the Agency's determinations that: 1) Chromium, copper, and nickel meet the listing criteria of EPCRA section 313(d)(2), and 2) corrosion of certain forms (e.g., dusts, grindings, and shavings) of stainless steel, brass, and bronze alloys can be reasonably be anticipated to occur under some processing, use, or disposal situations yielding available forms of these constituent metals. EPA concluded that the petitioners failed to provide, nor did EPA possess, any data to support the petitioners' contention that manufacturing, processing, use, or other activities involving the metal alloys subject to the petitions would not lead to availability of these metals.

In the 1993 denial notice EPA requested further comments on the reporting of chromium, nickel, and copper in stainless steel, brass, and bronze alloys. Recognizing that certain forms of alloys which have high surface to volume ratios might corrode more rapidly, EPA specifically requested comment on whether the reporting of chromium, copper, and nickel in forms of the alloys with low surface to volume ratios (e.g., blocks) should be exempted from the reporting requirements of EPCRA section 313 (58 FR 34741). EPA stated that depending upon the nature of the information submitted, EPA would consider proposing a qualification to the EPCRA section 313 listing to exempt from reporting those forms of an alloy for which data can be provided that indicate corrosion will not occur. In the comments received EPA did not receive sufficient information to propose to delist chromium, nickel, or copper pursuant to EPCRA section 313(d)(2) when contained in an alloy, regardless of the form of the alloy (i.e., add a qualifer). In addition, on October 15, 1993, several months after the petition denial was published in the **Federal Register**, a letter was received by the EPA, from Independent Nail Company requesting that the Agency delist chromium and nickel when found in Type 304/316 stainless steel. EPA continued to review this issue, and subsequently developed the Alloys Report which is being made available today for public comment.

EPA's evaluation of whether chromium, nickel, and copper in an alloy may be delisted pursuant to EPCRA section 313(d)(2) entails an evaluation of all chemical and biological processes that may lead to the metal's availability from the alloy, as well as on the toxicity exhibited by the intact species. In this instance, the effects induced by these metals meet the toxicity criteria under section 313(d)(2). In order to delist these metals when contained in an alloy, or specific physical forms of an alloy, competent scientific evidence that demonstrates that the alloy does not corrode, or specific forms of the alloy do not corrode, and thereby generate the toxic metal at a level that can be expected to induce toxicity is required. Depending on the comments received on this report, EPA will determine whether or not there are sufficient data to propose to delist, pursuant to EPA's authority in EPCRA section 313(d)(2), chromium, copper, or nickel when contained in some or all physical forms of stainless steel, brass, and bronze alloys (i.e., ''add'' a qualifier to the listing of these toxic chemicals).

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: August 2, 2001.

Elaine G. Stanley,

Director, Office of Information Analysis and Access.

[FR Doc. 01–21198 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[I.D. 080299B]

RIN 0648–AH26

Protected Species Special Exception Permits; Extension of Comment Period

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

ACTION: Proposed rule and extension of public comment period.

SUMMARY: NMFS is extending the public comment period on the proposed rule amending the regulations for permits to capture or import marine mammals for purposes of public display under the Marine Mammal Protection Act of 1972 (MMPA).

DATES: Comments on this proposed rule must be received or postmarked no later than November 2, 2001.

ADDRESSES: Comments on this proposed rule may be mailed to the National Marine Fisheries Service, Office of Protected Resources, Permits Division (F/PR1), 1315 East-West Highway, Rm. 13705, Silver Spring, MD 20910, or may be submitted by facsimile to (301) 713–0376. Please note that comments will not be accepted by e-mail or by other electronic media.

FOR FURTHER INFORMATION CONTACT: Ann Terbush or Eugene Nitta, National Marine Fisheries Service, Office of Protected Resources, Permits Division (301/713–2289).

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2001 (66 FR 35209), NMFS published a proposed rule to revise the regulations for permits to capture or import marine mammals for public display under the Marine Mammal Protection Act of 1972, as amended (MMPA). In implementing the 1994 Amendments to the MMPA that affect marine mammals held captive for public display, the proposed regulations would clarify the public display requirements relating to permits to capture or import,

transport or transfer of marine mammals, and export of marine mammals.

Dated: August 15, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–21091 Filed 8–21–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 163
Wednesday, August 22, 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 AGRICULTURE

Office of the Secretary

Establishment of Shipping Patterns for Mexico's North American Free Trade Agreement Allocation Under the Fiscal Year 2001 Sugar Tariff Rate Quotas

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice establishes shipping patterns for Mexico's fiscal year North American Free Trade Agreement (NAFTA) allocation of 105,788 metric tons raw value under the FY 2001 sugar tariff rate quotas.

EFFECTIVE DATE: August 22, 2001.

ADDRESSES: Inquiries may be mailed or delivered to the Import Policies and Programs Division Director, Foreign Agricultural Service, AgStop 1021, South Building, U.S. Department of Agriculture, Washington, D.C. 20250–1021.

FOR FURTHER INFORMATION CONTACT: Richard Blabey (Division Director, Import Policies and Programs Division), 202–720–2916.

Notice

I hereby give notice, in accordance with section 2011.107(a) of 15 CFR 2011 Subpart A, that I will issue Certificates of Quota Eligibility (CQEs) to allow Mexico to enter up to 70 percent of its NAFTA allocation for raw cane sugar and certain other sugars, syrups, and molasses, before June 30, 2001. The remaining 30 percent, plus any residual quantity not shipped prior to June 30, may enter at the low tier tariff during the final quarter of FY 2001.

Mexico's FY 2001 NAFTA allocation was established at 105,788 metric tons raw value. This sugar may be entered at the low tier tariff under subheadings 1701.11.10, 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the Harmonized Tariff Schedule of the United States.

Signed at Washington, D.C. August 10, 2001.

Ann M. Veneman,

Secretary of Agriculture.

[FR Doc. 01–21100 Filed 8–21–01; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent to Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to HR Mtn. Sun, Inc., of Hood River, Oregon, an exclusive license to U.S. Patent No. 6,027,758, ''Restructured Fruit and Vegetable Products and Processing Methods,'' issued on February 22, 2000, for all applications to pears and pear products. Notice of Availability of this invention for licensing was published in the **Federal Register** on May 19, 1998.

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

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1158, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5257.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as HR Mtn. Sun, Inc., has submitted a complete and sufficient application for a license. 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 thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Michael D. Ruff,

Assistant Administrator.

[FR Doc. 01–21175 Filed 8–21–01; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Roadless Area Protection; Interim Direction

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: The Forest Service has issued two Interim Directives to its workforce reserving to the Chief, with some exceptions, authority to approve timber harvest and road construction and reconstruction in roadless areas. The intended effect is to stabilize roadless management in light of pending litigation. Public comment is invited and will be considered in developing any final policy.

DATES: Interim Directives No. 2400–2001–3 and 7710–2001–2 were issued July 27, 2001. Comments must be received in writing by October 22, 2001.

ADDRESSES: Written comments concerning these Interim Directives should be sent to Content Analysis Team, Forest Service, USDA, Attention: Roadless Interim Directives, P.O. Box 221150, Salt Lake City, UT, 84122; via email to roadless_id@fs.fed.us; or via facsimile to 801–296–4088, Attention: Roadless Interim Directives.

FOR FURTHER INFORMATION CONTACT: Jody Sutton, Program Coordinator, Content Analysis Team, at telephone number (801) 527–1023.

SUPPLEMENTARY INFORMATION:

Background

On January 12, 2001, the Department of Agriculture published a final rule entitled 36 CFR part 294, Special Areas; Roadless Area Conservation (66 FR 3244). Originally scheduled to take effect on March 12, the Secretary of Agriculture extended the effective date until May 12, 2001, to permit the new Administration to review the rule (66 FR 8899; February 5, 2001).

Over the same period, eight lawsuits, involving seven states in six judicial districts and four federal circuits were

filed against the January 12, 2001, rule. On May 10, 2001, the Idaho District Court granted the preliminary injunction requested in *Kootenai Tribe of Idaho* v. *Veneman* and *State of Idaho* v. *U.S. Forest Service*. The court enjoined the Forest Service from implementing ''all aspects of the Roadless Area Conservation Rule'' as well as a section of the November 2000, forest planning rule that addresses the inventory and evaluation of roadless areas during the forest plan revision process. The Idaho District Court's decision to grant a preliminary injunction has been appealed and is now pending before the Ninth Circuit Court of Appeals.

Need for Interim Direction

In the face of the legal controversy and uncertainty, and with the endorsement of the Secretary, on June 7, 2001, I issued a memorandum to agency top officials concerning interim protection of inventoried roadless areas. I emphasized that ''the Forest Service is committed to protecting and managing roadless areas as an important component of the National Forest System'' and that ''the best way to achieve this objective is to ensure that we protect and sustain roadless values until they can be appropriately considered through forest planning.'' As part of that memorandum, I indicated I would be issuing interim direction regarding timber harvest and road construction in inventoried roadless areas until a forest plan amendment or revision considers the long-term protection and management of unroaded portions of inventoried roadless areas. I also indicated that the interim directives would provide for exemptions along the lines of those in the roadless rule.

Subsequently, I have issued two Interim Directives addressing approval of activities in roadless areas—one to Forest Service Manual (FSM) 2400 Chapter Zero Code, which covers timber harvest decisions, and another to FSM Chapter 7710, which governs decisions on road construction and reconstruction in roadless areas.

Content of the Interim Directives

The two Interim Directives issued to implement the policy decisions contained in the June 7 memorandum are integrated into pre-existing direction on timber sales and road management in inventoried roadless areas. They assign responsibilities for actions related to roadless areas. The Interim Directives reserve to the Chief the authority to approve, with some exceptions, proposed road construction, reconstruction or timber harvest projects in inventoried roadless areas until revision of a land and resource management plan or the adoption of a plan amendment that has considered the protection or other management of inventoried roadless areas as defined in FSM 7712.16a. The Interim Directives also assign to Regional Foresters the responsibility to review and determine if proposed road construction, road reconstruction, or timber harvest projects in inventoried roadless areas that are not within the Regional Forester's decision authority should be recommended and forwarded to the Chief for approval.

Conclusion

The Forest Service is committed to providing adequate opportunities for the public to comment on administrative directives that are of substantial public interest or controversy, as provided in the regulations at 36 CFR part 216. Because it was important to provide Forest Service units with interim direction to ensure consistent management of roadless areas, the agency issued these Interim Directives and made them effective immediately. However, pursuant to 36 CFR 216.7, the Forest Service is now also requesting public comment on these Interim Directives. All comments will be reviewed and considered in determining any final policy. A copy of each ID appears at the end of this notice.

Dated: August 9, 2001.

Dale N. Bosworth,

Chief.

Forest Service Manual Interim Directives

Note: The Forest Service organizes its directive system by alphanumeric codes and subject headings. Only those sections of the FSM that are the subject of this notice are set forth here. Those who wish to see the entire chapter to which the Interim Directives apply may do so at *http://www.fs.fed.us/im/directives*.

FSM 2400—Timber Management

Chapter—Zero Code

Interim Directive No.: 2400–2001–3.

Effective Date: July 27, 2001.

Duration: This interim directive expires on January 27, 2003.

Approved: Dale N. Bosworth, Chief.

Date Approved: 7/19/2001.

Posting Instructions: Interim directives are numbered consecutively by title and calendar year. Post by document at the end of the chapter. Retain this transmittal as the first page(s) of this document. The last interim directive was 2450–2001–2 to FSM 2450.

New Document ..... Superseded Document(s) (Interim Directive Number and Effective Date).	id_2400–2001–3 ..... None.	3 Pages.

Digest: This Interim Directive (ID) implements the Chief's 1230/1920 letter of June 7, 2001, regarding Interim Protection of Roadless Areas. See the corollary roadless area Interim Directive being simultaneously issued to FSM 7710.

2404.11—Adds new paragraph 4 that reserves to the Chief the authority to approve certain proposed timber harvests in inventoried roadless areas as defined in FSM 7712.16a, until revision of a land and resource management plan.

2404.15—Adds a new paragraph 13 that requires Regional Forester review and agreement on the purpose and need for timber harvests in roadless areas and assigns to Regional Foresters the responsibility to screen proposed timber harvests in inventoried roadless areas to determine those that should be recommended to the Chief for approval.

FSM 2400—Timber Management

Chapter—Zero Code

2404.11—Chief

4. Reserves the authority to approve or disapprove proposed timber harvest in inventoried roadless areas (FSM 7712.16a), except for those listed in section 2404.15, paragraph 13. This reservation applies to all decisions to approve or disapprove harvest in inventoried roadless areas made on or after the effective date of this Interim Directive. This reservation applies until

revision of a land and resource management plan or adoption of a plan amendment that has considered the protection and management of inventoried roadless areas pursuant to FSM 1920. If a Record of Decision for a Forest Plan revision has been issued as of the date of this Interim Directive, then the provision for Chief's review does not apply. By official memorandum, the Chief may designate, on a case-by-case basis, an Associate Chief or Deputy Chief to serve as the Responsible Official.

2404.15—Regional Forester

13. Prior to the publication of a Notice of Intent to prepare an environmental impact statement that considers timber harvest in an inventoried roadless area (FSM 7712.16a), review and agree to the purpose and need statements (FSH 1909.15, Chapter 20). It is also the responsibility of the Regional Forester to review and recommend to the Chief the final environmental impact statement and record of decision for any timber harvest projects in inventoried roadless areas, except those described in the following paragraphs (a) through (d).

a. The timber is generally small-diameter material and the removal of timber is needed for one of the following purposes:

(1) To improve habitat for listed or proposed threatened and endangered species, or for sensitive species (FSM 2670), or

(2) To maintain or restore the desirable characteristics of ecosystem composition and structure, for example, to reduce the risk of uncharacteristic wildfire effects.

b. The cutting, sale, or removal of timber is incidental to the implementation of a management activity and not otherwise prohibited under the land and resource management plan.

c. The cutting, sale, or removal of timber is needed and appropriate for personal or administrative use as provided for in 36 CFR part 223.

d. The harvest is in a portion of an inventoried roadless area where construction of a classified road and subsequent timber harvest have previously taken place, and the roadless area characteristics have been substantially altered by those activities.

The delegation of authority to approve or disapprove the projects described in preceding paragraphs a through d remain unchanged by this Interim Directive.

FSM 7700—Transportation System

Chapter 7710—Transportation Atlas, Records, and Analysis

Interim Directive No.: 7710–2001–2.

Effective Date: July 27, 2001.

Duration: This interim directive expires on January 27, 2003.

Approved: Dale N. Bosworth, Chief.

Date Approved: 07/23/2001.

Posting Instructions: Interim directives are numbered consecutively by title and calendar year. Post by document at the end of the chapter. Retain this transmittal as the first page(s) of this document. The last interim directive was 7710–2001–1 to FSM 7710.

New Document	id_7710–2001–2	4 Pages.
Superseded Document(s) (Interim Directive Number and Effective Date)	None.	

Digest: This Interim Directive (ID) implements the Chief's 1230/1920 letter of June 7, 2001, regarding Delegation of Authority/Interim Protection of Roadless Areas. See corollary roadless area Interim Directive being simultaneously issued to FSM 2400. Interim Directive No. 7710–2001–1, effective May 31, 2001, remains in effect.

7710.4—Adds a new paragraph that reserves to the Chief the authority to approve certain proposed road construction or reconstruction projects in inventoried roadless areas until revision of a land and resource management plan or the adoption of a plan amendment that has considered the protection or other management of inventoried roadless areas as defined in FSM 7712.16a. Provides that the Chief may designate other Washington Office officials to serve as Responsible Official for decisions that are to be made at the Chief's level.

7710.42—Revises paragraph 3 to be consistent with the Chief's reservation of authority. In new paragraph 3a, the Regional Forester's authority to serve as Responsible Official on a road construction/reconstruction project in contiguous unroaded areas is retained. In a new paragraph 3.b, the Regional Forester's authority as Responsible Official is limited to those environmental impact statements (EIS's) for road construction or reconstruction in inventoried roadless areas authorized by FSM 7712.16b, paragraph 2, and FSM 7712.16d.

Adds a new paragraph 7 assigning to Regional Foresters the responsibility to review and determine if proposed road construction or reconstruction projects in inventoried roadless areas, that are not within the Regional Forester's decision authority should be forwarded to the Chief for approval.

Also adds a new paragraph 8 assigning the Regional Forester the responsibility of reviewing and agreeing to the purpose and need statements for any Notice of Intent to prepare a draft EIS that considers road construction or reconstruction in inventoried roadless areas.

7712.16a—Removes an incorrect citation to FSM 7705 from the definition of inventoried roadless areas.

7712.16b—Revises paragraph 1a through 1c to add a reference to FSM 7712.16d in the introductory phrase and to add references to the Responsible Official and the Chief to be consistent with changes in delegated authority in this ID.

Adds a new paragraph 4 directing that road construction or reconstruction projects which meet compelling needs other than those specifically identified and described as examples in FSM 7712.16b, paragraph 2, may only be approved by the Chief.

FSM 7700—Transportation System

Chapter 7710—Transportation Atlas, Records, and Analysis

7710.4—Responsibility

The Chief reserves the authority to approve or disapprove road construction or reconstruction in inventoried roadless areas, except those projects exempted under FSM 7712.16d and those projects which meet one of the compelling needs specifically described in FSM 7712.16b, paragraph 2. This reservation of authority remains in effect as provided in FSM 7712.16c. When an inventoried roadless area road construction or reconstruction decision falls under the Chief's authority, the Chief, for purposes of administrative efficiency and timeliness, may designate, on a case-by-case basis by official memorandum, an Associate Chief, Deputy Chief, or an Associate Deputy Chief to serve as the Responsible Official.

7710.42—Regional Forester

(It is the responsibility of the Regional Forester to:)

3. Serve as the Responsible Official for the following:

a. any environmental impact statement and decision on a road construction or reconstruction project in a contiguous unroaded area as authorized in FSM 7712.16b; and

b. any environmental impact statement and decision on a road construction or reconstruction project in an inventoried roadless area authorized by FSM 7712.16b, paragraph 2, and FSM 7712.16d.

7. Review and determine whether to recommend to the Chief the final environmental impact statement and accompanying decision document for any road construction or reconstruction project in inventoried roadless areas.

8. Prior to the issuance of a Notice of Intent to prepare a draft environmental impact statement that considers road construction or reconstruction in an inventoried roadless area (FSM 1920.5), review and agree to the purpose and need statements.

7712.16a—Areas Subject to Interim Requirements

1. *Inventoried roadless areas* are identified in a set of inventoried roadless area maps, contained in Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000, which are held at the National headquarters office of the Forest Service, or any update or revision of those maps.

7712.16b—Interim Requirements

1. Except as provided for in FSM 7712.16c and 7712.16d, road construction or reconstruction in inventoried roadless and contiguous unroaded areas (FSM 7712.16a) may be authorized only if:

a. The Responsible Official determines for the purposes of this section, that there is a compelling need for the road;

b. A science-based roads analysis is conducted pursuant to FSM 7712.1; and

c. An environmental impact statement for the proposed action is prepared and approved by the Regional Forester, or the Chief. Road construction and reconstruction in inventoried roadless and contiguous unroaded areas constitute a significant environmental effect, as defined in the Council on Environmental Quality regulations (40 CFR part 1508) and the Forest Service Environmental Procedures Handbook (FSH 1909.15, sec. 05), and, therefore, requires the preparation of an environmental impact statement (FSH 1909.15, sec. 20.6). The environmental impact analysis provides the basis for the Responsible Official's decision on whether to construct or reconstruct a road in inventoried roadless or contiguous unroaded areas.

4. Road construction or reconstruction projects which meet compelling needs other than those specifically identified and described as examples in FSM 7712.16b, paragraph 2, must be submitted to the Chief for review and approval.

[FR Doc. 01–21185 Filed 8–21–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–816]

Certain Cut-To-Length Carbon Steel Plate From Germany; Amended Final Results of Antidumping Duty Administrative Review in Accordance with Court Decision

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Amended Final Results of Antidumping Duty Administrative Review in accordance with Court Decision.

SUMMARY: On August 25, 2000, the United States Court of Appeals for the Federal Circuit (''CAFC''), reversed and remanded a decision by the Court of International Trade (''CIT'') which arose from the Department of Commerce (''Commerce'') determination on the administrative review of certain cut-to-length carbon steel plate from Germany. *See U.S. Steel Group* v. *United States,* 15 F. Supp. 2d. 892, 898 (CIT 1998) (*''US Steel Group''*). As there is now a final and conclusive court decision in this segment, we are amending the final results of reviews in this matter and will instruct the U.S. Customs Service to liquidate entries subject to these amended final results.

EFFECTIVE DATE: August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Alex Villanueva, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–3434 and (202) 482–6412, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 15, 1997, the Department published its final results of the administrative review of certain cut-to-length carbon steel plate from Germany for one German exporter, AG DER Dillinger Huttenwerke (''Dillinger''). *See Certain Cut-To-Length Carbon Steel Plate from Germany; Final Results of Antidumping Administrative Review,* 62 FR 18395 (April 15, 1997) (*''Final Results''*). In these final results, the Department included movement expenses in ''total expenses'' used to calculate CEP profit ratios. *See Final Results.*

On July 7, 1998, the CIT sustained the domestic producer's challenge that movement expenses should not be included in total expenses. On July 7, 1998, the CIT issued an order, instructing Commerce to exclude movement expenses in computing ''total expenses.'' *See US Steel Group* 15 F. Supp. 2d. at 892. On September 8, 1998, Commerce submitted its recalculated results consistent with the remand order to the CIT. In addition, in response to the CIT's remand order, we recalculated commissions and declined to retain in the COMMISU variable any portion of the intra-company commissions (i.e., excluded from COMMISU the amount representing payment from Dillinger to Daval).

On November 6, 1998 the CIT affirmed the remand. *See U.S. Steel Group* v. *United States,* No. 97–05–00866, 1998 WL 782011 (CIT) (November 6, 1998).

On August 25, 2000, however, the CAFC overturned the CIT's decision and upheld the initial determination of the Department, which stated that movement expenses should be included in ''total expenses.'' *See U.S. Steel Group* v. *United States,* Court No. 99–1342 (CAFC August 25, 2000). On February 22, 2001, the CIT issued an order directing Commerce to recalculate Dillinger's CEP profit ratios to include movement expenses as part of total expenses. At the same time, the CIT dismissed the case.

We are therefore amending our final results of review for the period August 1, 1994 through July 31, 1995. We have recalculated the margin for Dillinger. The revised weighted average margin is as follows:

Manufacturer/ exporter	Margin [percent]
Dillinger	0.16 (De minimis)

The Department shall determine, and the U.S. Customs Service (''Customs'') shall assess, antidumping duties on all

appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated importer-specific assessment rates. With respect to the constructed export price sales, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct Customs to assess any resulting non-de minimis percentage margins against the entered Customs values for the subject merchandise on each of that importer's entries during the review period.

The Department's decision applies to all entries of merchandise subject to this review, or withdrawn from warehouse, for consumption on or after August 1, 1994 and before July 31, 1995. The Department will order the suspension of liquidation ended for all such entries and will instruct Customs to release any cash deposits or bonds.

For assessment purposes, we have calculated importer-specific duty assessment rates for each class or kind of merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of sales examined. The Department will instruct Customs to liquidate without regard to antidumping duty rates. The above rate will not affect Dillinger's cash deposit rate currently in effect, which continues to be based on the margins found to exist in the most recently completed review.

This notice is published in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.221.

Dated: August 14, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–21181 Filed 8–21–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Missions for 2001

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the below listed reverse and 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.

Reverse Trade Mission from Brazil to San Diego and Los Angeles, California, and Miami, Florida
September 16–21, 2001
American companies must register for Miami meetings by August 27, 2001, and for Los Angeles or San Diego meetings by September 3, 2001.
For further information contact: For Miami—Mr. John McCartney, U.S. Department of Commerce.
Telephone 954–356–6640, or e-Mail to John.McCartney@mail.doc.gov

For San Diego or Los Angeles, Ms. Julia Rauner-Guerrero, U.S. Department of Commerce. Telephone 619–557–5395, or e-Mail to Julia.Rauner.Guerrero@mail.doc.gov

Telecommunications Trade Mission to Poland, Czech Republic and Slovakia Warsaw, Prague and Bratislava
December 1–8, 2001
Recruitment closes on November 1, 2001.
For further information contact: Ms. Beatrix Roberts, U.S. Department of Commerce.
Telephone 202–482–2952, or e-Mail to Beatrix_Roberts@ita.doc.gov
For further information contact Mr. Thomas Nisbet, U.S. Department of Commerce.
Telephone 202–482–5657, or e-Mail to Tom_Nisbet@ita.doc.gov

Dated: August 16, 2001.

Thomas H. Nisbet,

Director, Promotion Planning and Support Division, Office of Export Promotion Coordination.

[FR Doc. 01–21118 Filed 8–21–01; 8:45 am]

BILLING CODE 3510–DR–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070301D]

Endangered Fish and Wildlife; Draft Recovery Plan for the Western North Atlantic Right Whale

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

ACTION: Notice of extension of comment deadline.

SUMMARY: On July 11, 2001, NMFS published notification of the availability of the draft Recovery Plan (Plan) for the western North Atlantic right whale (*Eubalaena glacialis*) for review and comment by interested parties prior to preparing the final plan for approval and adoption by NMFS. By this notice, NMFS announces an extension of the comment deadline.

DATES: Comments must be postmarked no later than October 25, 2001. Comments will not be accepted if submitted via e-mail or the Internet.

ADDRESSES: Comments should be addressed to Coordinator of Large Whale Recovery Activities, Marine Mammal Division, Office of Protected Resources (F/PR), 1315 East-West Highway, Silver Spring, MD 20910 or faxed to 301/713–0376. A copy of the draft Plan for the North Atlantic right whale is available upon request from F/PR, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Gregory K. Silber, PH.D., NMFS, F/PR, 301/713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

The draft plans are also available through the internet at *http://www.nmfs.noaa.gov/prot_res/PR3/recovery.html.*

Background

The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that NMFS develop and implement recovery plans for the conservation and survival of threatened and endangered species under its jurisdiction unless it is determined that such plans will not promote the conservation of the species. In 1991, NMFS issued the first recovery plan for northern right whales. NMFS, in consultation with key constituent groups and organizations, has prepared an updated draft plan for right whales in the North Atlantic Ocean. The plan discusses the natural history, current status, and the known and potential human impacts to right whales. Actions needed to promote the recovery of this species to promote the recovery of this species are identified and discussed. A Final Recovery Plan will be used to direct U.S. activities, and to encourage international cooperation to promote the recovery of these endangered species.

On July 11, 2001 (66 FR 36260), NMFS published the draft Recovery Plan to be available for review and receive comments by September 10, 2001. By this notice, the comment period is hereby extended until October 25, 2001.

Dated: August 15, 2001.

Wanda L. Cain,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–21092 Filed 8–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 000616179–1190–02]

RIN: 0648–ZA90

Office of Research and Applications Ocean Remote Sensing Program Notice of Financial Assistance

AGENCY: National Oceanic and Atmospheric Administration (NOAA), National Environmental Satellite, Data, and Information Service (NESDIS).

ACTION: Notice of availability of Federal assistance.

SUMMARY: The NESDIS Office of Research and Applications (ORA) announces the availability of Federal assistance in the area of satellite oceanography. This program responds to a need for research and activities that expand the use of and improve access to satellite oceanographic data. Funded proposals will help build capabilities nationwide in the application of satellite oceanographic data to environmental monitoring and prediction and coastal management as well as guide the development of future oceanographic satellite systems.

DATES: Proposals with a completed Grants Applications Package must be postmarked on or before October 22, 2001. Final selection is anticipated to be completed by approximately January 25, 2002. The earliest anticipated start date is June 1, 2002. To verify the date actually sent, applicants must request and include with the application either a legibly dated U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable proof of timely mailing.

Late Applications: Applications that do not meet the proposal deadline above will be considered late. Late applications will not be considered, and will be returned to the applicant.

ADDRESSES: Send all proposals to the Office of Research and Applications; NOAA/NESDIS; 5200 Auth Road; Room 711; Camp Springs, MD 20746–4304. Proposals should cite this Notice and be sent to the attention of William Pichel, Office of Research and Applications.

FOR FURTHER INFORMATION CONTACT: Administrative questions should be directed to Kathy LeFevre, (301) 763–8127 or Kathy.Lefevre@noaa.gov. Technical point of contact is William Pichel, (301) 763–8231 or William.G.Pichel@noaa.gov.

SUPPLEMENTARY INFORMATION:

Award Arrangement

Selected recipients will either receive a grant, or enter into a cooperative agreement with ORA, depending upon the amount of the Office's involvement in the project. A grant will be awarded where the proposed work is considered substantially independent work. A cooperative agreement will be implemented where there is substantial involvement by ORA in the proposed work.

NOAA Grants Application Package

All applicants are required to submit a NOAA Grants Application Package with the project proposal. The standard NOAA grants application forms can be obtained from the NOAA Website at http://www.rdc.noaa.gov/~grants/index.html. If Internet access is not available, forms can be obtained by mail by contacting the NOAA/NESDIS/ORA at (301) 763–8102. All Grants Application Packages must include Forms SF–424, SF–424A, SF–424B, and CD–511. If applicable, applicants must also include Anti-lobbying Disclosure Form SF–LLL, and Lower-Tier Certification Form CD–512. To determine SF–LLL and CD–512 applicability, applicants are directed to the ''General Information for All Programs'' section of this notice, Anti-lobbying Disclosures and Lower-Tier Certifications subheadings.

Funding Availability

FY 2002 funding for this program will be contingent upon the availability of funds but is anticipated to be approximately $400,000. Individual awards for FY 2002 are expected to range from a minimum of $50,000 up to $150,000, although successful proposals that are deemed to be exceptionally meritorious by the Selection Panel may be larger. There is no guarantee that all the areas of research interest identified in this Notice will be able to receive funding consideration.

Minority Serving Institutions

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HSI), and Tribal Colleges and Universities (TCU) in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the Nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

Authority

Statutory authority for these programs is provided under 33 U.S.C. 1442 (Research program respecting possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems); and 49 U.S.C. 44720 (Meteorological Services).

Catalog of Federal Domestic Assistance (CFDA)

This program is listed in the Catalog of Federal Domestic Assistance under Number 11.440 (Research in Remote Sensing of the Earth and Environment).

General Information

Environmental prediction, assessment, and the conservation and management of coastal and oceanic resources are among NOAA's primary functions. NESDIS, one of the five principal offices within NOAA, is the world's largest civil, operational environmental space organization and operates the Nation's civil geostationary and polar-orbiting environmental satellites. NESDIS also facilitates the acquisition of non-U.S. environmental satellite data through international agreements. Satellite systems provide data and information that are critical to weather forecasting; natural disaster response and mitigation; climate change forecasts and research; living and non-living marine resources management; and coastal and open ocean oceanographic research. ORA provides overall guidance and direction to the oceanic, atmospheric, and climate research and applications activities of NESDIS. The Ocean Remote Sensing Program, managed by ORA's Oceanic Research and Applications Division, has as its goal to help build capabilities nationwide to make expanded and improved use of earth-orbiting satellite data and information. The Program has particular interest in activities relating to sustaining healthy coasts, building sustainable fisheries, recovering protected species, providing improved

environmental forecasts, and preparing for future NOAA operational satellite missions.

Program Description

The Ocean Remote Sensing Program seeks to expand the use of and improve access to operational satellite oceanographic data by state, Federal, regional governmental, and non-profit entities. The program is seeking proposals in each of the following research areas listed in priority order: (1) The application of satellite oceanographic data and information in support of coastal and oceanic marine resources management (living and non-living); (2) The application of satellite oceanographic data in fisheries and critical ecosystems research or monitoring applications (e.g., marine protected areas, essential fish habitat, early life recruitment and survival, stock assessment, protected species, important socio-economic interactions, and coral reefs); (3) Research leading to the development of innovative data archiving and data management techniques that may significantly simplify and improve user access to satellite oceanographic data, especially by users employing Internet access and geographic information systems (GIS) spatial analysis software technologies; (4) Research to increase the accuracy, precision and quantitative use of satellite oceanographic data in coastal and ocean surface research investigations (e.g., sea surface temperature, ocean color, ocean surface winds, sea level and surface height, and sea surface measurements derived from spaceborne synthetic aperture radar); (5) Research supporting the development of future ocean sensing capable U.S. satellite systems (e.g., the National Polar-Orbiting Operational Environmental Satellite System (NPOESS)); and (6) Research leading to improved coastal and oceanic climatologies using satellite oceanographic data. All proposals will be evaluated in the context of the potential value of the proposed work to a targeted user community (to be identified in the proposal), and the relationship of the proposed work to the NOAA/NESDIS mission (as described in the ''General Information'' section of this Notice).

Background

ORA provides overall guidance and direction to the research and application activities of NESDIS. ORA provides expert services to other NESDIS Offices and Centers relating to satellite sensor development, instrument performance, and systems hardware components. It coordinates with other NESDIS Offices and Centers, appropriate NOAA units, and U.S. Government agencies in the implementation and evaluation of operational and research satellite data and products that result from research activities. It coordinates research activities of mutual interest with the academic community, NASA laboratories, and with foreign organizations, particularly those in satellite operating countries. ORA provides advice to the Assistant Administrator concerning interfaces among the Centers and Offices of NESDIS and among the major NOAA elements in relation to broad scale scientific projects. It also produces and provides specific programmatic studies, statistics, and scientific recommendations as needed.

Project Proposals

A signed original and two copies of each project proposal, must be sent to ORA by the date indicated in the ''DATES'' section of this Notice. Proposals received after that time and date will not receive consideration. In addition to the information requested below, the applicant must submit a complete NOAA grants application package (with signed originals,) and curriculum vitae (CV) for the principal investigator(s). All project proposals must include the sections identified below and total no more than eight pages in double-spaced, 12-point font format. The title page, detailed budget, investigator(s) CV, and any appendices are not included in the eight page limit. Proposals that exceed the eight page limit described here will be considered ineligible for consideration and shall be returned to the applicant. Multi-year proposals, in annual increments up to a maximum of three years, will be considered; however, funding beyond the first year will be dependent upon satisfactory performance and the continued availability of funds.

1. Title Page. The title page shall provide the project title, the name(s) of the lead Principal Investigator (PI), Partner name(s) if any, the respective affiliations, complete addresses, telephone, FAX, and e-mail information. The title page will also present the total proposed cost, the proposed budget period, and a brief abstract of the proposed work. The title page shall also identify the specific research area of interest (the one most relevant area from those listed by number in the ''Program Description'' in this Notice), and clearly identify that the proposal is in response to this Notice. The title page should be signed by the PI(s) and the institutional representative of the PI's organization.

2. Goals and Objectives. Identify broad project goals and quantifiable objectives.

3. Background/Introduction. State the problem and summarize existing efforts in the context of present knowledge and/or capabilities.

4. User Application Audience. Describe specifics of how the project will contribute to improving or resolving an issue with an identified primary target audience. The target audience must be explicitly stated.

5. Project Description/Methodology. Describe the specifics of the proposed project (4 pages maximum).

6. Project Partners. Identify any project partners, their respective roles, and their contributions/relationships to the proposed effort.

7. Milestones and Outcomes. List target milestones, time lines, and desired outcomes (in multi-year proposed efforts, by year). The potential value of the proposed work to the identified target audience's needs should be identified in this section of the proposal.

8. Project Budget. Provide a detailed budget breakdown by category (and in multi-year proposed efforts, by year) and a brief narrative to provide the basis for the budget. For accounting purposes, do not include NOAA sub-award funds in the budget information on grant application forms (SF424, SF424a).

Selection Process

A project selection panel will be convened to review and to provide recommendations on selection using the criteria published in these guidelines. Each proposal will be reviewed by at least three reviewers who are qualified to review the proposed work. These reviewers may include both Federal and non-Federal individuals each of whom will independently review and rank the proposal. No more than one reviewer (of the three) may be from the Oceanic Research and Applications Division. Proposals will be ranked according to a score (explained below) and presented to the Selecting Official (the Chief, Oceanic Research and Applications Division) for final selection. In addition to the individual proposal rankings assigned by the panel, the Selecting Official may consider the following program policy factors: balance among the prioritized research areas of programmatic interest described in the ''Program Description'' section of this Notice, and (for cooperative agreements that have substantial ORA involvement) geographic location in making a final decision.

Selection Criteria (With Weights)

All proposals will be scored by the panel members individually according to the following criteria:

Criteria

1. Relevance of the Proposed Research to NESDIS and NOAA Missions (25 points)

Does the proposed project (directly or indirectly) address a critical need? Are the project goals and objectives clear and concise? Does the proposed project have a clearly defined user audience? Are there direct ties to relevant NESDIS, NOAA, Federal, regional, state or local activities?

2. Technical Merit (25 points)

Is the approach technically sound? Does the proposed project build on existing knowledge? Is the approach innovative?

3. Applicability and Effectiveness (20 points)

Does the proposed work have the potential of increasing the accessibility, usability (*i.e.,* easily understood and used), and relevance of satellite observed oceanographic data and information by the identified target user community? Does the proposed work provide for flexible, early and effective opportunities for user involvement (*e.g.,* through cooperative experiments, demonstrations, or user evaluations)? Does the proposed work have the potential for long-term (lasting) value and widespread applicability? Does the proposed work include an effective mechanism by which the project's progress can be evaluated?

4. Cost Efficiency (10 points)

Is the budget realistic and commensurate with the project needs? Does the budget narrative justify the proposed expenditures?

5. Meaningful Participation of Minority Serving Institution(s) (10 points)

Is there meaningful participation by an MSI in the proposed work? Are there subgrants, subcontracts or other partnership arrangements proposed with MSIs?

6. Overall Qualifications (10 points)

Are the proposers capable of conducting a project of the scope and scale proposed (*i.e.,* scientific, professional, facility, and administrative resources/capabilities)? Are appropriate partnerships going to be employed to achieve the highest quality content and maximal efficiency?

Selection Schedule

Proposals submitted in response to this Notice will be reviewed according to the following schedule:

Proposals postmarked by—October 22, 2001

Final Selection—Approximately January 25, 2002

Grant start date—Approximately June 1, 2002

Funding Availability

Specific funding available for awards in response to this Notice will be finalized after the NOAA budget for FY 2002 is authorized. Total funding available for this Notice is anticipated to be approximately $400,000. Individual annual awards are expected to range from a minimum of $50,000 to $150,000. Successful proposals that are deemed by the selection panel to be exceptionally meritorious may be larger. There is no guarantee that sufficient funds will be available to make awards for all approved projects, nor that all research areas of interest will be supported. Publication of this Notice does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

There is no requirement for cost sharing in response to this program announcement and no additional weight will be given to proposals with cost sharing.

Eligibility Criteria

Eligible applications are institutions of higher education, non-profits, commercial organizations, state, local and Indian tribal governments. Federal agencies or institutions are eligible to receive Federal assistance under this Notice as sub-awardees, and are limited in the amount of assistance to be received to not more than twenty percent of the total budget (direct plus indirect costs) requested in the proposal. Proposals with Federal agency or institution sub-award amounts exceeding twenty percent of the total amount requested shall be considered ineligible, and will be returned to the applicant without being reviewed.

Note: Non-NOAA Federal agency or institution sub-awardees must demonstrate that they have legal authority to receive funds for the purpose of this program in excess of their appropriation. Because this announcement is not proposing to procure goods or services from another Federal agency, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis. Federally Funded Research and Development Centers (FFRDCs) and Government Owned and Operated Laboratories (GOCOs), are eligible to receive Federal assistance under this Notice as sub-awardees so long as the receipt of funds would be consistent with the legal authorities under which they were established and operate.

General Information for all Programs

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under this program notice must not exceed the current indirect cost rate negotiated and approved by the applicant's cognizant Federal agency (prior to the proposed effective date of the award), or 35 percent of the total proposed direct costs dollar amount in the application, whichever is less. Proposals that include indirect costs exceeding 35 percent shall be considered ineligible for consideration under this Notice and shall be returned to the applicant.

Federal Policies and Procedures

Recipients and sub-recipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal assistance awards.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management skills, honesty, or financial integrity.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Pre-Award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs, should an award not be made or funded at a level less than requested.

No Obligation for Future Funding

If the application is selected for funding, DOC has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend

the period of performance is at the total discretion of DOC.

Delinquent Federal Debts

No award or Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to DOC are made.

Primary Applicant Certifications

All organizations or individuals preparing grant applications must submit a completed Form CD–511 ''Certifications Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying'', and explanations are hereby provided:

Non-Procurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug-Free Workplace

Grantees (as defined at 15 CFR part 26, Section 605) are subject to 15 CFR part 26, subpart f, ''Government-wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying

Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions'', and the lobbying section of the certification form prescribed above applies to application/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000.

Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities'', as required under 15 CFR part 28, Appendix B.

Lower-Tier Certifications

Recipients shall require applicants/bidders for sub-grants, contracts, subcontracts, or other lower-tier-covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities''. Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or sub-recipient should be submitted to DOC in accordance with the instructions contained in the award document.

False Statements

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Buy American-Made Equipment or Products

Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent.

Classification

Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This notice contains a collection of information requirements subject to the Paperwork Reduction Act. The use of Standards Forms 424, 424A, 424B, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

Dated: August 13, 2001.

Gregory W. Withee,

Assistant Administrator for Satellite and Information Services.

[FR Doc. 01–21137 Filed 8–21–01; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081501C]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Oversight Committee and Scientific and Statistical Committee (SSC) in September, 2001 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held on September 6 & 7, 2001. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Warwick, RI and Newburyport, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Thursday, September 6, 2001 at 10:00 a.m.– Scallop Oversight Committee Meeting.

Location: Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–3000.

The Oversight Committee will receive a report on potential management options and recommend alternatives that the Council should consider in Draft Amendment 10 and analyze in a Draft Supplemental Environmental Impact Statement (DSEIS). They will consider alternatives that were not previously considered at the August 3, 2001 meeting or previously approved at the July Council meeting. The Council will consider Oversight Committee recommendations on these or other Amendment 10 management options at its September 25–27, 2001 meeting. Alternatives recommended by the

Scallop Plan Development Team (PDT) that will be discussed by the Oversight Committee include, but are not limited to: measures to reduce impacts on essential fish habitat; general category management measures including a proposal for limited access; industry-funded research and observer programs including total allowable catch (TAC)/days-at-sea (DAS) set-asides; experimental Fishing Permit procedures and research including TAC/DAS set-asides; data collection and monitoring, and other options as needed.

*Friday, September 7, 2001 at 9:30 a.m.*F – Scientific and Statistical Committee Meeting.

Location: Rossi's Restaurant, 50 Water Street, Newburyport, MA 01950; telephone: (978) 499–0240.

The SSC will review the Scallop PDT recommendations for status determination criteria (overfishing definition) for scallops under rotational area management. They will develop guidance for the Council regarding Skate PDT recommendations for skate status determination criteria. The agenda will also include the review of the Red Crab PDT recommendations for red crab status determination criteria (overfishing definition). The committee will also develop guidance for Council on including Stock Assessment Workshop (SAW) 33 results for white hake, redfish and Gulf of Maine cod in Multispecies Amendment 13.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: August 16, 2001.

Richard W. Surdi,

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

[FR Doc. 01–21208 Filed 8–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081501B]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Highly Migratory Species Plan Development Team (HMSPDT) will hold a work session, which is open to the public.

DATES: The HMSPDT will meet on Tuesday, September 18, 2001; Wednesday, September 19, 2001; and Thursday, September 20, 2001. The HMSPDT will meet on Tuesday and Wednesday from 8:30 a.m. until 5 p.m.; on Thursday the HMSPDT will meet from 8:30 a.m. until business for the day is completed.

ADDRESSES: The work session will be held at the Hubbs-Sea World Research Institute, East Conference Room, 2595 Ingraham Street, San Diego, CA 92109, telephone: 691–226–3870.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dan Waldeck, Pacific Fishery Management Council, telephone: 503–326–6352.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to incorporate Council, Scientific and Statistical Committee, Advisory Subpanel, and HMSPDT recommendations into a public review draft of the fishery management plan (FMP) for West Coast based highly migratory species fisheries, which will be submitted to the Council at their November 2001 meeting. This is a working meeting devoted to revising previous drafts into the public review draft. Time for public comment will be provided after each agenda topic. The proposed agenda is as follows:

Tuesday, September 18, 2001, 8:30 a.m.

A. Call to Order
B. Introductions
C. Review and Approval of Agenda
D. Distribute and Review New Documents
E. Review Revised FMP

Wednesday, September 19, 2001, 8:30 a.m.

A. Review Revised FMP (continued, as necessary)
B. Review Regulatory Document

Thursday, September 20, 2001, 8:30 a.m.

A. Review Regulatory Document (continued, as necessary)
B. Further Discussion as Needed
C. Deadlines for Final Draft Report to Council

Although nonemergency issues not contained in the HMSPDT meeting agenda may come before the HMSPDT for discussion, those issues may not be the subject of formal HMSPDT action during this meeting. HMSPDT action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the HMSPDT's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–326–6352 at least 5 days prior to the meeting date.

Dated: August 16, 2001.

Richard W. Surdi,

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

[FR Doc. 01–21207 Filed 8–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081601A]

Marine Mammals; File Nos. 774-1649 and 1010-1641

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

ACTION: Receipt of applications.

SUMMARY: Notice is hereby given that the following applicants have applied in due form for a permit to take marine mammals for purposes of scientific research:

File No. 774–1649 - NMFS, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA 92037 (Principal Investigator: Rennie S. Holt, PhD); and File No. 1010–1641 – Aleutians East Borough, 211 4th Street, Suite 314, Juneau, AK 99801 (Principal Investigator: Ms. Kate Wynne).

DATES: Written or telefaxed comments must be received on or before September 21, 2001.

ADDRESSES: The applications and related documents are available for review upon written request or by appointment in the following office(s):

All actions available in the Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376;

File 774–1649 - Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018;

File 1010–1641 - Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426; and

File 1010–641 – Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Tammy Adams (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

File 774–1679 - The United States Antarctic Marine Living Resources (U.S.-AMLR) Program, administered by the SWFSC, requests permission to take pinniped species in the South Shetland Islands, Antarctica, as part of a long-term ecosystem monitoring program established in 1986. Permission is requested to take Antarctic fur seals (*Arctocephalus gazella*), Southern elephant seals (*Mirounga leonina*), Crabeater seals (*Lobodon carcinophagus*), Leopard seals (*Hydrurga leptonyx*), Ross seals (*Ommatophoca rossii*), and Weddell seals (*Leptonychotes weddellii*) by harassment associated with life history studies and census surveys for abundance and distribution of pinnipeds. The targeted species for census surveys is the Antarctic fur seal, however, due to overlap of their breeding range with southern elephant and ice seals, a relatively small number of other Antarctic pinniped could be taken incidentally during these surveys. Studies will be conducted annually during austral summers over the next five years (2001/02–2005/06) and primarily restricted to Cape Shirreff, Livingston Island, Antarctica. The AMLR Program also proposes to conduct a regional census survey for estimates of abundance and distribution of pinniped in the South Shetlands.

File 1010–1641 – The applicant proposes to take Steller sea lions (*Eumetopias jubatus*) by harassment during aerial surveys, vessel-based behavioral observations, and scat collection. The purpose of the research is to provide additional information on seasonal prey consumption by Steller sea lions through scat collection at rookeries and haulouts along the Alaska Peninsula and Eastern Aleutian Islands and to improve the accuracy and precision of population indices through expanded aerial and vessel surveys in the western Gulf of Alaska.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Written comments or requests for a public hearing on these applications should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on a particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of the applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 16, 2001.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–21206 Filed 8–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081501D]

Draft Strategic Plan for Fisheries Research (2001)

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

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces the availability of and seeks public comment on the draft Strategic Plan for Fisheries Research (2001). The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) requires the Secretary of Commerce to develop, triennially, a strategic plan for fisheries research for the subsequent years. Any written comments on the draft plan will be considered by NMFS in the development of the final Strategic Plan for Fisheries Research (2001).

DATES: Comments on the draft Strategic Plan for Fisheries Research (2001) will be accepted on or before September 21, 2001.

ADDRESSES: Comments on and requests for copies of the draft Strategic Plan for Fisheries Research (2001) should be directed to John T. Everett, Chief, Research, Analysis, and Coordination Division, Office of Science and Technology, NMFS, NOAA, 1315 East-West Highway, Silver Spring, MD 20910. PHONE: (301) 713–2363. FAX: (301) 713–1875.

The NMFS draft Strategic Plan for Fisheries Research (2001) may be reviewed in its entirety on the World Wide Web at *http://www.st.nmfs.gov/st2/index.html*

FOR FURTHER INFORMATION CONTACT: John Everett or Mark Chandler at 301–713–2363 ext. 152.

SUPPLEMENTARY INFORMATION: Section 404 of the MSFCMA requires the Secretary of Commerce to publish in the **Federal Register** a strategic plan for fisheries research for the five years immediately following the it's publication. The MSFCMA requires that the plan address four major areas of research: (1) Research to support fishery conservation and management; (2) conservation engineering research; (3) research on the fisheries; and (4) information management research. The MSFCMA specifies that the plan shall contain a limited number of priority objectives for each of these research

areas; indicate goals and timetables; provide a role for commercial fishermen in such research; provide for collection and dissemination of complete and accurate information concerning fishing activities; and be developed in cooperation with the Councils and affected states.

In 1997, the NOAA Fisheries Strategic Plan (FSP) was published. The FSP was developed in a comprehensive manner, with extraordinary public involvement, including 16 public meetings. The following year, NMFS released the Strategic Plan for Fisheries Research (1998). Both the original (1998) and the updated (2001) Strategic Plans for Fisheries Research are based upon and entirely consistent with the FSP. Many of the objectives found under the ''Major Fishery Research Objectives and Goals'' section of the subject document can be matched with those in the FSP.

The scope of the Strategic Plan for Fisheries Research (2001) is solely fisheries research to support the MSFCMA. It does not include the regulatory and enforcement components of the NMFS mission. NMFS currently conducts a comprehensive program of fisheries research and involves industry and others interested in fisheries in planning and implementing its objectives.

NMFS intends that the final version of the Strategic Plan for Fisheries Research (2001) will take advantage of information and recommendations from all interested parties. Therefore, comments and suggestions on this draft NMFS Strategic Plan for Fisheries Research are hereby solicited from the public, other concerned government agencies, the scientific community, industry, and any other person.

Dated: August 15, 2001.

William Fox, Jr.,

Director Office of Science and Technology, National Marine Fisheries Service.

[FR Doc. 01–21093 Filed 8–21–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Dominican Republic

August 16, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 24, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 448 is being increased for swing, reducing the limit for Category 444 to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 75671, published on December 4, 2000.

D. Michael Hutchinson

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 16, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 28, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on August 24, 2001, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
444	64,854 numbers.
448	47,039 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–21155 Filed 8–21–01; 8:45 am]

BILLING CODE 3510–DR–S

CONGRESSIONAL BUDGET OFFICE

Notice of Transmittal of Sequestration Update Report for Fiscal Year 2002 to the Congress and the Office of Management and Budget

Pursuant to Section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(b)), the Congressional Budget Office hereby reports that it has submitted its Sequestration Update Report for Fiscal Year 2002 to the House of Representatives, the Senate, and the Office of Management and Budget.

William J. Gainer,

Associate Director, Management, Congressional Budget Office.

[FR Doc. 01–21097 Filed 8–21–01; 8:45 am]

BILLING CODE 1450–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0113]

Federal Acquisition Regulation; Submission for OMB Review; Acquisition of Helium

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0113).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office

of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning acquisition of helium. A request for public comments was published at 66 FR 32608, June 15, 2001. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before September 21, 2001.

ADDRESSES: Submit comments regarding this burden or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Nelson, Federal Acquisition Policy Division, GSA (202) 501–1900.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Helium Act (Pub. L. 86–777) (50 U.S.C. 167a, *et seq.*) and the Department of the Interior's implementing regulations (30 CFR Parts 601 and 602) require Federal agencies to procure all major helium requirements from the Bureau of Land Management, Department of the Interior.

The FAR requires offerors responding to contract solicitations to provide information as to their forecast of helium required for performance of the contract. Such information will facilitate enforcement of the requirements of the Helium Act and the contractual provisions requiring the use of Government helium by agency contractors, in that it will permit corrective action to be taken if the Bureau of Land Management, after comparing helium sales data against helium requirement forecasts, discovers apparent serious discrepancies.

The information is used in administration of certain Federal contracts to ensure contractor compliance with contract clauses. Without the information, the required use of Government helium cannot be monitored and enforced effectively.

B. Annual Reporting Burden

Respondents: 20.
Responses Per Respondent: 1.
Total Responses: 20.
Hours Per Response: 1.
Total Burden Hours: 20.

Obtaining Copies of Proposals:

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0113, Acquisition of Helium, in all correspondence.

Dated: August 17, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–21192 Filed 8–21–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Boards Membership

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of a Performance Review Board for the Department of the Army.

EFFECTIVE DATE: August 23, 2001.

FOR FURTHER INFORMATION CONTACT: David Stokes, U.S.Army Senior Executive Service Office, Assistant Secretary of the Army, Manpower & Reserve Affairs, 111 Army, Washington, DC 20310–0111.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations, one or more senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Performance Review Board for the Consolidated Commands are:

1. Hugh M. Exton, Jr., Assistant Deputy Chief of Staff, Engineer (Public Works), Headquarters, U.S. Army, Europe
2. William Campbell, III, Deputy Chief of Staff Resource Management, Headquarters, U.S. Army, Europe
3. Dr. Michael L. Gentry, Senior Technical Director/Chief Engineer, U.S. Army Signal Command
4. Mr. Stephen Koons, Assistant Deputy Chief of Staff for Logistics, U.S. Army Forces Command
5. Mr. Mark J. Lumer, Principal Assistant Responsible for Contracting, U.S. Army Space & Missile Defense Command
6. Dr. Michael J. Lavan, Director, Advanced Technology Directorate, U.S. Army Space & Missile Defense Command
7. Mr. Robert Seger, Assistant Deputy Chief of Staff for Training, U.S. Army Training & Doctrine Command
8. BG Stanton, Deputy Chief of Staff for Resource Management, U.S. Army Training & Doctrine Command
9. Ms. Diane Devens, Assistant Deputy Chief of Staff for Base Operations Support, U.S. Army Training & Doctrine Command
10. Mr. John Metzler, Superintendent, Arlington National Cemetery, U.S. Army Military District of Washington
11. Mr. Richard McSeveney, Deputy to the Commander for Installation Support, U.S. Army Military District of Washington
12. MG Kenneth Privratsky, Commander, Military Traffic Management Command
13. Mr. William J. Cooper, Director, MTMC Transportation Engineering Agency, Military Traffic Management Command
14. Mr. William S. Rich, Jr., Deputy & Technical Director, U.S. Army National Ground Intelligence Center, U.S. Army Intelligence & Security Command

John A. Hall,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 01–21142 Filed 8–21–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 21, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren__Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 16, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension of a currently approved collection.

Title: Learning Anytime Anywhere Partnerships (LAAP) Guidelines for Annual Performance Reports with Auxiliary Collection Instruments (JS).

Frequency: Annually other: Enrollment.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 40.

Burden Hours: 1600.

Abstract: The current Annual Progress Report format for the LAAP grant program was used for formative evaluation last year. With that experience we have refined the GPRA indicators and the measures for collecting data across projects that is comparable, consistent, and reliable. We have also taken a modular approach to structuring the narrative of the report, so that the collection is less burdensome to respondents, yet more useful to program evaluation. Finally, we have augmented the Annual Report data collection by doing a follow-up telephone interview to validate and enrich data, as well as a software evaluation protocol for assessing the quality of the educational software products that may result from the grant projects.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO__RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to SCHUBART at (202) 708–9266. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Student Financial Assistance Programs

Type of Review: Extension of a currently approved collection.

Title: **Federal Register** Notice Inviting Applications for the Participation in the Quality Assurance (QA) Program (JS).

Frequency: Other: One time.

Affected Public: Not-for-profit institutions (primary), businesses or other for-profit, Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 125.

Burden Hours: 125.

Abstract: With this notice, the Secretary invites institutions of higher education to send a letter of application to partcipate in the Department of Education's Quality Assurance (QA) Program. This Program is intended to allow and encourage participating institutions to develop and implement their own comprehensive programs to verify student financial aid application data. It also encourages alternative management approaches in areas of institutional processing and disbursement of Title IV funds, and entrance and exit counseling.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO__RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at (202) 708–9266. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Student Financial Assistance Programs

Type of Review: New collection.

Title: Federal Perkins Loan/NDSL Promissory Notes (JS).

Frequency: On occasion.

Affected Public: Individuals or household (primary), businesses or other for-profit, not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 690,000.

Burden Hours: 345,000.

Abstract: The promissory note is the means by which a borrower applies for a Federal Perkins Loan or National Direct Student Loan and promises to repay the loan.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at (202) 708–9266. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of the Undersecretary

Type of Review: New collection.

Title: Study of State Administration of Even Start and Statewide Family Literacy Initiative Grants (JM).

Frequency: On occasion.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 94.

Burden Hours: 240.

Abstract: The Study of State Administration of Even Start and Statewide Family Literacy Initiative Grants will systematically describe the structure and processes associated with all major areas of Even Start administration at the state level. This information is needed by the U.S. Department of Education to enhance its capacity to monitor the development and improvement of the Even Start program and provide guidance and assistance to the states. This study will involve two data collection components: (1) Survey of State Even Start Coordinators which will include Even Start state coordinators and (2) State Even Start Case Study Interviews (telephone interviews with six state coordinators, and site visit interviews with six additional state coordinators and up to five additional state staff per each of these six states).

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Montague at (202) 708–5359. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of the Chief Financial Officer

Type of Review: Reinstatement.

Title: Streamlined Process for Education Department General Administrative Regulations (EDGAR) Approved Grant Applications (JM).

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs, businesses or other for-profit, not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 1.

Burden Hours: 1.

Abstract: Since April 1997, EDGAR's menu of selection criteria become effective. For each competition, the Secretary would select one or more criteria that best enable the Department to identify the highest quality applications consistent with the program purpose, statutory requirements, and any priorities established. This allows the Secretary the flexibility to weigh the criteria according to the needs of each individual program. This menu of selection criteria will provide the Department the flexibility to choose a set of criteria tailored to a given competition and obviate the need to create specific selection criteria through individual program regulations. ED is requesting a streamlined clearance process for programs of approved applications who choose to change: (1) Criteria from the same EDGAR menu; (2) old EDGAR to new EDGAR criteria, or (3) program criteria to EDGAR criteria.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Montague at (202) 708–5359. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–21121 Filed 8–21–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

[Docket No. EA–246]

Application to Export Electric Energy; Mirant Americas Energy Marketing, L.P.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Application.

SUMMARY: Mirant Americas Energy Marketing, L.P. (Mirant) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before September 21, 2001.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Office) 202–586–4708 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On July 9, 2001, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from Mirant to transmit electric energy from the United States to Canada. Mirant, a Delaware limited partnership, with its principal place of business in Georgia, is engaged in the marketing and trading of electricity at wholesale. Mirant does not own or control any electric power generation or transmission facilities and does not have a franchised service area.

Mirant proposes to arrange for the delivery of electric energy to Canada over the existing international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizen Utilities, Eastern Maine Electric Cooperative, International Transmission Company, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company. The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by Mirant, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

PROCEDURAL MATTERS: Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the Mirant application to export electric energy to Canada

should be clearly marked with Docket EA–246. Additional copies are to be filed directly with Julie K. Wallace, Anne C. Martin, Legal Department, Mirant Americas Energy Marketing, LP, 1155 Perimeter Center West, Atlanta, Georgia 30338.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at *http://www.fe.de.gov.* Upon reaching the Fossil Energy Home page, select ''Regulatory'' Programs,'' then ''Electricity Regulation,'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, DC, on August 16, 2001.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 01–21153 Filed 8–21–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 01–38–NG]

Sierra Production Company; Order Granting Long-Term Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Order.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that on August 10, 2001, it issued DOE/FE Order No. 1703 granting Sierra Production Company (Sierra) authority to import up to 5,000 Mcf of natural gas per day from Canada for 15 years beginning on the date of first delivery. Sierra will sell this gas to The Montana Power Company which, in turn, will transport and distribute it to its residential and commercial customers in Montana. To carry the gas, Sierra will construct a 1.5–mile pipeline across the International Border from Alberta into northern Toole County, Montana. The new pipeline will require about one month to build.

This Order may be found on the FE web site at http://www.fe.doe.gov, or on our electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities Docket Room, 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0334, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 14, 2001.

Clifford P. Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities Office of Fossil Energy.

[FR Doc. 01–21152 Filed 8–21–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–413–000]

Northern Natural Gas Company; Notice of Application

August 16, 2001.

Take notice that on July 25, 2001, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP01–413–000, a request pursuant to Section 7(b) of the Natural Gas Act (NGA), as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission (Commissión), requesting permission and approval to abandon service under an individually certificated agreement, all as more fully set forth in the application which is on file with the Commission, and open to public inspection.

Specifically, Northern proposes to abandon service to Xcel Energy (Xcel) under Rate Schedule T–12, contained in its FERC Gas Tariff, Original Volume No. 2. Northern further states that the underlying contract has not provided service for several years and has been terminated in accordance with the contract terms.

Any questions regarding this application should be directed to Keith L. Petersen, Director, Certificates and Reporting for Northern, 1111 South 103rd Street, Omaha, Nebraska 68124, at (402) 398–7421 or Bret Fritch, Senior Regulatory Analyst, at (402) 398–7140.

Any person desiring to be heard or to protest said application should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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 be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedures, a hearing will be held without further notice before the Commission on this application if no protest or motion to intervene is filed within the time required herein. At that time, the Commission, on its own review of the matter, will determine whether granting the Abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Comments and protests 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 at *http://www.fercfed.us/efi/doorbell.htm.*

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 01–21115 Filed 8–21–01; 8:45 am]

BILLING CODE 6717–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[CP01–426–000]

Williams Gas Pipelines Central, Inc. Notice of Request Under Blanket Authorization

August 16, 2001.

Take notice that on August 10, 2001, Williams Gas Pipelines Central, Inc. (Williams), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP01–426–000 a request pursuant to §§ 157.205 and 157.208 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.208) for authorization to increase the Maximum Allowable Operating Pressure (MAOP) of approximately 3.5 miles of the Chanute 8-inch diameter lateral pipeline EP, located in Allen and Neosho Counties, Kansas, under Williams' blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' from the RIMS Menu and follow the instructions (please call 202–208–2222 for assistance).

Williams proposes to increase the MAOP of approximately 3.5 miles of the Chanute lateral 8-inch diameter pipeline, EP, located in Section 32, Township 26 South, Range 18 East, in Allen County, Kansas, and Sections 5, 8, and 17, Township 27 South, Range 18 East, in Neosho County, Kansas. Williams proposes to increase the MAOP of the Chanute 8-inch pipeline from 250 psig to 703 psig in response to a request from the City of Chanute, Kansas, in order to supply gas to a new power generating facility currently under construction by the City of Chanute.

Williams indicates that it will replace a segment of approximately 325 feet of 6-inch pipeline on the Chanute line with 325 feet of 8-inch pipeline and install approximately 87 feet of 8-inch diameter to connect the existing 8-inch diameter line Ep to the 12-inch diameter line DY, which will be constructed pursuant to the provisions of § 157.208 (a) of the Commission's Regulations (18 CFR 157.208). In addition, Williams declares that a new meter station consisting of dual 4-inch turbine meters will be constructed pursuant to the provisions of Section 157.211 (a) (1) of the Commission's Regulations (18 CFR 157.211) to replace the existing Chanute North Town Border Meter Station as well as to serve the natural gas needs of the new power generating facility.

Williams asserts that the 3.5 miles of the EP line needs to be uprated to a pressure consistent with the remainder of the facilities involved in this project. Williams states that the pressure test required for the increase in MAOP will be conducted using procedures in accordance with applicable Department of Transportation (DOT) safety standards contained in Part 192 of Title 45 of the Code of Federal Regulations. Williams states that the estimated cost of the test procedure is approximately $110,000.

Williams indicates that since the pressure test will be performed using natural gas, there should be no adverse impact on the environment. Williams states that all activity related to the test procedure will be confined within Williams' permanent right-of-way. Williams asserts that all affected landowners will be notified of the proposed procedure by first class mail in accordance with § 157.203 (d) of the Commission's Regulations (18 CFR 157.203).

Williams states that it does not anticipate that ground disturbance will occur during or after the pressure test. In the event that ground disturbance should become necessary in order to make repairs or replacements to the existing pipeline, Williams asserts that it will follow the construction procedures and mitigation measures described in the Upland Erosion Control, Revegetation and Maintenance Plan, and Wetland and Waterbody Construction and Mitigation Procedures.

Any questions regarding the application should be directed to David N. Roberts, Manager of Certificates and Tariffs, Williams Gas Pipelines Central, Inc., P.O. Box 20008, Owensboro, Kentucky 42304, at (270) 688–6712.

Any person or the Commission's staff may, within 45 day after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act. Comments and protests 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. 01–21114 Filed 8–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC01–70–000 and ER01–1259–000 (Consolidated)]

Wisvest-Connecticut, LLC; NRG Connecticut Power Assets, LLC; Notice of Technical Conference

August 16, 2001.

On February 16, 2001, as amended on April 11, 2001 and April 30, 2001, Wisvest Connecticut, LLC and NRG Connecticut Power Assets, LLC (Applicants) filed an application seeking authority to transfer certain jurisdictional facilities from Wisvest to NRG Connecticut. In addition, on February 16, 2001, as amended on April 11, 2001, NRG Connecticut filed a request to sell power at market-based rates.

Take notice that a technical conference to discuss the issues raised by Applicants' filing will be held on Wednesday and Thursday, September 5 and 6, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Persons protesting any aspects of Applicants' filing should be prepared to defend their positions as well as discuss alternatives.

All parties and Staff are permitted to attend. To assist Staff in compiling a list of attendees for distribution at the conference, please e-mail John J. Buckley at *john.buckley@ferc.fed.us,* stating your name, the name of the entity you represent, the names of the persons who will be accompanying you, and an e-mail address and telephone number where you can be reached.

Discussion will be limited to issues pertaining to the mitigation of potential adverse competitive effects relating to Applicants' filings under sections 203 and 205 of the Federal Power Act.

The above schedule may be changed as circumstances warrant.

David P. Boergers,

Secretary.

[FR Doc. 01–21111 Filed 8–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–279–000, *et al.*]

PSEG Power Midwest LLC, *et al.*; Electric Rate and Corporate Regulation Filings

August 16, 2001.

Take notice that the following filings have been made with the Commission:

1. PSEG Power Midwest LLC

[Docket No. EG01–279–000]

On August 14, 2001, PSEG Power Midwest LLC (PSEG Midwest), with its principal office at 80 Park Plaza, Newark, NJ 07102, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

PSEG Midwest is a limited liability company organized under the laws of the State of Delaware. PSEG Midwest will be engaged directly, or indirectly through a Section 2(a)(11)(B) affiliate, and exclusively in operating two gas-fired generating facilities; selling electric energy at wholesale and engaging in project development activities with respect thereto. The Facilities to be operated by PSEG Midwest will consist of an 850 MW natural gas-fired generating facility and an 1150 MW natural gas-fired generating facility.

Comment date: September 6, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Hermiston Generating Company, L.P.

[Docket No. ER01–2159–001]

Take notice that on August 10, 2001, Hermiston Generating Company, L.P. (Hermiston) submitted for filing, in compliance with an order issued on July 27, 2001 by the Commission's Division of Corporate Applications in the above-captioned proceeding, a revised FERC Rate Schedule No. 3, and an alternative revised FERC Rate Schedule No. 3. Hermiston also filed a request for waivers and blanket authorizations with respect to its share of the current electrical output of an electric generating facility located in Hermiston, Oregon.

Comment date: August 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. American Electric Power Service Corporation

[Docket No. ER01–2819–000]

Take notice that on August 10, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing an executed Interconnection Agreement between Southwestern Electric Power Company and Eastex Cogeneration Limited Partnership. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of August 31, 2001. Copies of AEP's filing have been served upon Eastex Cogeneration Limited Partnership and the Public Utility Commission of Texas.

Comment date: August 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. UtiliCorp United Inc.

[Docket No. ER01–2820–000]

Take notice that on August 10, 2001, UtiliCorp United Inc. (UtiliCorp), filed with the Commission, pursuant to Section 205 of the Federal Power Act, 16 U.S.C. 824d, and Part 35 of the Commission's regulations, 18 CFR 35, an Interconnection Agreement between UtiliCorp United Inc. d/b/a WestPlains Energy-Kansas and Gray County Wind Energy, LLC dated as of July 16, 2001. The Interconnection Agreement is filed as Service Agreement No. 103 to UtiliCorp's FERC Electric Tariff, Third Revised Volume No. 26 (the open access transmission tariff of UtiliCorp's WestPlains Energy-Kansas division).

Comment date: August 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Central Illinois Light Company

[Docket No. ER01–2821–000]

Take notice that Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, on August 10, 2001 tendered for filing with the Commission a substitute Index of Point-To-Point Transmission Service Customers under its Open Access Transmission Tariff and one service agreement for one new customer, Axia Energy, LP. Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

CILCO requested an effective date of July 10, 2001 for the service agreement.

Comment date: August 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Indiana Michigan Power Company

[Docket No. ER01–2823–000]

Take notice that, on August 10, 2001, Indiana Michigan Power Company (I&M) tendered for filing with the Commission revised electric service agreements with the following customers: City of Auburn, Indiana; Town of Avilla, Indiana; City of Bluffton, Indiana; City of Garrett, Indiana; City of Gas City, Indiana; City of Mishawaka, Indiana; Town of New Carlisle, Indiana; City of Niles, Michigan; Village of Paw Paw, Michigan; South Haven, Michigan; and Warren, Indiana. The revised agreements contain new provisions that extend the period during which I&M has agreed to forego any rate increase and addresses burden of proof and cost-of-service issues pertaining to merger-related savings and costs. I&M requests an effective date of October 10, 2001, for the revised agreements.

I&M states that a copy of its filing was served upon counsel for the eleven customers, the Indiana Utility Regulatory Commission and the Michigan Public Service Commission.

Comment date: August 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of 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. 01–21110 Filed 8–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

August 16, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* P–12020–000.

c. *Date filed:* May 14, 2001.

d. *Applicant:* Marseilles Hydro Power, LLC.

e. *Name of Project:* Marseilles Hydroelectric Project.

f. *Location:* On the Illinois River, in the Town of Marseilles, La Salle County, Illinois. The project affects 0.6 acres of public lands owned by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Loyal Gake, P.E., Marseilles Hyro Power, LLC, 116 State Street, P.O. Box 167, Neshkoro, WI 54960.

i. *FERC Contact:* Steve Kartalia, (202) 219–2942 or *stephen.kartalia@FERC.fed.us.*

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Interventions and protests 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 (http://www.ferc.gov) under the ''e-Filing'' link.

k. The application is not ready for environmental analysis at this time.

l. The Marseilles Hydroelectric Project utilizes the Marseilles Dam and Reservoir which is owned and operated by the U.S. Army Corps of Engineers. The existing run-of-river project consists of: (1) A 55-foot-high by 40-foot-wide by 229-foot-long reinforced concrete powerhouse, housing thirteen generating units for a total installed capacity of 4,745–kW; (2) a head gate structure consisting of a fixed dam approximately 95 feet long on the left (west) side and two steel 15-foot-high and 60-foot-wide gates on the right (east) side; (3) the North Channel Headrace which is approximately 2,730-foot-long, 15-foot-deep, and varies between 800-to 200-foot-wide and conveys water from the head gates to the powerhouse; (4) a new 210-foot-long trash racks along the upstream side of the forebay area set at 10-degree angle in 18 feet of water with an additional set of 40-foot-long trash racks along the wall between the turbine forebay and the sluiceway on the right (west) side of the powerhouse and set vertically in 15 feet of water; and (5) appurtenant facilities.

The applicant proposes to rebuild the project in two phases: (a) In the first phase, seven generating units will be restored to operation; and (b) in the second phase, the remaining six generating units will be restored. The total project capacity will be 4,745 kW with an annual average generation of 34,000 MWh.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2–A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division Environmental and Engineering Review, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers,

Secretary.

[FR Doc. 01–21112 Filed 8–21–01; 8:45 am]

BILLING CODE 6717–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Soliciting Comments, Protests, and Motions To Intervene

August 16, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No:* 3043–014.

c. *Date Filed:* August 8, 2001.

d. *Applicants:* Arkansas Electric Cooperative Corporation, First Union National Bank as Owner Trustee, and The Bank of New York as Owner Trustee.

e. *Name and Location of Project:* The Arkansas River Lock and Dam No. 13 Hydroelectric Project is located at the U.S. Army Corps of Engineers project of the same name on the Arkansas River in Crawford County, Arkansas. The project does not occupy additional federal or tribal land.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* Mr. Robert M. Lyford, Arkansas Electric Cooperative Corporation, 8000 Scott Hamilton Drive, PO Box 194208, Little Rock, AR 72219–4208, (501) 570–2268, Mr. Armando Diaz, The Bank of New York, c/o BNY Western Trust Co., 700 South Flower Street, 2nd Floor, Los Angeles, CA 90017–4104, (213) 630–6404, and Mr. Stephen J. Kaba, First Union National Bank, One Rodney Square, 920 King Street, Suite 102, Wilmington, DE 19801–7475, (302) 888–7530.

h. *FERContact:* James Hunter, (202) 219–2839.

i. *Deadline for filing comments, protests, and motions to intervene:* (September 6, 2001).

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426. Comments, protests, and motions to intervene 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. Please include the project number (P–3043–014) on any comments or motions filed.

j. *Description of Proposal:* The applicants request after-the-fact approval of a transfer of the Owner Trustee interest in the license for Project No. 3043 from Meridian Trust to The Bank of New York. Meridian Trust has merged into First Union National Bank, and Meridian Trust no longer exists.

k. *Locations of the application:* 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). A copy is also available for inspection and reproduction at the addresses in item g above.

l. *Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.*

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. An additional copy must be sent to the Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–21113 Filed 8–21–01; 8:45 am]

BILLING CODE 6717–01–U

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00322; FRL–6797–9]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on September 11-13, 2001, in Washington, DC. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for the following chemicals: Acetone cyanohydrin; acrylic acid; boron trifluoride; chlorine dioxide; dimethylformamide; HFC-7100; methanol; methyl ethyl ketone; perchloromethyl mercaptan; phenol; and xylenes.

In addition, 10 minute AEGL values may be addressed for the following chemicals: Aniline; arsine; bromine; carbon tetrachloride; chlorine; chloroform; 1,1-dimethylhydrazine; 1,2-dimethylhydrazine; fluorine; hydrazine; methyl hydrazine; and piperidine.

DATES: A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5 p.m. on September 11, 2001; from 8:30 a.m. to 5 p.m. on September 12, 2001, and from 8:30 a.m. to noon on September 13, 2001.

ADDRESSES: The meeting will be held at the U. S. Department of Transportation, DOT Headquarters, Nassif Building, Rooms 8236–8240, 400 7th St., SW., Washington, DC (L'Enfant Plaza Metro stop). Visitors should bring a photo ID for entry into the building and should contact the Designated Federal Officer to have their names added to the security entry list. Visitors must enter the building at the Southwest Entrance/Visitor's Entrance, 7th and E Sts. Quadrant.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division (7401), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone numbers: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Paul S. Tobin, Designated Federal

Officer (DFO), Office of Prevention, Pesticides and Toxic Substances (7406), 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–1736; e-mail address: tobin.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–00322. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is tentatively scheduled for December, 2001.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: August 15, 2001.

Charles M. Auer,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 01–21199 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66289; FRL–6795–5]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by, February 22, 2002, unless indicated otherwise, orders will be issued canceling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail address: Rm. 224, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; e-mail address: hollins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information or Copies of Support Documents?

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

2. *In person*. Contact James A. Hollins at 1921 Jefferson Davis Highway, Crystal Mall No. 2, Rm. 224, Arlington, VA, telephone number (703) 305–5761. Available from 7:30 a.m. to 4:45 p.m., Monday thru Friday, excluding legal holidays.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to cancel some 45 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or

company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000100–00857	Oxadixl Technical Fungicide	Oxadixyl
000100–00858	Sandofan 31F Fungicide	Oxadixyl
000100 CA–97–0030	Supracide 25WP Insecticide-Miticide	*O,O*-Dimethyl phosphorodithioate, *S*-ester with 4-(mercaptomethyl)-2-
000100 OR–90–0005	D-Z-N Diazinon 50W Insecticide	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
000241 OR–93–0001	Prowl 3.3 EC Herbicide	*N*-(1-Ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine
000264 AL–90–0011	Illoxan 3EC Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate
000264 AR–93–0002	Illoxan Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate
000264 FL–96–0001	Hoelon 3EC Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate
000264 GA–95–0009	Hoelon 3EC Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate
000264 LA–98–0008	Hoelon 3EC Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate
000264 MS–91–0019	Illoxan Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate
000264 NC–91–0001	Illoxan 3EC Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate
000264 OK–93–0003	Illoxan Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate
000264 SC–90–0003	Illoxan 3EC Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate
000264 TN–93–0008	Illoxan Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate
000264 TX–92–0009	Hoelon 3EC Herbicide	Methyl 2-(2-(2,4-dichlorophenoxy)phenoxy)propanoate
000352 OR–89–0009	Dupont Asana XL Insecticide	4-Chloro-alpha-(1-methylethyl)benzeneacetic acid, cyano(3-phenoxyphenyl)methyl
000352 OR–94–0019	Dupont Asana XL Insecticide	4-Chloro-alpha-(1-methylethyl)benzeneacetic acid, cyano(3-phenoxyphenyl)methyl
000352 WA–94–0034	Dupont Asana XL Insecticide	4-Chloro-alpha-(1-methylethyl)benzeneacetic acid, cyano(3-phenoxyphenyl)methyl
000352 WA–95–0001	Dupont Asana XL Insecticide	4-Chloro-alpha-(1-methylethyl)benzeneacetic acid, cyano(3-phenoxyphenyl)methyl
000400–00406	Terraclor Super X Granular	Pentachloronitrobenzene
		5-Ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole
000400–00419	Terrazole 5% Granular Fungicide	5-Ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole
000400 NE–99–0005	Dimilin 2l	1-(4-Chlorophenyl)-3-(2,6-difluorobenzoyl)urea
000499–00460	Pro-Control Roach Bait	1-Octanesulfonamide, *N*-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-
000707 WA–00–0020	Nova 40W Agricultural Fungicide In Water Soluble Pouche	alpha-Butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile
001706–00162	Nalcon 7640-M-Papermill Slimicide	Bis(trichloromethyl) sulfone
		1-(Alkyl* amino)-3-aminopropane monoacetate *(as in fatty acids of coconut oil)
002382–00094	Protection 150 Reflecting Flea and Tick Collar for Cats	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
002382–00095	Protection Plus Flea and Tick Collar for Cats	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
002382–00096	Protection 150 Reflecting Flea and Tick Collar for Dogs	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
002382–00097	Protection Plus 150 Flea and Tick Collar for Dogs	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
002382–00098	Protection 150 Flea and Tick Collar for Cats	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
002382–00099	Protection 150 Flea and Tick Collar for Dogs	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
002382–00105	Protection 300 Flea and Tick Collar for Dogs	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
005481 ID–95–0016	Dibrom 8 Emulsive	1,2-Dibromo-2,2-dichloroethyl dimethyl phosphate
006911–00005	Nu-Mrk Nu-Method Ant & Roach Killer	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
007501–00097	Anchor Flowable Fungicide	Oxadixyl
007969–00115	MCPP Acid Technical 95%	2-(2-Methyl-4-chlorophenoxy)propionic acid
007969–00123	MCPP (Technical Grade)	2-(2-Methyl-4-chlorophenoxy)propionic acid
019713–00126	Drexel Captan Plus Molybdenum	cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
028293–00009	Unicorn Dairy and Food Plant Aerosol	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
028293–00011	Unicorn Liquid Pet Spray	*N*-Octyl bicycloheptene dicarboximide (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
028293–00019	Unicorn Fly Repellent for Horses & Ponies	Butoxypolypropylene glycol *N*-Octyl bicycloheptene dicarboximide (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
062719–00126	Rubigan 50W Turf & Ornamental	alpha-(2-Chlorophenyl)-alpha-(4-chlorophenyl)-5-pyridinemethanol
062719–00249	Rubigan 50 WSP	alpha-(2-Chlorophenyl)-alpha-(4-chlorophenyl)-5-pyridinemethanol
062719 OR–94–0032	Lorsban 4E-Hf	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate

Unless a request is withdrawn by the registrant within 180 days (30 days when requested by registrant) of publication of this notice, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant during this comment period.

The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000100	Syngenta Crop Protection, Inc., Box 18300, Greensboro, NC 27419.
000241	BASF Corp., Box 400, Princeton, NJ 08543.
000264	Aventis Cropscience USA LP, 2 T.W. Alexander Drive, Box 12014, Research Triangle Park, NC 27709.
000352	E. I. Du Pont De Nemours & Company, Dupont Crop Protection, Stine-Haskell Research Center S300 Box 30, Newark, DE 19714.
000400	Uniroyal Chemical Co Inc., A Subsidiary of Crompton Corp., 74 Amity Rd, Bethany, CT 06524.
000499	Whitmire Micro-Gen Research Laboratories Inc., 3568 Tree Ct., Industrial Blvd, St Louis, MO 63122.
000707	Rohm & Haas Co., Attn: Robert H. Larkin, 100 Independence Mall W., Philadelphia, PA 19106.
001706	Ondeo Nalco Co., Ondeo Nalco Center, Naperville,, IL 60563.
002382	Virbac AH, Inc., Box 162059, Fort Worth, TX 76161.
005481	AMVAC Chemical Corp., Attn: Jon C. Wood, 4695 Macarthur Ct., Suite 1250, Newport Beach, CA 92660.
006911	Nu Method Pest Control Products, Inc., 8719 Linwood Ave, Detroit, MI 48206.
007501	Gustafson LLC, 1400 Preston Rd., Suite 400, Planos, TX 75093.
007969	BASF Corp., Agricultural Products, Box 13528, Research Triangle Park, NC 27709.
019713	Drexel Chemical Co, 1700 Channel Ave., Box 13327, Memphis, TN 38113.
028293	Unicorn Laboratories, 12385 Automobile Blvd., Clearwater, FL 33762.
062719	Dow Agrosciences LLC, 9330 Zionsville Rd., 308/2e225, Indianapolis, IN 46268.

Note: EPA company number 000499, 002382 and 006911 have requested a 30–day comment period for registrations listed.

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Loss of Active Ingredients

Unless the requests for cancellations are withdrawn, one pesticide active ingredient will no longer appear in any registered products. Those who are concerned about the potential loss of this active ingredient for pesticidal use

are encouraged to work directly with the registrant(s) to explore the possibility of their withdrawing the request for cancellation. The active ingredient is listed in the following Table 3, with the EPA company and CAS number.

TABLE 3. — ACTIVE INGREDIENT DISAPPEARING AS A RESULT OF REGISTRANTS' REQUEST TO CANCEL

CAS No.	Chemical Name	EPA Company No.
77732–89–3	Oxadixyl	000100 007501

V. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before February 22, 2002, unless indicated otherwise. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

VI. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1–year after the date the cancellation request was received by the Agency. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exception to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Dated: August 6, 2001.

Richard D. Schmitt,

Associate Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 01–21047 Filed 8–21–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66290; FRL–6795–7]

Vinclozolin; Notice of Use Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces use cancellations as requested by BASF Corporation for its registrations containing 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione), or vinclozolin, pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This Notice follows up a September 20, 2000, Notice of receipt of requests to delete these uses from vinclozolin registrations, and to terminate use and sale for these uses by certain dates. This Notice also requested comments on these use deletions and dates for end of sale and use. EPA has considered the comments received and has modified the schedule of end of sale and use dates accordingly. Any distribution, sale, or use of the products subject to this cancellation order is only permitted in accordance with the terms of the existing stocks provisions of this cancellation order.

DATES: The cancellations are effective August 22, 2001.

FOR FURTHER INFORMATION CONTACT: By mail: Deanna Scher, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; telephone number: (703) 308–7043; fax number: (703) 308–7042; e-mail address: scher.deanna@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use vinclozolin products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *In person*. The Agency has established an official record for this action under docket control number OPP–66290. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in

those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm.119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Receipt of Requests to Amend Registrations to Delete Uses

A. Background

Vinclozolin (trade names Curalan, Ronilan) is a fungicide first registered in 1981 to control various types of rot caused by *Botrytis spp.*, *Sclerotinia spp*, and other types of mold and blight causing organisms on various agricultural crops, ornamental plants, and turf. BASF, the technical registrant of vinclozolin, petitioned EPA to establish tolerances for residues of the fungicide vinclozolin and its metabolites containing the 3,5-dichloroanaline moiety in or on canola and succulent beans (April 21, 2000, 65 FR 21427) (FRL–6555–6). However, EPA was unable to make the ''reasonable certainty of no harm'' finding mandated by section 408(b)(2) of the Federal Food, Drug, and Cosmetic Act (FFDCA) for succulent beans and canola use and associated tolerances if all existing uses remained in place. In addition to dietary risks of concern, the Agency identified risk concerns for occupational workers in the ornamental industry in part due to the potential for long-term exposure and a risk of concern for children playing on transplanted sod previously treated on a sod farm.

Therefore, to reduce the risk posed by exposure to vinclozolin, and thereby enable the Agency to make a ''reasonable certainty of no harm'' finding for succulent beans and canola and the related tolerances, on May 31, 2000 BASF requested the immediate voluntary cancellation of use on raspberries onions and ornamentals, phase-out over the following 4 years of all other domestic food uses of vinclozolin except canola, and the revocation of all import tolerances except for wine grapes to permit the importation of wine containing residues of vinclozolin. BASF also requested that EPA modify use of vinclozolin on turf. The cancellations were conditioned on EPA reestablishing the expired tolerance for vinclozolin use on succulent beans and granting a new tolerance associated with a canola registration. The cancellations were also conditioned on EPA accepting certain existing stock provisions.

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be amended to delete one or more pesticide uses. Section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless the registrants request a waiver of the comment period, or the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. The registrant requested that EPA waive the 180–day comment period. In light of this request, EPA granted the request to waive the 180–day comment period, and a 30–day comment period was allowed.

EPA announced these use cancellation and amendment requests in a **Federal Register** Notice (September 20, 2000, 65 FR 56894) (FRL–6744–2) and asked for public comments. In response, public comments were received from three interested parties. The Scotts Company remarked that it will be difficult for distributers and retailers to manage inventory based on the Agency's proposed last legal use date being concurrent with the last date for sale and distribution. Scotts also requested that the last legal use date be extended for ornamentals based on the difficulties associated with canceling use during the middle of the normal use period for one of the largest ornamental markets. The National Onion Association expressed concern that alternatives to vinclozolin may be more costly and less effective. The Association also argued that registration of newer, safer alternatives should be expedited and that growers in foreign countries could use vinclozolin on onions for export to the U.S. and thereby gain an unfair advantage over U.S. growers. Weyerhaeuser Corporation argued against the use cancellation of vinclozolin for forestry seedlings grown in greenhouses and nurseries based on convincing evidence that there is a lack of alternatives for this use. Weyerhaeuser also provided information about the handler and re-entry exposure and use practices for coniferous forest tree species in greenhouses.

Reviewing and responding to the comments and additional information submitted by Weyerhaeuser required substantial resources and time. Consequently, the dates originally proposed for ''last date for sale and distribution of existing stocks'' for onions, raspberries, and ornamentals have passed. In order to obviate any confusion or difficulty this may cause those entities affected by this action, the last date for sale and distribution of existing stocks for onions raspberries, and ornamentals has been extended from January 1, 2001 to August 30, 2001.

In response to comments provided by the Scotts Company, EPA has amended the previously proposed time frames by designating separate dates for sale and distribution and for last legal use. Although this amendment slightly extends the time frames for last legal use, the change is considered minimal as the new dates do not exceed 2 or 3 months past the original dates established for last legal use. In addition, the extension of the last sale dates for the product bearing the ornamentals use until October 15, 2001 will also address Scott's concerns by allowing sales through the end of the seasonal use period as defined by Scotts.

In response to National Onion Association comments, EPA is also concerned about the availability of alternatives to vinclozolin but believes there are less risky fungicides available. EPA also continues to expedite new fungicides through its Reduced-Risk Initiative, which significantly shortens the time required to register commercially viable alternatives to pesticides with risks of concern, and is currently working on registration of a vinclozolin alternative through this effort. Also, while foreign growers may use vinclozolin in the near term on onions for export into the U.S., EPA intends to propose revocation of tolerances for vinclozolin on all canceled uses as soon as it can be reasonably expected that domestic use has ceased (i.e., the last legal use date has passed). Revocation of tolerances will make the importation of such vinclozolin treated commodities unlawful. In accordance with FFDCA section 408(l)(2), EPA will revoke the tolerances within 180 days of last legal use. Commodities legally treated will be allowed in the channels of trade past the last date of legal use in accordance with FFDCA section 408(l)(5).

Finally, to address the concerns raised by Weyerhaeuser, EPA is allowing the sale, distribution, and use of vinclozolin on coniferous forestry seedlings for an additional 2 years. However to mitigate risks to re-entry workers, a 12–day restricted entry interval will be required. However, EPA will allow exceptions to the restricted entry

interval after 3 days for irrigation and after 7 days for weeding and scouting. These use changes have been made to the Curalan EG formulation (EPA Reg. No. 7969–85) as a supplemental label for this registration. The supplemental label will allow use until August 30, 2003.

B. Requests for Voluntary Amendment and Cancellation

Pursuant to FIFRA section 6(f)(1)(A), BASF submitted requests for voluntary cancellation and use amendment of the registrations for vinclozolin. Specifically, BASF requested that EPA immediately amend registration number 7969–85 (Ronilan, Curalan, Touche) to terminate the use of vinclozolin on onions, raspberries, and ornamental plants.

EPA has considered the public comments received as detailed above in section II.A. and the timing of this Notice, and has modified the time frames for use cancellation and existing stocks from that published in the original proposal. These changes are reflected in the following Table 1.

TABLE 1.—TIME FRAME FOR USE CANCELLATION AND EXISTING STOCKS PROVISION

Commodity	Date of Registrant Use Cancellation Request	Last Date for Sale and Distribution of Existing Stocks by Registrant	Last Date for Sale and Distribution of Existing Stocks by Others	Last Date for Legal Use
Onions	July 15, 2000	August 30, 2001	October 15, 2001	December 15, 2001
Raspberries	July 15, 2000	August 30, 2001	October 15, 2001	December 15, 2001
Ornamentals (except conifer seedlings)	July 15, 2000	August 30, 2001	October 15, 2001	December 15, 2001
Conifer seedlings	July 15, 2000	August 30, 2003	October 15, 2003	December 15, 2003
Kiwi	December 31, 2001	December 31, 2002	November 30, 2003	January 30, 2004
Chicory	December 31, 2001	December 31, 2002	November 30, 2003	January 30, 2004
Lettuce	July 15, 2004	July 15, 2005	September 30, 2005	November 30, 2005
Succulent Beans	July 15, 2004	July 15, 2005	September 30, 2005	November 30, 2005

III. Cancellation Order

Pursuant to FIFRA section 6(f)(1)(A), EPA hereby grants the requested voluntary use cancellations and amendments of the registrations for vinclozolin as described in this Notice. Accordingly any distribution, sale, or use of existing stocks of in a manner inconsistent with the terms of this Order or the Existing Stock Provisions in Unit IV of this Notice will be considered a violation of section 12(a)(2)(K) of FIFRA and/or section 12(a)(1)(A) of FIFRA.

IV. Existing Stocks Provision

Pursuant to section 6(f) of FIFRA, EPA is granting the requests for voluntary amendment and cancellation during the appropriate time frames identified in Table 1. For purposes of the cancellation order, the term ''existing stocks'' will be defined, pursuant to EPA's existing stocks policy at (June 26, 1991, 56 FR 29362) (FRL–3846–4), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the amendment or cancellation. Any distribution, sale, or use of existing stocks after the effective date of the cancellation order that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

The distribution or sale of existing stocks by registrants will not be lawful under FIFRA after the sale and distribution dates for registrants listed in Table 1, except for the purposes of returns and relabeling, shipping such stocks for export consistent with the requirements of section 17 of FIFRA, or for proper disposal. Retailers and distributors may sell or distribute products with previously approved labeling which have been released for shipment until such supplies are exhausted, or until the date specified for ''Sale and Distribution by Others'' as presented Table 1, whichever comes first. End-users may use products with previously approved labeling until such supplies are exhausted or until the last legal use date listed in Table 1, whichever comes first.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 10, 2001.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–21200 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1035; FRL–6794–6]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1035, must be received on or before September 21, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1035 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Fungicide Branch, Registration Division (7505C),

Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7740; e-mail address: giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

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

2. *In person*. The Agency has established an official record for this action under docket control number PF–1035. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1035 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1035. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want To Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency

of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 8, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Syngenta Crop Protection, Inc.

0F6218

EPA has received a pesticide petition (0F6218) from Syngenta Crop Protection, Inc., 410 Swing Road, P.O. Box 18300, Greensboro, North Carolina 27409–8300 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of azoxystrobin (methyl(E)-2-2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy]phenyl-3- methoxyacrylate) and the Z isomer of azoxystrobin, (methyl(*Z*)-2-2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy]phenyl-3-methoxyacrylate) in or on the raw agricultural commodities legume vegetables (succulent or dried) group at 3 parts per million (ppm), hops at 50 ppm, grapes at 3 ppm, tomatoes at 2 ppm, and tomato paste at 6 ppm. The proposed tolerance in or on grapes is an increase from the current tolerance of 1.0 ppm, the proposed tolerance in or on tomatoes is an increase from the current tolerance of 0.2 ppm, and the proposed tolerance in or on tomato paste is an increase from the current tolerance of 0.6 ppm. The proposed tolerances on legume vegetables (succulent or dried) group and hops are new. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of azoxystrobin as well as the nature of the residues is adequately understood for purposes of the tolerances. Plant metabolism has been evaluated in four diverse crops, cotton, grapes, wheat and peanuts, which should serve to define the similar metabolism of azoxystrobin in a wide range of crops. Parent azoxystrobin is the major component found in crops. Azoxystrobin does not accumulate in crop seeds or fruits. Metabolism of azoxystrobin in plants is complex with more than 15 metabolites identified. These metabolites are present at low levels, typically much less than 5% of the total recoverable residue (TRR).

2. *Analytical method*. An adequate analytical method, gas chromatography with nitrogen-phosphorus detection (GC-NPD) or in mobile phase by high performance liquid chromatography with ultra-violet detection (HPLC-UV), is available for enforcement purposes with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. EPA concluded that the method(s) are adequate for enforcement. Analytical methods are also available for analyzing meat, milk, poultry, and eggs, and also underwent successful independent laboratory validations.

3. *Magnitude of residues*. Nineteen residue trials in legume vegetables were carried out in the United States and Canada in 1998 and 1999. Maximum residues of 1.9 ppm resulted from multiple foliar applications. Six residue trials in hops were carried out in the United Kingdom and Germany in 1998 and 1999. Maximum residues were 16 ppm. In the interest of harmonizing United States tolerances with those of Canada and the European Union, representative residue data from Canada and Germany are presented that demonstrate maximum residues of 2.4 ppm in grapes and 1.3 ppm in tomatoes.

B. Toxicological Profile

1. *Acute toxicity*. The acute oral toxicity study in rats of technical azoxystrobin resulted in an LD_{50} of > 5,000 milligrams/kilogram (mg/kg limit test) for both males and females. The acute dermal toxicity study in rats of technical azoxystrobin resulted in an LD_{50} of > 2,000 mg/kg (limit dose). The acute inhalation study of technical azoxystrobin in rats resulted in an LC_{50} of 0.962 milligrams/liter (mg/L) in males and 0.698 mg/L in females. In an acute oral neurotoxicity study in rats dosed once by gavage with 0, 200, 600, or 2,000 mg/kg azoxystrobin, the systemic toxicity no observed adverse effect level (NOAEL) was < 200 mg/kg and the systemic toxicity NOAEL was 200 mg/kg, based on the occurrence of transient diarrhea in both sexes. There was no indication of neurotoxicity at the doses tested.

2. *Genotoxicity*. Azoxystrobin was negative for mutagenicity in the *salmonella/mammalian* activation gene mutation assay, the mouse micronucleus test, and the unscheduled deoxyribonucleic acid (DNA) synthesis in rat hepatocytes/mammalian cells *in vivo/in vitro* procedure study. In the forward mutation study using L5178 mouse lymphoma cells in culture, azoxystrobin tested positive for forward gene mutation at the TK locus. In the *in vitro* human lymphocytes cytogenetics assay of azoxystrobin, there was evidence of a concentration-related induction of chromosomal aberrations over background in the presence of moderate to severe cytotoxicity.

3. *Reproductive and developmental toxicity*. In a prenatal development study in rats gavaged with azoxystrobin at dose levels of 0, 25, 100, or 300 milligrams per kilogram per day (mg/kg/day) during days 7 through 16 of gestation, lethality at the highest dose caused the discontinuation of dosing at that level. The developmental NOAEL was greater than or equal to 100 mg/kg/day and the developmental lowest observed adverse effect level (LOAEL) was > 100 mg/kg/day because no significant adverse developmental effects were observed. In this same study, the maternal NOAEL was not established; the maternal LOAEL was 25 mg/kg/day, based on increased salivation.

In a prenatal developmental study in rabbits gavaged with 0, 50, 150, or 500 mg/kg/day during days 8 through 20 of gestation, the developmental NOAEL was 500 mg/kg/day and the developmental LOAEL was > 500 mg/kg/day because no treatment-related adverse effects on development were seen. The maternal NOAEL was 150 mg/kg/day and the maternal LOAEL was 500 mg/kg/day, based on decreased body weight gain.

In a 2–generation reproduction study, rats were fed 0, 60, 300, or 1,500 ppm of azoxystrobin. The reproductive NOAEL was 32.2 mg/kg/day. The reproductive LOAEL was 165.4 mg/kg/day; reproductive toxicity was

demonstrated as treatment-related reductions in adjusted pup body weights as observed in the F18 and F2 pups dosed at 1,500 ppm (165.4 mg/kg/day).

4. *Subchronic toxicity*. In a 90–day rat feeding study the NOAEL was 20.4 mg/kg/day for males and females. The LOAEL was 211.0 mg/kg/day based on decreased weight gain in both sexes, clinical observations of distended abdomens and reduced body size, and clinical pathology findings attributable to reduced nutritional status.

In a subchronic toxicity study in which azoxystrobin was administered to dogs by capsule for 92 or 93 days, the NOAEL for both males and females was 50 mg/kg/day. The LOAEL was 250 mg/kg/day, based on treatment-related clinical observations and clinical chemistry alterations at this dose.

In a 21–day repeated-dose dermal rat study using azoxystrobin, the NOAEL for both males and females was greater than or equal to 1,000 mg/kg/day (the highest dosing regimen); a LOAEL was, therefore, not determined.

5. *Chronic toxicity and carcinogenicity*. In a 2–year feeding study in rats fed diets containing 0, 60, 300, and 750/1,500 ppm (males/females), the systemic toxicity NOAEL was 18.2 mg/kg/day for males and 22.3 mg/kg/day for females. The systemic toxicity LOAEL for males was 34 mg/kg/day, based on reduced body weights, food consumption, and food efficiency, and bile duct lesions. The systemic toxicity LOAEL for females was 117.1 mg/kg/day, based on reduced body weights. There was no evidence of carcinogenic activity in this study.

In a 1–year feeding study in dogs to which azoxystrobin was fed by capsule at doses of 0, 3, 25, or 200 mg/kg/day, the NOAEL for both males and females was 25 mg/kg/day and the LOAEL was 200 mg/kg/day for both sexes, based on clinical observations, clinical chemistry changes, and liver weight increases that were observed in both sexes.

In a 2–year carcinogenicity feeding study in mice using dosing concentrations of 0, 50, 300, or 2,000 ppm, the systemic toxicity NOAEL was 37.5 mg/kg/day for both males and females. The systemic toxicity LOAEL was 272.4 mg/kg/day for both sexes, based on reduced body weights in both at this dose. There was no evidence of carcinogenicity at the dose levels tested.

According to the new proposed guidelines for Carcinogen Risk Assessment (April 1996), the appropriate descriptor for human carcinogenic potential of azoxystrobin is ''not likely.'' The appropriate subdescriptor is ''has been evaluated in at least two well conducted studies in two appropriate species without demonstrating carcinogenic effects.''

6. *Animal metabolism*. In this study azoxystrobin, unlabeled or with a pyrimidinyl, phenylacrylate, or cyanophenyl label, was administered to rats by gavage as a single or as 14–day repeated doses. Less than 0.5% of the administered dose was detected in the tissues and carcass up to 7 days post-dosing and most of it was in excretion-related organs. There was no evidence of potential for bioaccumulation. The primary route of excretion was via the feces, though 9 to 18% was detected in the urine of the various dose groups. Absorbed azoxystrobin appeared to be extensively metabolized. A metabolic pathway was proposed showing hydrolysis and subsequent glucuronide conjugation as the major biotransformation process.

7. *Metabolite toxicology*. There are no metabolites of concern based on a differential metabolism between plants and animals.

8. *Endocrine disruption*. There is no evidence that azoxystrobin is an endocrine disrupter.

C. Aggregate Exposure

The Agency has concluded from review of available data that there is no acute toxicological endpoint of concern. Therefore, an acute risk assessment is not necessary. For azoxystrobin, only a chronic (noncancer) risk assessment is necessary.

1. *Dietary exposure*. Permanent tolerances have been established (40 CFR 180.507(a)) for the combined residues of azoxystrobin and its Z isomer in or on a variety of raw agricultural commodities at levels ranging from 0.02 ppm on tree nuts to 20.0 ppm on rice hulls. Included in these tolerances are numerous ones for animal commodities, established in conjunction with tolerances for rice and wheat commodities.

i. *Food*. In conducting this chronic dietary risk assessment, Syngenta has made the very conservative assumption that 100% of all commodities having azoxystrobin tolerances or proposed tolerances will contain azoxystrobin residues at the level of the tolerance. Default concentration factors have been removed where data show no concentration of residues (grapes, juice; grapes, raisins; tomatoes, juice; tomatoes, puree; and potatoes, white (dry)). The chronic reference dose (RfD) is 0.18 mg/kg/day, derived from the NOAEL of 18.2 mg/kg/day from the rat chronic toxicity/carcinogenicity feeding study and an uncertainty factor of 100 to allow for interspecies sensitivity and intraspecies variability.

The Novigen DEEM (Dietary Exposure Evaluation Model) system was used for this chronic dietary exposure analysis. The analysis evaluates individual food consumption as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals conducted in 1994 through 1996. The model accumulates exposure to the chemical for each commodity and expresses risk as a function of dietary exposure.

The existing azoxystrobin tolerances (published and pending; FIFRA section 18 tolerances were excluded in this analysis because most are included as pending tolerances), result in a theoretical maximum residue contribution (TMRC) that is equivalent to the following percentages of the chronic RfD. Because the 10x safety factor was removed by EPA, the chronic RfD is equal to the PAD (population-adjusted dose). As a result, the exposure given as a percentage of the total allowable is reported as %PAD.

Population Group/ Subgroup	Exposure (mg/kg/day)	Percent Reference Dose[1] (%Chronic PAD/RfD)
U.S. population	0.033665	18.7
All infants (< 1–year)	0.043793	24.3
Nursing infants (< 1–year)	0.015041	8.4
Non-Nursing infants (< 1–year)	0.052206	29.0
Children (1–6 years old)	0.069628	38.7
Children (7–12 years old)	0.040975	22.8
Hispanics	0.038407	21.3
Non-Hispanic/ non-white/ non-black	0.046447	25.8

Population Group/ Subgroup	Exposure (mg/kg/ day)	Percent Reference Dose[1] (%Chronic PAD/RfD)
Females 13+ (nursing)	0.035904	19.9

[1]Percentage reference dose (% chronic PAD) = exposure x 100% (because RfD=PAD in this case) chronic PAD.

ii. *Drinking water*. There is no established Maximum Concentration Level for residues of azoxystrobin in drinking water. No health advisory levels for azoxystrobin in drinking water have been established. The concentration of azoxystrobin in surface water is based on Generic Estimated Environmental Concentration (GENEEC) modeling and in ground water based on Screening Concentration in Ground Water (SCI-GROW) modeling.

Based on the chronic dietary (food) exposure estimated, chronic drinking water levels of concern (DWLOC) for azoxystrobin were calculated and are summarized in the following table. EPA has estimated that the highest estimated environmental concentration EEC of azoxystrobin in surface water is from the application of azoxystrobin on grapes (39 µg/L). The EEC for ground water is 0.064 µg/L resulting from use on turf. For purposes of risk assessment the maximum EEC for azoxystrobin in drinking water (39 µg/L) should be used for comparison to the back-calculated human health drinking water levels of comparison (DWLOC) for the chronic (noncancer) endpoint. These DWLOCs for various population categories are summarized in the following table.

Group/Subgroup[1]	RfD (mg/kg/day)	TMRC (food) (mg/kg/day)	Maximum Water Exposure[2] (mg/kg/day)	DWLOC[3, 4, 5](g/L)
U.S. population	0.18	0.033665	0.146335	5121.725
Females 13+ (nursing)	0.18	0.035904	0.144096	4322.88
Children (1–6 years old)	0.18	0.069628	0.110372	1103.72

[1] Within each of these categories, the subgroup with the highest food exposure was selected
[2] Maximum chronic water exposure (mg/kg/day) = chronic RfD (mg/kg/day) - food exposure (mg/kg/day)
[3] DWLOC (µg/L) = maximum water exposure (mg/kg/day) X body wt (kg) ÷ (10^{-3} mg/µg) X water consumed daily (L/day)
[4] HED default body weights are: U.S. population, 70 kg; females (13+ years old), 60 kg; infants and children, 10 kg
[5] HED default daily drinking rates are 2 L/day for adults and 1 L/day for children

2. *Non-dietary exposure*. Azoxystrobin is registered for residential use on ornamentals and turf. The Agency evaluated the existing toxicological data base for azoxystrobin and assessed appropriate toxicological endpoints and dose levels of concern that should be assessed for risk assessment purposes. Dermal absorption data indicate that absorption is less than or equal to 4%. No appropriate endpoints were identified for acute dietary or short-term, intermediate-term, and chronic term (noncancer) dermal and inhalation occupational exposure. Therefore, risk assessments are not required for these exposure scenarios.

D. Cumulative Effects

Azoxystrobin is related to the naturally occurring strobilurins. Syngenta concluded that further consideration of a common mechanism of toxicity is not appropriate at this time since there are no data to establish whether a common mechanism exists with any other substance.

E. Safety Determination

The acute safety analysis was not applicable since no suitable toxicological end-point of concern was identified during Agency review of the available data. The short-term and intermediate-term safety assessment also was not applicable, in this case because no indoor and outdoor residential exposure uses are currently registered for azoxystrobin. Therefore, only a chronic analysis was needed.

1. *U.S. population*. The chronic dietary exposure analysis showed that exposure from all existing permanent and proposed tolerances, including those in or on legume vegetables (succulent or dry) group, hops, grape and tomato for the general U.S. population would be 18.7% of the RfD.

2. *Infants and children*. The chronic dietary exposure analysis showed that exposure from all existing permanent and proposed tolerances, including those in or on legume vegetables (succulent or dry) group, hops, grape and tomato for children (1–6 years old), the subgroup with the highest exposure, would be 38.7% of the RfD.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In either case, EPA generally defines the level of appreciable risk as exposure that is greater than 1/100 of the no observed effect level in the animal study appropriate to the particular risk assessment. This hundredfold uncertainty (safety) factor/margin of exposure (safety) is designed to account for combined interspecies and intraspecies variability. EPA believes that reliable data support using the standard hundredfold margin/factor but not the additional tenfold margin/factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard margin/factor. The Agency ad hoc FQPA Safety Factor Committee removed the additional 10x safety factor because infants and children are not believed to have an increased sensitivity to azoxystrobin, compared to adults.

Syngenta has considered the potential aggregate exposure from food, water, and non-occupational exposure routes and concludes that aggregate exposure is not expected to exceed 100% of the RfD and that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to azoxystrobin residues.

F. International Tolerances

There are no Codex Maximum Residue Levels established for azoxystrobin.

[FR Doc. 01–21048 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00730; FRL–6792–4]

Pesticides; Draft Guidance for Pesticide Registrants on New Labeling Statements for Spray and Dust Drift Mitigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Agency is announcing the availability of, and seeking public comment on, a draft Pesticide Registration Notice (PR-Notice) titled ''Spray and Dust Drift Label Statements for Pesticide Products.'' PR-Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures and registration related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. This particular draft PR-Notice provides guidance on drift label statements for pesticide products. The purpose of this new labeling is to provide pesticide registrants and applicators and other individuals responsible for pesticide applications with improved and more consistent product label statements for controlling pesticide drift from spray and dust applications in order to be protective of human health and the environment. The Agency invites comments on any aspect of the draft PR-Notice as well as the specific issues addressed below in the background section.

DATES: Comments, identified by docket control number OPP–00730, must be received on or before November 20, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00730 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7099; fax number: (703) 305–6244; e-mail address: ellenberger.jay@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest, however, to those persons who hold pesticide registrations, apply pesticides, or regulate the use of pesticides for states, territories, or tribes. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document?

1. *Electronically*. You may obtain electronic copies of this document and the PR-Notice from the Office of Pesticide Programs Home Page at http://www.epa.gov/pesticides/. You can also go directly to the listings from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *Fax-on-demand*. You may request a faxed copy of the draft PR-Notice titled ''Spray Drift Statements for Pesticide Product Labels'' by using a faxphone to call (202) 401–0527 and selecting item 6142. You may also follow the automated menu.

3. *In person*. The Agency has established an official record for this action under docket control number OPP–00730. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00730 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00730. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

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Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Guidance Does the PR-Notice on Labeling Provide?

In the PR-Notice, EPA provides registrants with guidance for new labeling statements for controlling pesticide spray and dust drift. These statements are intended for agricultural, industrial, home, lawn, garden, and certain other outdoor use pesticide products applied by aerial, ground rig, orchard airblast, chemigation, and handheld equipment. These proposed statements are based on EPA's policy on drift, which is articulated in the PR-Notice, studies submitted by registrants, other studies in the open scientific literature, and communications with applicators, registrants, academicians, and other Federal, state, and tribal government agencies. The Agency generally considers the label statements to be generic statements and representative of drift mitigation measures that are practical and effective to reduce drift under most application situations.

The Agency acknowledges, however, that this labeling guidance may not be appropriate for all products and that for certain products there may be appropriate alternatives to the wording of these statements. EPA will consider other wording proposed by registrants for their products. This notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may always assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation. The intention of these new statements is to provide registrants and applicators with improved and more consistent directions for controlling drift from application sites and assuring protection to human health and the environment. This notice also provides the Agency's position on drift, definitions of the terms ''spray (or dust) drift'' and ''no-spray zone,'' rationale for the label statements, and a plan for what registrants should do.

B. What Issues/Questions Should you Consider?

Those who wish to comment are free to raise any issue, but the following questions are of particular interest to the Agency, and comments on them are invited.

1. The Agency requests comments on the proposed labeling statements, specifically in four areas described in this and the following three paragraphs. In the proposed guidance for labeling statements, the first sentence of the proposed labeling is a prohibition against allowing drift from the application site to contact people and the specified sensitive areas. The Agency is interested in comments about whether this labeling statement provides a definitive and enforceable requirement or expectation to applicators for protecting human health and the environment from drift.

2. The Agency is interested in comments regarding the inclusion of specific application conditions in the labeling statements, the selection of the specific application conditions as key measures to control drift, and their enforceability and practicality to be followed under many different application scenarios. The proposed labeling statements include specific limitations for application conditions, including maximum wind speed, application height, and nozzle placement, which are key variables in affecting the quantity and distance or deposition of drift. The proposed specific limits are based on the available studies on drift, particularly those dealing with cause and effect. Placing a limitation on these variables is a means to control drift and reduce pesticide exposures and associated risks to human health and the environment.

3. The Agency asks for comment on the content of the proposed labeling statement for home and garden products. According to information on drift incidents provided by States, use of these products result in a significant portion of the total number of all reported drift incidents. The Agency is mindful that any wording for these products would need to be simpler than for other types of products, such as agricultural products, which are likely to be applied by trained applicators.

4. Because higher risk pesticides may lead to the need for no-spray zones for additional risk reduction, the Agency is proposing a no-spray zone labeling statement that generally would be used for those pesticide products. The Agency is interested in comments on its proposal for no-spray zones and the proposed labeling statement for no-spray zones.

C. Summary of the Agency's Position on Drift

The Agency has the responsibility to ensure that the use of pesticides will not cause unreasonable adverse effects to human health and the environment. Those involved in pesticide application decisions have an important responsibility to protect people, domestic animals, wildlife, and the environment from pesticide exposures and potential harm from drift. States, tribes, and EPA have responsibilities to carry out enforcement to ensure compliance with pesticide use requirements.

EPA's position on pesticide drift is that applicators must not allow spray or dust drift to contact people, animals, and certain sensitive sites, including structures people occupy at any time, and the associated property, parks and recreation areas, nontarget crops, aquatic, wetland areas, woodlands, pastures, and rangelands. The Agency believes this is prudent public policy. It sets high but appropriate standards for applicators to protect people and the environment. Applicators must consider and use necessary application practices and measures required by states or tribes in addition to mandatory drift control measures that are stated on product labels.

EPA realizes this position sets high but appropriate standards for applicators to protect people and the environment. However, the Agency believes that this policy will not have an undue impact on agriculture or other uses of pesticides. Rather, this policy

and new labeling will clarify expectations of applicators and set definitive standards for application practices. The Agency also believes that in addition to improved labeling a very important component for controlling drift is training and education of applicators and others involved in pesticide application decisions about the causes and consequences of drift, control methods, and legal requirements.

D. Other Options EPA Considered for Labeling

EPA considered a variety of other options for label statements for spray drift mitigation, some of which were offered by stakeholders. These other labeling options and the Agency's reactions are discussed below. The Agency welcomes comment on these other options.

Label Statement Option-''Do not Allow Spray Drift''

This option, which EPA has required on some product labels, oversimplifies and conflicts with the Agency's conclusions of the supporting scientific data that some *de minimus* degree of drift will occur as part of nearly all pesticide applications. Nevertheless, recognizing the inadequacies of this statement and its appearance on numerous product labels for many years, we believe that it has been effectively and practically enforced by EPA, states, and tribes. Enforcement authorities have used their discretion to pursue violations based on their evaluation of those cases where there may have existed the potential for an effect or concern for exposures and risks to off-target people, animals, plants, and the environment.

Label Statement Option-''Do not Allow Drift to Cause Adverse Effects''

EPA believes this statement is problematic from an enforcement perspective because the burden of proof must be shifted from the simple fact of drift to the ''effect'' of drift, which is less compatible with the nature of evidence gathered in field investigations. This would require the determination of the definition of ''adverse effects'' under numerous circumstances on a case-by-case basis.

An additional problem with this label statement is it suggests to applicators that drift is acceptable unless someone recognizes and reports effects and appropriate authorities rule the effects are ''adverse.''

Label Statement Option-''Minimize Drift to Sensitive Areas. If Drift Occurs and Causes Environmental and Economic Effects, Enforcement Action May be Taken''

''Minimize drift'' suggests the Agency finds certain levels of off-target drift acceptable, contrary to EPA's policy as discussed above. Further, Agency enforcement authorities believe this statement compromises their responsibilities by jeopardizing their ability to take enforcement action when necessary. The second proposed statement also causes concern. Under this label statement EPA, states, and tribes would have to prove drift as well as both environmental and economic effects before taking further action.

Since there is no label minimization standard, this statement essentially provides tacit permission to allow drift to occur at certain levels, presumably at levels up to those that do not cause ''environmental and economic effects.'' If certain levels of drift are permissible, a statement that off-target drift may result in enforcement action is nonsensical.

List of Subjects

Environmental protection, Pesticides.

Dated: August 9, 2001.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 01–20798 Filed 8–21–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

August 14, 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, 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 October 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, 445 12th Street, SW., Room 1–A804, 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 Control No.: 3060–0802.

Title: Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), CC Docket 92–237, CICs Order on Reconsideration, FCC 97–386 (Message Intercept Requirement).

Form No.: N/A.

Type of Review: Extension.

Respondents: Business or Other for Profit.

Number of Respondents: 1400.

Estimated Time Per Response: 9 hours per response (avg).

Total Annual Burden: 12,600 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Third Party Disclosure.

Needs and Uses: In the CICs Order on Reconsideration (FCC 97–386), the Commission requires local exchange carriers (LECs) to offer a standard intercept message on or before June 30, 1998, and to coordinate with interexchange carriers (IXCs) in developing it. This requirement is needed to educate end users about their need to use seven-digit carrier access codes (CACs) to reach carriers instead of the previous five-digit access codes.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–21127 Filed 8–21–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

August 14, 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 October 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 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.: 3060–0216.

Title: Section 73.3538 Application to make changes in an existing station.

Form No.: n/a.

Type of Review: Revision of currently approved collection.

Respondents: Business or other for-profit, Not-for-profit institutions.

Number of Respondents: 50.

Estimated Hours Per Response: 1.0 hours.

Frequency of Response: Reporting, on occasion.

Cost to Respondents: $0.

Estimated Total Annual Burden: 50 hours.

Needs and Uses: On February 14, 2001, the Commission adopted a Report and Order in MM Docket No. 93–177 in the matter of An Inquiry Into the Commission's Policies and Rules Regarding AM Radio Service Directional Antenna Performance Verification. This Report and Order relaxed the technical requirements for AM stations using directional antennas. Among other things, this Report and Order eliminated the need to file an informal application to specify new AM station directional antenna field monitoring points. Revised section 73.3538(b) requires a broadcast station to file an informal application to modify or discontinue the obstruction marking or lighting of an antenna supporting structure. The requirement to file an informal application to relocate the main studio outside the principal community contour has approval under section 73.1125 (3060–0171). The data are used by FCC staff to ensure that the modification or discontinuance of the obstruction marking or lighting will not cause a menace to air navigation.

OMB Number: 3060–0449.

Title: Section 1.65(c) Substantial and significant changes in information furnished by applicants to the Commission.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 6.

Estimated Hours per response: 1 hour 30 minutes.

Frequency of Response: Reporting, annually.

Cost to Respondents: None.

Estimated Total Annual Burden: 9.

Needs and Uses: Section 1.65(c) requires broadcast permittees and licensees to report annually any finding or adverse final action that involves conduct bearing on their character qualifications. This information enables the Commission to determine whether broadcast permittees and licensees maintain the requisite character qualifications to be a broadcast permittee or licensee during their license term.

OMB Approval Number: 3060–0357.

Title: Section 63.701 Requests for Designation as a Recognized Private Operating Agency.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 10.

Estimated Time Per Response: 3.5 hours.

Frequency of Response: Once.

Total Annual Burden: 35 hours.

Total Annual Costs: $11,900.

Needs and Uses: The Commission requests this information in order to make recommendations to the United States Department of State for granting recognized private operating agency (RPOA) status to requesting entities. The Commission does not require entities to request RPOA status. Rather, this is a voluntary application process for use by companies that believe that obtaining RPOA status will be beneficial in persuading foreign governments to allow them to conduct business abroad. RPOA status also permits companies to join the International Telecommunication Union's (ITU's) Telecommunications Sector, which is the standards-setting body of the ITU. The information furnished in RPOA requests is collected pursuant to section 63.701 of the Commission rules.

OMB Approval Number: 3060–0184.

Title: Section 73.1740 Minimum Operating Schedule.

Form No.: None.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 368.

Estimated Hours Per Response: 0.5 hours.

Frequency of Response: Reporting, on occasion.

Cost to Respondents: None.

Estimated Total Annual Burden: 184 hours.

Needs and Uses: Section 73.1740 requires licensees of commercial broadcast stations to notify the FCC in Washington, DC, when events beyond their control make it impossible to continue operation or to adhere to the required operating schedules set forth in this section. In addition, the FCC must be notified when normal operation is resumed. No further authority is needed for limited operation or discontinued operation for a period not exceeding 30 days. Should events beyond the licensees control make it impossible for compliance within the required 30-day time period, an informal written request shall be submitted to the FCC requesting the amount of additional time that the

licensee deems necessary. The data are used by FCC staff to authorize temporarily a limited operation or a discontinuance of operation.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–21128 Filed 8–21–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No. 011773.

Title: Interocean Lines/Ulisses Lines Inc. Space Charter Agreement.

Parties: Interocean Lines, Inc., Ulisses Lines, Inc.

Synopsis: The proposed agreement would allow Interocean Lines to charter up to 100 TEUs of space on Ulisses Lines' vessels in the trade between South Florida and the Dominican Republic.

Agreement No.: 011774.

Title: Interocean Lines/Pegasus Marine Finance Inc. Space Charter Agreement.

Parties: Interocean Lines, Inc., Pegasus Marine Finance Inc.

Synopsis: The proposed agreement authorizes Pegasus Marine Finance Inc. to charter space on its vessels to Interocean Lines in the trade between Houston and Port Everglades, and Brazilian ports of Santos and Itajai.

Dated: August 17, 2001.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–21211 Filed 8–21–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Maritime Intermediary License Revocation

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary license has been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 14011N.

Name: Inverfreight, Inc.

Address: 5901 N.W. 151 Street, Suite 102, Miami Lakes, FL 33014.

Date Revoked: June 14, 2001.

Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–21210 Filed 8–21–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Correction

In the **Federal Register** Notice published August 8, 2001(63 FR 63054), Notice of Ocean Transportation Intermediary License Applicants, the reference to Bank Shipping of P.R., Inc. is corrected to read: ''Rank Shipping of P.R., Inc.''

Dated: August 17, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–21209 Filed 8–21–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 17, 2001.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Boston Private Financial Holdings, Inc., Boston, Massachusetts; to acquire 100 percent of the voting shares of Borel Bank & Trust Company, San Mateo, California.

Board of Governors of the Federal Reserve System, August 17, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–21184 Filed 8–21–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency information collection activities: Submission for OMB review; comment request

The Department of Health and Human Services, Office of the Secreatry publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. National Study of Child Protective Services Systems and Reform Efforts—NEW—The Office of the Assistant Secretary for Planning and Evaluation is proposing to conduct a study which will document the evolving practices underway in the field of Child Protective Services (CPS). Specifically, State Officials will be interviewed to obtain an updated picture of current policy; a stratified random sample of 150 local CPS agencies will be surveyed and; on-site visits will be conducted at 9–12 local CPS agencies that have

implemented innovative practices in their delivery of services. Respondent: State or Local Governments.

BURDEN ESTIMATES

Instrument	Number of respondents	Responses	Hours per response	Total hours
State CPS Directors	63	1	2	126
Local Survey—Administration	158	1	.5	79
Local Survey—Intake	158	1	1	158
Local Survey—Investigation	233	1	1	233
Local Survey—Other CPS Resp	100	1	1	100
Local Survey—New Directions	188	1	1	188
Site Visit—Director Interview	12	1	1	12
Site Visit—Managers	16	1	2	32
Site Visit—Worker Focus Group	80	1	2	160
Site Visit—External Managers	48	1	2	96
Site Visit—Policy Review Group	48	1	2	96
Estimated Burden Total				1,288

OMB Desk Officer: Allison Herron Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proosed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th street NW., Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington DC, 20201. Written comments should be received within 30 days of this notice.

Dated: August 14, 2001.

Kerry Weems,

Acting Deputy Assistant Secretary, Budget.

[FR Doc. 01–21143 Filed 8–21–01; 8:45 am]

BILLING CODE 4154–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of meeting.

At the request of the Secretary, a meeting will be held to determine if and how the Public Health Service Bovine Spongiform Encephalopathy/ Transmissible Spongiform Encephalopathy (BSE/TSE) Action Plan can be expanded to capitalize on the human and physical resources of the pharmaceutical and biotechnology industries. A copy of this plan is appended to this Notice. The meeting will be held in the Office of the Secretary, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, DC 20201 on Monday, September 24, 2001, from 9 a.m. to 3 p.m. Because of space limitations, attendance at the meeting will be limited to approximately 100 persons, and will therefore be limited to those who have preregistered.

Up to 30 of the approximately 100 spaces available will be reserved for those who submit a written proposal of no more than two single-spaced pages in length, and preferably no more than one page, that describes in general terms (1) needs in areas of basic research on any aspect of BSE or any TSE that are currently unmet and (2) human and physical resources under their control that could be recruited to support this research. This solicitation of ''industries'' is directed at industries of all sizes, and to non-profit as well as for-profit entities.

Preference for the 30 reserved spaces will be given to those whose proposals are received by the undersigned no later than close of business Friday, August 31, 2001. A paper copy and an electronic copy in either Microsoft Word (R) or WordPerfect (R) format are requested, but fax and e-mail submissions will be accepted. Proposals must include a return mailing address, individual to contact, and telephone number of that individual. If available, a fax number and an e-mail address should also be provided.

A period of up to one hour will be reserved for public comment. Persons who wish to comment on their own proposal or any other matter will be asked to do so for no more than 5 minutes.

The sole purpose of this meeting is to gather information. No decisions will be made at this meeting. A transcript and a summary of the meeting will be available from the undersigned on or before October 8, 2001.

Those considering submission of a proposal or speaking at the meeting are advised that all information received in response to this Notice will be considered to be in the public domain.

For Registration or Further Information Contact

Stephen D. Nightingale, M.D., Office of Public Health and Science, Department of Health and Human Services, 200 Independence Ave., SW., Washington, DC 20201, phone (202) 690–5558, fax (202) 260–9372, e-mail *StephenDNightingale@osophs.dhhs.gov*.

Dated: August 17, 2001.

Stephen D. Nightingale,

Executive Secretary, Advisory Committee on Blood Safety and Availability.

Bovine Spongiform Encephalopathy/ Transmissible Spongiform Encephalopathy (BSE/TSE) Action Plan

Background

Bovine spongiform encephalopathy (BSE), or ''mad cow disease,'' was first recognized in the United Kingdom in 1986. Major efforts were undertaken to control the BSE epidemic that followed. These included the precautionary slaughter of about 4.5 million asymptomatic cattle, and increasingly broader prohibitions against recycling animal tissues and byproducts into the food chain through livestock feed supplements. There is compelling epidemiological evidence that these actions reversed the course of the BSE epidemic within the United Kingdom.

Unfortunately, these measures were insufficient, or not instituted in time, to prevent the occurrence of BSE in other European countries. These initially included France, Ireland, Portugal, and

Switzerland, and have more recently included Belgium, Denmark, Germany, Italy, Netherlands, and Spain. However, BSE has not yet been found in the United States.

BSE is one of several transmissible spongiform encephalopathies (TSEs). Other animal TSEs include scrapie in sheep and goats, and chronic wasting disease (CWD) of deer and elk. Scrapie and CWD are found in the United States. Human TSEs include kuru, a disease of the South Pacific Fore people; Creutzfeldt-Jakob disease (CJD), which occurs throughout the world, including the United States (where it occurs at a stable rate of about 1 per million population per year); and new variant CJD (vCJD), which was first reported in the United Kingdom in 1996. There is no evidence to date of vCJD in the United States. There is no known treatment for any TSE, and they are all invariably fatal.

The TSEs are named for the characteristic spongelike appearance associated with deposits of proteins, called prions, that are found in patients' brains. In some but not all TSEs, there are characteristic deposits of prions, sometimes detectable preclinically, in other tissues as well. Prions are proteins that have been highly conserved in mammalian evolution, but whose function is not well understood. They do not cause disease in their native state, but only when they become abnormally folded.

What causes the abnormal folding to occur, why affected individuals cannot dispose of or develop immunity to these proteins, and what factors other than the prions themselves affect the transmission or the pathogenesis of the TSEs are poorly understood. In particular, the lack of a sensitive and specific noninvasive test for either animal or human TSEs, or methods for identifying those at increased risk of a TSE, are major obstacles to progress. However, recent investigations in this field appear to hold substantial promise.

Issue

The report of vCJD (a disease of humans) in the United Kingdom only ten years after the recognition of BSE (a disease of animals) was by itself an event of great concern. This concern has been reinforced by the findings that the transmissible agent of BSE and the transmissible agent of vCJD are indistinguishable by current bioassays from each other; that BSE has spread from the United Kingdom to other countries, and that vCJD has begun to appear in some countries to which BSE has spread. These events call for a vigorous DHHS effort—coordinated with those of other government agencies, the private sector, and the international community—to contain this epidemic and assist those affected by it.

Response

The BSE/TSE Action Plan of the Department of Health and Human Services (DHHS) has four major components: *Surveillance, Protection, Research,* and *Oversight. Surveillance* for human disease is primarily the responsibility of the Centers for Disease Control and Prevention (CDC). *Protection* is primarily the responsibility of the Food and Drug Administration (FDA). Surveillance of animals, feeds, and foods is also a responsibility of FDA, which it shares with the United States Department of Agriculture (USDA). *Research* is primarily the responsibility of the National Institutes of Health (NIH). *Oversight* is primarily the responsibility of the Office of the Secretary (OS). Core actions in each area are as follows:

1. Surveillance—CDC

A foundation of CDC disease surveillance and outbreak investigation activities is its relationship with—and support of—state and local health agencies and officials, who are often the first to encounter newly emerging human diseases or changes in the epidemiology of recognized human diseases. These relationships complement those that CDC maintains with health care providers and institutions such as healthcare facilities. These relationships are designed to maximize the likelihood that a sentinel event will be detected as soon as it occurs, whether in an expected or an unexpected location.

CDC collects, reviews, and when indicated actively investigates reports by health care personnel or institutions of possible CJD or vCJD cases. CDC also monitors overall mortality data and carefully scrutinizes mortality data in certain populations (for example, persons with hemophilia). In addition, after the report of vCJD in the United Kingdom in 1996, CDC augmented its domestic CJD surveillance. Because of the striking age differences between vCJD and CJD patients, CDC, in partnership with state and local health departments, initiated post-mortem followup investigations of patients diagnosed with CJD who were less than 55 years of age at death. In 1996–1997, CDC established, in collaboration with the American Association of Neuropathologists, the National Prion Disease Pathology Surveillance Center at Case Western Reserve University, which performs special post-mortem tests for vCJD.

Under this Action Plan, CDC will provide additional financial and technical support for state and local health department surveillance for CJD and vCJD cases. The Action Plan anticipates the need for more case investigations and risk assessments, particularly if the epidemiology of vCJD changes. The action plan will increase the range, accuracy and timeliness of current efforts.

The proposals are as follows:

A. By the end of 2001, CDC will support cooperative agreements with state and local health departments to:

i. Enhance pre-mortem surveillance to increase the number of post-mortem studies on individuals, who by virtue of their symptoms (*e.g.*, ataxia or dementia) and situations (*e.g.*, long exposure to food products from the United Kingdom) might be at increased risk for TSEs, and

ii. Expedite national surveillance of CJD through accelerated review of CJD mortality data and clinical investigation of all such cases under 55 years of age to identify possible cases of vCJD.

B. CDC will enhance its current collaborative agreement with the National Prion Disease Pathology Surveillance Center at Case Western Reserve University by the end of FY 2001.

C. CDC will enhance and expand infection control recommendations to protect patients and health care workers from the potential transmission of TSE in healthcare facilities by the end of FY 2002.

D. CDC will maintain and, as appropriate, expand its contact with national and local health officials in countries that have found, or may find, new or increasing numbers of animal or human TSEs within their borders (FDA and NIH, in the course of actions described below, will do the same with their regulatory and scientific counterparts).

The following additional activities and expansion of A above will require additional or reallocated resources.

A. CDC will enhance and expand its technical assistance to the increasing number of state and local health personnel whom these cooperative agreements will make available to identify and investigate possible cases of TSEs.

B. CDC will develop laboratory capacity at its main campus to provide analytic support for health investigations, and to conduct research on methods to improve these investigations by the end of FY 2003. This activity will depend on the

completion of new laboratory space, anticipated to become available in FY 2004.

2. Protection—FDA

The foundations of FDA consumer protection and health promotion activities are rigorous application of scientific knowledge to regulatory policies and actions, appropriate caution when scientific knowledge is insufficient to determine the optimal policy or action, a strong regulatory infrastructure to assure compliance with established regulations, and aggressive pursuit of the scientific knowledge necessary to anticipate as well as resolve regulatory issues. Maintenance of an environment in which these practices can flourish requires timely and open dialogue about the agency's actions, and the reasons for its actions, with both stakeholders on specific issues and with the public at large.

Consistent with this overall strategy, FDA has undertaken five major initiatives to enhance, sustain, and communicate safeguards. These are:

A. FDA, in partnership with USDA, seeks to prevent exposure of the public to TSE agent(s) through food products. FDA will continue and as necessary expand its import and animal feed surveillance/inspection programs and enforcement actions to control the use of mammalian protein in ruminant feed, to keep potentially infected products out of the United States, and to address further the issue of CWD in domestic deer and elk.

B. FDA will continue and as necessary expand its policies designed to prevent potential exposure to TSE agent(s) through blood transfusion and tissue transplantation. Reevaluations occur both on a routine, at least semi-annual basis in conjunction with meetings of the FDA TSE Advisory Committee, and whenever new information becomes available.

C. FDA will continue and as necessary expand its policies to prevent potential exposure of the public to TSE agent(s) through drugs, devices, vaccines, other biologics, cosmetics, food, food additives, or dietary supplements that use in their manufacture at-risk bovine materials. These efforts are routinely incorporated into the pre-approval review of new entities that are required to undergo such review, and by targeted post-marketing review of specific entities that may either contain at-risk bovine materials, or entities that may be exposed to at-risk bovine materials during their manufacture. Ongoing enhancements to guidances and regulations regarding acceptability of source materials for these products are an integral component of this effort.

D. FDA will continue and as necessary expand its coordinated education and outreach program to inform consumers, patients, practitioners, and industry of the risks of TSEs and of their potential transmission through the products that FDA regulates.

E. FDA will continue and as necessary expand its regulatory research agenda regarding TSEs. As noted above, the lack of a sensitive, specific, and non-invasive test to detect either humans or animals with an increased risk of developing or incubating a TSE is a major obstacle to progress against TSEs, and to FDA's efforts to meet its consumer protection and health promotion mandates. While FDA is encouraged by recent progress in this field, FDA nevertheless feels obligated to continue both intramural and extramural research to support the development and evaluation of tests for premortem detection of TSE agents(s) that will have sufficient sensitivity and specificity for diagnostic, screening, and quality control purposes. FDA will also pursue studies to evaluate the safety and effectiveness of sterilization/decontamination/inactivation procedures for BSE/TSE agent(s) so that these procedures can become part of Good Manufacturing Practices.

3. Research—NIH

A foundation of NIH research portfolio management is to maintain a balance between its support of research focused on health matters of immediate concern, and research that aspires to address concerns that may arise in the future. The NIH supports both intramural and extramural research, some of which is guided by agency directives, and some by proposals of individual investigators. In addition to fostering individual proposals, the NIH fosters the training and professional development of the young investigators necessary to sustain the country's research efforts in the future.

The first scientific work on human TSE to be undertaken anywhere in the world was initiated on the NIH campus in the early 1960's. Currently NIH funding for TSE research, which is provided for investigators throughout the United States, is focused on four areas:

i. Understanding the prions that cause TSEs;

ii. Defining how TSEs are transmitted among animal species and, most importantly, across apparent species barriers;

iii. Developing diagnostic tests for animals and humans using tissues and blood;

iv. Designing drug therapy.

Pursuant to these goals, major TSE research programs are currently being supported by the following institutes:

i. The National Institute of Neurological Disorders and Stroke (NINDS) supports basic and applied research on TSEs in both its intramural and extramural programs. Prior accomplishments of the intramural program have been recognized by the award of the Nobel Prize to Dr. Carleton Gadjusek for demonstrating that both kuru and CJD were transmissible, and prior accomplishments of the extramural program have been recognized by the award of the Nobel Prize to Dr. Stanley Prusiner for his work on prions. NINDS funding for TSE research was $8.87 million in FY 1999 and $12.75 million in FY 2000.

ii. The National Institute of Allergy and Infectious Diseases (NIAID) also supports both intramural and extramural research on TSEs, with a particular focus on chronic wasting disease (CWD) of deer and elk. The intramural NIAID program, which is conducted at the NIAID Rocky Mountain Laboratories in Hamilton, Montana, has developed genetically engineered mouse models of scrapie and CWD and used these to study the effects of particular genes and of species barriers on the natural history of these diseases. The laboratory has also initiated a drug discovery program. Renovation of the Rocky Mountain facilities devoted to TSE research is currently under way, at a cost of $1.62 million dollars. In FY 2002, NIAID expects that roughly $1 million will be allocated to the Rocky Mountain Laboratories for support of TSE-related research.

iii. The National Heart, Lung, and Blood Institute (NHLBI) is the lead institute within NIH for the development of tests for TSEs that would be suitable for screening the blood supply. The research currently funded is targeted at developing and validating test strategies for various human and animal TSEs in samples of known infectivity. This program includes two contracts jointly sponsored by NHLBI and NINDS that run from fall 2000 to fall 2005 and three NHLBI-initiated research grants that run from fall 2000 to fall 2003. NHLBI funding for TSE research was $0.9 million in FY 1999 and $2.2 million in FY 2000.

Efforts in all of the above areas are being expanded. However, there is a critical shortage of investigators and specialized laboratory facilities that can

handle the hazardous material used in studies of TSEs. A goal of the NIH is to address these needs by mounting a coordinated effort among the Institutes at NIH as well as with other Federal agencies to achieve these objectives:

A. Establish a repository for research reagents by the next fiscal year;

B. Double the laboratory facilities available over the next two years;

C. Triple the number of investigators involved in TSE research over the next five years;

D. Double or if possible triple current spending for TSE research by the end of FY 2002. To do this, the NIH will convene a special meeting to identify the major needs and opportunities for research in this field. The product of this workshop will form the basis of a Request for Applications. The scientific quality of the applications received will determine the total funding committed to this initiative. The Acting Director, NIH, has agreed to provide funding as needed for this purpose from the Director's Discretionary Fund.

E. Consider, in consultation with OS, the establishment of a ''prize'' of about $1 million for the first person(s) or organization(s) to provide proof of principle for the development of a minimally invasive test that would be sufficiently sensitive and specific for screening random populations for presymptomatic infection with CJD or vCJD, and a ''prize'' of about $5 million to the first person(s) or institution(s) to obtain FDA approval and to place into commercial distribution a minimally invasive screening test that would be sufficiently sensitive and specific for screening random populations for presymptomatic infection with CJD or vCJD.

4. Oversight—OS

The foundations of OS oversight activities are the statutory obligations of the Secretary, and the lessons that have been learned from experience with the HIV and hepatitis C epidemics.

In 1995, at the request of the Department, the Institute of Medicine (IOM) issued a report titled ''HIV and the Blood Supply: An Analysis of Crisis Decisionmaking.'' The IOM recommended that the Secretary establish a Public Health Service (PHS) Blood Safety Committee (BSC). The Secretary designated the Assistant Secretary for Health to be the chair of this committee and to be the Blood Safety Director for the Department. Other BSC members are the directors of CDC, FDA, and NIH; the Assistant Secretary for Planning and Evaluation; and the Associate General Counsel for Public Health. This committee exists so that threats to the safety or availability of the blood supply can be brought immediately to the highest levels of the Department. The BSC has met on the issue of deferring blood donors at risk of transmitting BSE by virtue of prior residence in the United Kingdom. The BSC also met on issues relating to the development of CJD at an unusually young age in a hunter who had been a long time plasma donor, and on issues related to the discovery of a poorly characterized TSE that recently appeared in two flocks of East Freisian sheep which had been imported to Vermont from Belgium. The group stands ready to be convened for similar matters in the future.

The Department has also established an Interdepartmental Steering Committee for BSE/TSE Affairs. This committee is chaired by the Commissioner of FDA and includes representatives of CDC, FDA, NIH, USDA, the United States Trade Representative, the Office of Management and Budget, the Customs Service, the Department of State, the Department of Defense, the State Association of Feed Control Officials, the National Association of State Departments of Agriculture, and the White House Office of Science and Technology Policy. This committee assures ongoing coordination between agencies; integrated contingency planning in case BSE or of vCJD is found in the United States; identification of and response to potential vulnerabilities in the United States to BSE and vCJD; and coordination of risk communication plans by the various agencies. A summary of each meeting of this group will be forwarded through the Assistant Secretary of Health to the Secretary within thirty days of each meeting, and on a more expedited basis as necessary.

The Department must assure timely, accurate, thorough, and clear communication to the public about the nature and extent of the threats posed by BSE/TSE and about the actions that each agency of government is taking to protect the public from these threats. In addition, each agency must anticipate the worst case scenarios of a case of BSE or of vCJD being recognized in the United States, and each agency must have a plan not only for dealing with this contingency but also for communicating the event itself, and the agency response to the event, to the public. Furthermore, the communications of the various agencies must be consistent with each other. For this reason, the BSE/TSE Steering Committee will establish a communications workgroup to develop an interdepartmental communications strategy and plan for dealing with a potential occurrence of BSE and/or vCJD and serve as a public affairs/communications resource in dealing with BSE/TSE issues.

Also, the FDA TSE Advisory Committee meets publicly on at least a semi-annual basis. One standing agenda item of this committee is review of current regulations and guidance to prevent exposure of the United States population to the agent(s) of BSE/TSE through blood, tissues, and other regulated products. A summary of this meeting, with particular attention to this agenda item and to public comment about it, will be forwarded through the Assistant Secretary for Health to the Secretary within thirty days of each meeting, and on a more expedited basis as necessary.

Issues that warrant OS oversight at this time include the following:

A. Assurance of adequate program support to enhance TSE surveillance by CDC as planned.

B. Assurance of adequate program support for FDA regulatory and research activities related to TSEs.

C. Assurance of adequate program support for the TSE research initiatives proposed by NIH.

D. Assurance and coordination of integrated risk communication messages to the public and to industry regarding the true nature of threats posed by BSE/TSEs, particularly in the event of a confirmed case within the United States.

E. Assurance of a seamless collaboration with USDA and other federal and state agencies on BSE/TSE issues.

[FR Doc. 01–21145 Filed 8–21–01; 8:45 am]
BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Statement of Organization, Functions, and Delegations of Authority

Part E, Chapter E (Agency for Healthcare Research and Quality), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (61 FR 15955–58, April 10, 1996, most recently amended at 65 FR 16395 on March 28, 2000) is further amended to reflect organizational changes necessitated by section 902 of the Public Health Service (PHS) Act as amended by the Healthcare Research

and Quality Act of 1999, Public Law 106–129. The specific organizational amendment is as follows:

Under *Section E–20, Functions,* after the statement for the Office of Health Care Information (EAF), insert the following title and statement:

Office of Priority Populations Research (EAG). Coordinates, supports, manages and conducts health services research on priority populations. Specifically, the Office: (1) Advises the Agency leadership on matters pertaining to the health needs and health care of priority populations, including scientific, ethical, legal and policy issues; (2) prepares the agenda for priority populations research through the Agency's strategic planning process, needs assessment, and user input; (3) serves as an expert resource within the Agency on priority populations to assist program development and participates in the development of policies and programs to implement the Agency's priority populations agenda; (4) fosters new knowledge, tool, and talent development related to priority populations by recommending, leading, coordinating and conducting new initiatives; (5) assists in the translation, dissemination, and application of Agency initiatives and programs to improve health care for priority populations; (6) evaluates the degree to which the Agency is meeting its goals for priority populations research; (7) provides national expertise to Agency staff and Agency partners on priority populations issues, establishing and maintaining liaison with other knowledgeable or concerned agencies, governments and organizations; (8) establishes new contacts and cultivates present ones with external groups (a) to spur increased awareness and emphasis on priority populations within the health services research community, (b) to partner with organizations and agencies to expand research on priority populations, thereby securing additional resources for these activities, and (c) to build the research capacity on priority populations; and (9) enhances the visibility of the Agency in priority populations research.

These changes are effective upon date of signature.

Dated: July 12, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–21144 Filed 8–21–01; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Web-based Semi Annual Report (SAR): NEW

The Health Resources and Services Administration (HRSA), Bureau of Primary Health Care (BPHC) plans to collect the annual reporting requirements for the primary care grantees funded by BPHC using a web-based Semi Annual Report (SAR). The SAR includes reporting requirements for grantees of the following primary care programs: State Primary Care Associations and State Primary Care Offices. Authorizing legislation is found in Public Law 104–299, Health Center Consolidation Act of 1996, enacting Section 330 of the Public Health Service Act.

BPHC collects data on its programs to ensure compliance with legislative mandates and to report to Congress and policymakers on program accomplishments. To meet these objectives, BPHC requires a core set of information collected semi-annually that is appropriate for monitoring and evaluating performance and reporting on annual trends. The SAR, completed by all grantees, provides data on services, characteristics of populations, leveraged funds, and services that fall within the scope of the grant.

The pilot test for the first web-based SAR was conducted in December 2000, and analysis of the data indicates that the SAR is an invaluable tool for collecting data from our grantees.

The estimated burden is a follows:

Form	Number of respondents	Responses per respondent	Hours per response	Total burden hours
SAR	103	1	18	1854

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 15, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–21095 Filed 8–21–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National

Advisory body scheduled to meet during the month of September 2001.

Name: Advisory Committee on Infant Mortality (ACIM).

Date and Time: September 24, 2001; 9 a.m.—5 p.m.; September 25, 2001; 8:30 a.m.—3 p.m.

Place: Georgetown Latham Hotel, 3000 M Street, NW, Washington, DC 20007, (202) 726–5000.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary of Health and Human Services on the following: Department programs which are directed at reducing infant mortality and improving the health status of pregnant women and infants; factors affecting the continuum of care with respect to maternal and child health care, including outcomes following childbirth; factors determining the length of hospital stay following childbirth; strategies to coordinate the variety of Federal, State, and local and private programs and efforts that are designed to deal with the health and social problems impacting on infant mortality; and the implementation of the Healthy Start initiative and infant mortality objectives from *Healthy People 2010*.

Agenda: Topics that will be discussed include the following: Early Postpartum Discharge; Low-Birth Weight; Disparities in Infant Mortality; and the Healthy Start Program.

Anyone requiring information regarding the Committee should contact Peter C. van Dyck, M.D., M.P.H., Executive Secretary, ACIM, Health Resources and Services Administration (HRSA), Room 18–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone: (301) 443–2170.

Individuals who are interested in attending any portion of the meeting or who have questions regarding the meeting should contact Ms. Kerry P. Nesseler, HRSA, Maternal and Child Health Bureau, telephone: (301) 443–2170.

Agenda items are subject to change as priorities are further determined.

Dated: August 16, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–21096 Filed 8–21–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–610–01–1220–AA]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will participate in a field tour of the BLM-administered public lands on Friday, September 7, 2001, from 7:30 a.m to 5:30 p.m., and meet in formal session on Saturday, September 8, from 8 a.m. to 5 p.m. The Saturday meeting will be held at the Miracle Springs Hotel and Spa, located at 10625 Palm Drive, Desert Hot Springs, California.

The Council and interested members of the public will assemble for the field tour at the Miracle Springs Hotel and Spa parking lot at 7:15 a.m. and depart 7:30 a.m. The public is welcome to participate in the tour, but should plan on providing their own transportation, drinks, and lunch.

All Desert District Advisory Council meetings are open to the public. Time for public comment may be made available by the Council Chairman during the presentation of various agenda items, and is scheduled at the beginning of the meeting for topics not on the agenda.

Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, Public Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507–0714. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION CONTACT: Doran Sanchez, BLM California Desert District External Affairs Officer, (909) 697–5220.

Dated: August 7, 2001.

Alan Stein,

Assistant District Manager.

[FR Doc. 01–21117 Filed 8–21–01; 8:45 am]

BILLING CODE 4310–40–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA 18099]

Public Land Order No. 7493; Partial Revocation of Secretarial Order Dated July 8, 1935; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Secretarial Order insofar as it affects 120 acres withdrawn for use by the Bureau of Indian Affairs. The Bureau of Indian Affairs no longer has a need for the land and has requested the revocation so the land can be returned to the Tohono O'odham Nation. The land is within the Tohono O'odham Nation and will remain closed.

EFFECTIVE DATE: August 22, 2001.

FOR FURTHER INFORMATION CONTACT: Cliff Yardley, BLM Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004–2203, 602–417–9437.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Order dated July 8, 1935, which withdrew land for use by the Bureau of Indian Affairs, is hereby revoked insofar as it affects the following described land:

Gila and Salt River Meridian

T. 17 S., R. 4 E.,
Sec. 25, S½SW¼ and SW¼SE¼.

The area described contains 120 acres in Pima County.

2. The land is located within the Tohono O'odham Nation and will remain closed.

Dated: August 6, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 01–21116 Filed 8–21–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–ET; COC–28249]

Public Land Order No. 7494; Revocation of Secretarial Order Dated July 13, 1943; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial Order in its entirety, as to the remaining 640 acres of public land withdrawn for the Echo Park Unit, Colorado River Storage Reclamation Project. This is a record clearing action only, since the land is within the boundary of the Dinosaur National Monument and is under National Park Service management.

EFFECTIVE DATE: August 22, 2001.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7093, 303–239–3706.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Order dated July 13, 1943, which withdrew public land for the Echo Park Unit, Colorado River Storage Reclamation Project, is hereby revoked in its entirety:

Sixth Principal Meridian

T. 6 N., R. 103 W.,
Sec. 24.

The area described contains 640 acres in Moffat County.

2. The land is within the exterior boundary of the Dinosaur National Monument, which was established by the Presidential Proclamation dated July 14, 1938, as amended. The land will continue to be closed to all forms of appropriation under the public land laws, including mining and mineral leasing.

Dated: August 6, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 01–21179 Filed 8–21–01; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–010–1430–ET; MTM 89001]

Public Land Order No. 7492; Withdrawal of Public Land for the Four Dances Natural Area; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 765 acres of public land from location or entry under the United States mining laws for 20 years for the Bureau of Land Management to protect recreational and natural values at the Four Dances Natural Area.

EFFECTIVE DATE: August 22, 2001.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, 406–896–5052, or Tom Carroll, BLM Billings Field Office, 406–896–5242, P.O. Box 36800, Billings, Montana 59107–6800.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described land is hereby withdrawn from location or entry under the United States mining laws (30 U.S.C. Ch. 2 (1994)), to protect recreational and natural values at the Four Dances Natural Area:

Principal Meridian, Montana

PARCEL A: T. 1 N., R. 26 E.,
Sec. 34, S½ of lot 6.

EXCEPTING therefrom the following 2 tracts of land:

1. That part conveyed to the State of Montana for the benefit and use of its State Highway Commission by Bargain and Sale Deed recorded June 16, 1960, in Book 700, Page 407, under Document #643695, records of Yellowstone County, Montana, more particularly described as follows: ''938+00 to 945+63

A tract of land in the S½ of lot 6, sec. 34, T. 1 N., R. 26 E., more particularly described as follows:

All that land in said S½ of lot 6 lying on the Northwesterly side of a line which is parallel to and 110 feet distant Southeasterly when measured at right angles from the following described center line:

Beginning at a point on the center line of Montana Interstate Highway Project I 90–8 (5) 433, which said point is South 2107.0 feet, and West 1434.7 feet, more or less, from the Northeast corner of said sec. 34;

Thence from the said point of beginning N. 71°09′30″ E., 200.0 feet to a point;

Also, all that land in said S½ of lot 6 lying on the Northwesterly side of a line which is parallel to and 170 feet distant Southeasterly when measured at right angles from the following described center line;

Thence continuing from the last described point N. 71°09′30″ E., 563.0 feet, more or less, to a point on the center line of said Montana Interstate Highway Project I 90–8 (5) 433, which said point is South 1860.5 feet, and West 712.6 feet, more or less, from the Northeast corner of said sec. 34.''

2. Certificate of Survey No. 2933.

PARCEL B: T. 1 N., R. 26 E.,
Sec. 34, lots 7 and 8, and SE¼SE¼.

PARCEL C: T. 1 N., R. 26 E.,
Sec. 35, That part of the S½NW¼ lying South of the Main Canal of the Lockwood Irrigation Ditch and West of the Coburn Road as said Ditch and Coburn Road existed on September 19, 1940.

EXCEPTING therefrom the following 3 tracts of land:

1. That part conveyed to the State of Montana for the benefit and use of its State Highway Commission by Bargain and Sale Deed recorded February 25, 1964, in Book 783, Page 368, under Document #725524, records of Yellowstone County, Montana, more particularly described as follows: ''0+00.0 to 1+06.7 connection road to Coburn Lane

A tract of land in that particular tract of land which is described as the fractional S½NW¼ lying South of the Main Canal of the Lockwood Irrigation Ditch and West of the Coburn Road in sec. 35, T. 1 N., R. 26 E. The tract of land to be conveyed being more particularly described as follows:

All that land in said particular tract of land lying Easterly of a line, which is increasing in distance from 40 feet distant Westerly to 70 feet distant Westerly when measured at right angles from the following described center line:

Beginning at Engineer's Station 0+00.0 on the center line of the connection road to Coburn Lane of the Montana State Highway Project I 90–8 (5) 433, which said Station 0+00.0 is South 1527.5 feet and West 0.2 feet, more or less, from the North Quarter corner of said sec. 35;

Thence N. 2°25′15″ E., 84.3 feet, to Engineer's Station 0+84.3 on said center line of the connection road to Coburn Lane, which said Station 0+84.3 is South 1443.3 feet, and East 3.4 feet, more or less, from said North Quarter corner of said sec. 35; Also, all that land in said particular tract of land lying Easterly of a line which is parallel to and 70 feet distant Westerly when measured at right angles from the following described center line:

Beginning at Engineer's Station 0+93.0 on said center line of the connection road to Coburn Lane, which said Station 0+93.0 is South 1518.8 feet, and East 0.2 feet, more or less, from said North Quarter corner of said sec. 35;

Thence N. 4°39′19″ W., 75.6 feet, to Engineer's Station 1+68.6 on said center line of the connection road to Coburn Lane, which said Station 1+68.6 is South 1359.3 feet, and West 3.5 feet, more or less, from said North Quarter corner of said sec. 35.''

2. Certificate of Survey No. 2933.

3. Certificate of Survey No. 2932.

PARCEL D: T. 1 N., R. 26 E.,
Sec. 35, That part of the SW¼ lying West of the County Road known as the Coburn Road as said Coburn Road existed on September 19, 1940.

PARCEL E: That part of E½NW¼ of sec. 1, T. 1 S., R. 26 E., described as Certificate of Survey No. 827 on file in the office of the Clerk and Recorder of said County, under Document #629995.

PARCEL F: T. 1 S., R. 26 E.,
Sec. 1, lot 4, NE¼SW¼NW¼ and S½SW¼NW¼;

EXCEPTING therefrom the following 2 tracts of land:

1. Certificate of Survey No. 2347–M.

2. Amended Tract 1, Certificate of Survey No. 2347–M.

PARCEL G: T. 1 S., R. 26 E.,

Sec. 2, lots 7, 8, 9, 10 and 11, SE¼NE¼, and NE¼SE¼.

EXCEPTING therefrom the following 2 tracts of land:

1. Certificate of Survey No. 2347–M.

2. Amended Tract 1, Certificate of Survey No. 2347–M.

PARCEL H: T. 1 S., R. 26 E.,

Sec. 1, SW¼;

EXCEPTING therefrom the following 3 tracts of land:

1. That part conveyed to the State of Montana for the benefit and use of its State Highway Commission by Bargain and Sale Deed recorded September 22, 1950, in Book 377, Page 461, under Document #468688, records of Yellowstone County, Montana, more particularly described as follows:

''A tract of land in SE¼SE¼SW¼, sec. 1, T. 1 S., R. 26 E., more particularly described as follows:

Beginning at a point in the said SE¼SE¼SW¼, which said Point is North 53.0 feet, and West 379.0 feet, more or less, from the South quarter corner of said sec. 1;

thence from said point of beginning N. 31°12½′ W., 285.9 feet;

thence S 28°47½′ W., 285.9 feet;

thence N. 88°47½′ E., 285.9 feet to the point of beginning.''

2. That part described as Certificate Of Survey No. 823 on file in the office of the Clerk and Recorder of said County, under Document #627700.

3. Certificate of Survey No. 2865.

PARCEL I: That part of the NW¼NW¼ of sec. 1 and the NE¼NE¼ of sec. 2, T. 1 S., R. 26 E., described as Tract 1, of Certificate of Survey No. 2347–M on file in the office of the Clerk and Recorder of said County, under Document #1371733.

EXCEPT Amended Tract 1, Certificate of Survey No. 2347–M.

The area described contains 765 acres in Yellowstone County.

2. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: July 31, 2001.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. 01–21178 Filed 8–21–01; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–054–1220–DC; GP01–0132]

John Day River Management Plan, Two Rivers Resource Management Plan Amendments, John Day Resource Management Plan Amendment, Two Rivers Resource Management Plan Amendment, and Baker Resource Management Plan Amendment

AGENCY: Bureau of Land Management, Central Oregon Field Office, Prineville District, Interior.

ACTION: In compliance with the National Environmental Policy Act (NEPA) of 1969 and 40 CFR 1505.2 notice is hereby given that the Bureau of Land Management (BLM) has prepared a Record of Decision (ROD) for John Day River Management Plan, Two Rivers Resource Management Plan Amendment, John Day Two Rivers Resource Management Plan Amendment, and Baker Resource Management Plan Amendment. This document was signed by the Oregon/Washington State Director on February 28, 2001.

SUMMARY: The ROD finalizes the proposed decisions identified in the John Day River Proposed Management Plan, Two Rivers and John Day Resource Management Plan Amendments and Final Environmental Impact Statement (FEIS). The ROD also Amends the Baker Resource Management Plan. This additional Amendment does not involve any substantive change in the Decision from the proposed decision in the FEIS but does recognize that about 5 miles of the North Fork of the John Day River within the planning area falls within the Baker Resource Area.

The ROD authorizes certain future non-grazing actions that will require further planning, analysis, and subsequent decisions prior to implementation. Implementation of such decisions may be subject to appeal to the Interior Board of Land Appeals under 43 CFR 4.411. Persons interested in being notified of future actions pertaining to the John Day River should notify the Central Oregon Field Office Manager, Prineville BLM, P.O. Box 550, 3050 NE Third Street, Prineville OR 97754.

All grazing related decisions that were specifically described and/or defined in the RMP are considered final land use plan decisions and are not appealable under 43 CFR 4160 or 43 CFR 4.470. This includes decisions such as adjustments in season of use and exclusion of livestock from campgrounds. Under 43 CFR 4100.0–5 individuals, groups, or organizations who have an interest in livestock management on specific allotments must identify themselves in writing to the Central Oregon Resource Area Field Office Manager at the above address. Interested publics will be notified of any future grazing decisions and provided the opportunity to comment or appeal as appropriate.

Interested citizens not already on the mailing list may review the Record of Decision via the internet on the Prineville BLM website at *http://www.or.blm.gov/Prineville/*. A hardcopy or a CDROM of the EIS may be requested from the Prineville District by calling (541) 416–6700.

DATES: The decision may be implemented on the date of publication.

FOR FURTHER INFORMATION CONTACT: Dan Tippy, Prineville BLM at (541) 416–6700.

SUPPLEMENTARY INFORMATION: Twenty two protests were submitted during the 30 day protest period for the John Day River Proposed Management Plan, Two Rivers and John Day Resource Management Plan Amendments and Final Environmental Impact Statement. All of the protests were responded to and resolved by the Director of the Bureau of Land Management. Resolution of the protests resulted in two adjustments that are described in the Record of Decision.

The purpose of the Plan and Amendments is to manage BLM lands and to cooperate with other land managers to protect and enhance river values associated with the John Day Wild and Scenic River (located between river mile 10 and river mile 157 of the John Day River) and the South Fork of the John Day Wild and Scenic River (South Fork of the John Day River from about river mile 6 to about river mile 59). The river values associated with the John Day Wild and Scenic River include scenic, recreational, fish, wildlife, geologic, paleontological, and archeological values have been determined to be outstandingly remarkable on the John Day Wild and Scenic River while Botanical and Ecological values were considered significant. On the South Fork of the John Day River scenery, recreation, fish, wildlife, and botanical values are considered outstandingly remarkable while geological, prehistoric uses, and traditional uses are considered significant values.

The decision will protect and enhance river values by modifying existing management of scenery, grazing,

agriculture, forestlands, rangeland restoration, recreation, mining and minerals within the planning area. For other resources and concerns existing management guidance was considered sufficient to protect and enhance river values. The Decision identifies certain lands within the planning area as suitable for disposal or suitable for acquisition.

Dated: July 18, 2001.

A. Barron Bail,

Prineville District Manager.

[FR Doc. 01–21138 Filed 8–21–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of a revision of a currently approved information collection (OMB control number 1010–0061).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995, we are submitting to OMB for review and approval an information collection request (ICR), titled ''Oil Transportation Allowances.'' We are also soliciting comments from the public on this ICR.

DATES: Submit written comments on or before September 21, 2001.

ADDRESSES: Submit written comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0061), 725 17th Street, NW., Washington, DC 20503. Also, submit copies of your written comments to Carol Shelby, Regulatory Specialist, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, Colorado 80225. If you use an overnight courier service, the MMS courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also submit your comments at our email address mrm.comments@mms.gov. Include the title of the information collection and the OMB control number in the ''Attention'' line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Ms. Shelby at (303) 231–3151 or FAX (303) 231–3385.

FOR FURTHER INFORMATION CONTACT: Carol Shelby, Regulatory Specialist, telephone (303) 231–3151, FAX (303) 231–3385, email *Carol.Shelby@mms.gov*.

SUPPLEMENTARY INFORMATION:

Title: Oil Transportation Allowances.

OMB Control Number: 1010–0061.

Bureau Form Number: Form MMS–4110.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian Lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian lands and the OCS; for collecting royalties from lessees who produce minerals; and for distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions for the Secretary.

When a company or an individual enters into a lease to explore, develop, produce, and dispose of oil from Indian lands, that company or individual agrees to pay the Indian tribe or allottee a share (royalty) of the value received from production from the leased lands. Royalty rates are specified in the lease document. To determine whether the amount of royalty tendered represents the proper royalty due, it is first necessary to establish the proper value of the oil that is being sold or otherwise disposed of in some other manner, as well as the proper costs associated with allowable deductions.

The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data which are reported to private and public mineral interest owners and are generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to assure that the royalties that are computed and paid are appropriate.

MMS normally accepts the gross proceeds accruing to the lessee under its arm's-length oil sales contract, less allowable transportation deductions, as representing proper value for royalty. We will also accept, for royalty valuation purposes, the prices in other than arm's-length oil sales contracts, less applicable transportation deductions, if the criteria in the benchmarks at 30 CFR 206.52(c) are met, and provided that the value is not less than gross proceeds accruing to the lessee under 30 CFR 206.52(h). In some circumstances, lessees are authorized to deduct from royalty payments the reasonable actual cost of transporting the royalty portion of the oil from the lease to a delivery point remote from the lease. Transportation allowances are a part of the product valuation process that MMS uses to determine if the lessee is reporting and paying the proper royalty amount.

Submission of the information in this collection (Form MMS–4110) is necessary when claiming a transportation allowance on an Indian lease. MMS is requesting OMB approval for a 3-year extension of this current ICR as well as approval for minor revisions necessary to make Form MMS–4110 compatible with our reengineered financial and compliance systems. Proprietary information that is submitted is protected, and there are no questions of a sensitive nature included in this information collection.

Frequency: Annually.

Estimated Number and Description of Respondents: 3 Indian lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 5 hours. See the following chart for the components of the burden estimate. In estimating the burden, we assumed that respondents perform certain functions, such as records maintenance, in the normal course of their business activities. These functions are considered usual and customary and therefore are not listed in the following estimate even though records maintenance is an MMS regulatory requirement.

Section	Reporting or recordkeeping requirement	Burden hours per line	Annual number of lines	Annual burden hours
§ 206.55(c)(1)(i)	*Reporting requirements—Arm's length contracts.* With the exception of those transportation per line hour allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4110 (and Schedule 1), Oil Transportation Allowance Report, prior to, or at the same time as, the transportation allowance determined, under an arm's-length contract, is reported on Form MMS–2014, Report of Sales and Royalty Remittance.	9 minutes	5	¾
§ 206.55(c)(1)(iii)	After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4110 (and Schedule 1) within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).	5 minutes	3	¼
§ 206.55(c)(2)(i)	Reporting requirements—non-arm's-length or no contract. With the exception of those per line transportation allowances specified in paragraphs (c)(2)(v), (c)(2)(vii) and (c)(2)(viii) of this section, the lessee shall submit an initial Form MMS–4110 prior to, or at the same time as, the transportation allowance determined under a non-arm's-length contract or no-contract situation is reported on Form MMS-2014 * * * The initial report may be based upon estimated costs.	20 minutes	6	2
§ 206.55(c)(2)(iii)	For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4110 containing the actual costs for the previous reporting period. If oil transportation is continuing, the lessee shall include on Form MMS–4110 its estimated costs for the next calendar year * * *.	20 minutes	3	
	MMS must receive the Form MMS–4110 within 3 months after the end of the previous reporting period, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).	20 minutes	3	1
	Total		20	5

Estimated Annual Reporting and Recordkeeping ''Non-hour Cost'' Burden: We have identified no ''non-hour cost'' burden.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on November 13, 2000, we published a **Federal Register** notice (65 FR 67755) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received one comment. We responded to the comment in our ICR submission for OMB approval. We have posted a copy of the ICR at our Internet web site *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm*. We will also provide a copy of the ICR to you without charge upon request.

If you wish to comment in response to this notice, please send your comments directly to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive your comments by September 21, 2001. The PRA provides that 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.

Public Comment Policy: We will post all comments received in response to this notice on our Internet web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm* for public review. We also make copies of these comments, including names and home addresses of respondents, available for public review during regular business hours at our offices in Lakewood, Colorado.

Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, telephone (202) 208–7744.

Dated: August 7, 2001.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 01–21098 Filed 8–21–01; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of a revision of a currently approved information collection (OMB Control Number 1010–0075).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995, we are submitting to OMB for review and approval an information collection request (ICR), titled ''Gas Processing and Transportation Allowances.'' We are also soliciting comments from the public on this ICR.

DATES: Submit written comments on or before September 20, 2001.

ADDRESSES: Submit written comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0075), 725 17th Street, NW, Washington, D.C. 20503. Also, submit copies of your written comments to Carol Shelby, Regulatory Specialist, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, Colorado 80225. If you use an overnight courier service, MMS's courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also submit your comments at our email address mrm.comments@mms.gov. Include the title of the information collection and the OMB control number in the ''Attention'' line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Ms. Shelby at (303) 231–3151 or FAX (303) 231–3385.

FOR FURTHER INFORMATION CONTACT: Carol Shelby, Regulatory Specialist, telephone (303) 231–3151, FAX (303) 231–3385, email Carol.Shelby@mms.gov.

SUPPLEMENTARY INFORMATION:

Title: Gas Processing and Transportation Allowances.

OMB Control Number: 1010–0075.

Bureau Form Number: Forms MMS–4109 and MMS–4295.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian Lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian lands and the OCS; for collecting royalties from lessees who produce minerals; and for distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions for the Secretary.

When a company or an individual enters into a lease to explore, develop, produce, and dispose of gas from Indian lands, that company or individual agrees to pay the Indian tribe or allottee a share (royalty) of the value received from production from the leased lands. Royalty rates are specified in the lease instrument. To determine whether the amount of royalty tendered represents the proper royalty due, it is first necessary to establish the proper value of the gas that is being sold or otherwise disposed of in some other manner, as well as the proper costs associated with allowable deductions.

The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data which are reported to private and public mineral interest owners and are generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to assure that the royalties that are computed and paid are appropriate.

The product valuation and allowance determination process is essential to assure that Indians receive payment on the proper value of the minerals removed from tribal and allottee land. To determine whether the amount of royalty tendered represents the proper royalty due, it is necessary to establish the proper value of the gas and gas plant products sold, or otherwise disposed of. Of equal importance is the proper determination of costs associated with the allowable deductions from the value of gas and gas plant products.

Under certain circumstances, lessees are authorized to deduct from royalty payments the reasonable actual costs of transporting the royalty portion of produced minerals from the lease to a processing or sales point not in the immediate lease area. Transportation allowances are a part of the product valuation process that MMS uses to determine if the lessee is reporting and paying the proper royalty amount. In addition, when gas is processed for the recovery of gas plant products, lessees may claim a processing allowance. MMS normally will accept the cost as stated in the lessee's arm's-length processing contract as being representative of the cost of the processing allowance. In those instances where gas is being processed through a lessee-owned plant, the processing costs are based upon the actual plant operating and maintenance expenses, depreciation, and a reasonable return on investment. The allowance is expressed as a cost per unit of individual gas plant products. Processing allowances may be taken as a deduction from royalty payments. These regulatory provisions may be found at 30 CFR part 206, subpart E.

Submission of Forms MMS–4109 and MMS–4295 is necessary when claiming a gas processing or transportation allowance on an Indian lease. MMS is requesting OMB approval for minor revisions necessary to make Forms MMS–4109 and MMS–4295 compatible with our reengineered financial and compliance systems. Proprietary information that is submitted is protected, and there are no questions of a sensitive nature included in this information collection.

Frequency: Annually.

Estimated Number and Description of Respondents: 65 Indian lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 750 hours. In estimating the burden, we assumed that respondents perform certain functions, such as records maintenance, in the normal course of their business activities. These functions are considered usual and customary and therefore are not listed in the following estimate even though records maintenance is an MMS regulatory requirement. The following chart lists the components of the burden estimate.

Citation	Reporting requirement	Burden hour per line	Annual number of lines	Annual burden hours
§ 206.178 (b)(1)(ii)	You must submit the actual cost information to support the allowance to MMS on Form MMS–4295, Gas Transportation Allowance Report, within 3 months after the end of the 12-month period to which the allowance applies..	¼	2,400	600
§ 206.180 (b)(1)(ii)	You must submit the actual cost information to support the allowance to MMS on Form MMS–4109, Gas Processing Allowance Summary Report, within 3 months after the end of the 12-month period for which the allowance applies..	¼	600	150
	Total		3,000	750

Estimated Annual Reporting and Recordkeeping ''Non-hour Cost'' Burden: We have identified no ''non-hour cost'' burden.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with public consultation requirements, on April 6, 2001, we published a **Federal Register** notice (66 FR 18295) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received one comment. We responded to the comment in our ICR submission for OMB approval. We have posted a copy of the ICR at our Internet web site *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm.* We will also provide a copy of the ICR to you without charge upon request.

If you wish to comment in response to this notice, please send your comments directly to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive your comments by September 20, 2001. The PRA provides that 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.

Public Comment Policy: We will post all comments received in response to this notice on our Internet web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm* for public review. We also make copies of these comments, including names and home addresses of respondents, available for public review during regular business hours at our offices in Lakewood, Colorado.

Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, telephone (202) 208–7744.

Dated: August 7, 2001.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 01–21099 Filed 8–21–01; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Colusa Basin Drainage District's Integrated Resources Management Program for Flood Control in the Colusa Basin in Glenn, Colusa, and Yolo Counties, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Availability of the Final Programmatic Environmental Impact Statement/Final Programmatic Environmental Impact Report (Final PEIS/PEIR); correction.

SUMMARY: This notice corrects the Notice of Availability (NOA) for the Final PEIS/PEIR for the Integrated Resources Management Program for Flood Control in the Colusa Basin (Program). The NOA was published in the **Federal Register** on July 19, 2001 (66 FR 37702). A paragraph that should have been included in the NOA was mistakenly omitted.

FOR FURTHER INFORMATION CONTACT: Ms. Gaye Lopez, Colusa Basin Drainage District, at (530) 795–3038, or Mr. Russ Smith, Reclamation, at (530) 275–1554.

Correction:

Following is the omitted paragraph that should have been inserted as the third full paragraph of Supplementary Information in the NOA: ''The District proposes to implement its program by engaging in a stakeholder-based process to develop both structural and nonstructural projects that reduce flooding and restore the environment in three watersheds: the North and South Forks of Willow Creek and Wilson Creek. All of these watersheds are located in Glenn County and were selected because of the ability of projects located on these ephemeral streams to address the recurrent flooding problem that faces the city of Willows and, at the same time, to lessen flooding in other portions of the Colusa Basin. Projects will only be implemented after a project-level feasibility study and environmental documentation have been completed.''

Dated: August 14, 2001.

Frank Michny,

Regional Environmental Officer.

[FR Doc. 01–21094 Filed 8–21–01; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–402 and 731–TA–892–893 (Final)]

Honey From Argentina and China

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: August 13, 2001.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202–205–3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: On June 13, 2001, the Commission established a schedule for the conduct of the final phase of the subject investigations (66 FR 31948, June 13, 2001). Subsequently, the Commission has found it necessary to change the date of the public hearing. The Commission, therefore, is revising its schedule in these investigations.

The Commission's new schedule for the investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than September 21, 2001; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 24, 2001; the prehearing staff report will be placed in the nonpublic record on September 20, 2001; the deadline for filing prehearing briefs is September 27, 2001; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on October 3, 2001; the deadline for filing posthearing briefs is October 11, 2001; the Commission will make its final release of information on October 31, 2001; and final party comments are due on November 2, 2001.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: August 14, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–21107 Filed 8–21–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–73]

Steel

AGENCY: United States International Trade Commission.

ACTION: Consolidation of Senate Finance Committee Resolution requesting a section 201 investigation with the investigation requested by the United States Trade Representative on June 22, 2001.

SUMMARY: On July 26, 2001, the Commission received a resolution adopted by the Committee on Finance of the United States Senate requesting that the Commission investigate certain steel imports under Section 201 of the Trade Act of 1974 (19 U.S.C. 2251). The resolution provides that the Committee shall promptly investigate whether certain steel products are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to each of the domestic industries identified in the resolution as manufacturing products that are like or directly competitive with the imported products. In its resolution, the Senate Finance Committee refers to the Commission's ongoing investigation No. TA–201–73, which was instituted June 22, 2001, following receipt of a request from the Office of the U.S. Trade Representative.

The Committee does not request a second investigation, a change in the scope of the present investigation, or any change in Commission procedures with respect to the current investigation. Instead, the Committee in Section 4 of the resolution states that, ''in order to avoid hindering the important progress already made in the International Trade Commission's ongoing global safeguard investigation of certain steel products, the Commission is instructed to exercise its authority under section 603 of the Trade Act of 1974 to consolidate the investigation requested in this resolution with the investigation requested by the United States Trade Representative on June 22, 2001, in a manner that does not alter or delay the investigation schedule established pursuant to the earlier request.''

Consistent with the Senate Finance Committee's resolution, we are consolidating the investigation requested by the Committee with the Commission's previously-instituted investigation No. TA–201–73.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 206, subparts A and B (19 CFR part 206).

EFFECTIVE DATE: July 26, 2001.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at http://dockets.usitc.gov/eol/public.

Issued: August 16, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–21122 Filed 8–21–01; 8:45 am]

BILLING CODE 7020–02–U

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1315F]

Fiscal Year 2001 Missing and Exploited Children's Program Plan

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Announcement of Fiscal Year 2001 Missing and Exploited Children's Program Plan.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is issuing its Missing and Exploited Children's Program Final Program Plan for Fiscal Year 2001.

FOR FURTHER INFORMATION CONTACT: Ronald C. Laney, Director, Missing and Exploited Children's Program, 202–616–3637. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 15, 2001, at 66 FR 26881, OJJDP published the Fiscal Year 2001 Missing and Exploited Children's Program Proposed Program Plan and requested public comments on the plan. The closing date for comments was July 16, 2001. No comments were received.

OJJDP has determined that the Proposed Program Plan does not need to be modified in any way. Accordingly, the Proposed Plan as published in the May 15, 2001, **Federal Register** is now the Final Missing and Exploited Children's Program Plan for Fiscal Year 2001.

Dated: August 16, 2001.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 01–21124 Filed 8–21–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Delinquent Filer Voluntary Program

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (Pub. L. 104–13, 44 U.S.C. Chapter 35). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information included in the Delinquent Filer Voluntary Compliance Program. A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed in the Addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the Addresses section below on or before October 22, 2001.

ADDRESSES: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, Room N–5647, Washington, DC 20210. Telephone: 202–219–4782. Fax: 202–219–4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of Labor has the authority, under section 502(c)(2) of the Employee Retirement Income Security Act of 1974 (ERISA), to assess civil penalties of up to $1,000 a day [1] against plan administrators who fail or refuse to file complete and timely annual reports (Form 5500 Series Annual Return/Reports) as required under section 101(b)(4) of ERISA related regulations. Pursuant to 29 CFR 2560.502c–2 and 2570.60 *et seq.,* PWBA has maintained a program for the assessment of civil penalties for noncompliance with the annual reporting requirements. Under this program, plan administrators filing annual reports after the date on which the report was required to be filed may be assessed $50 per day for each day an annual report is filed after the date on which the annual report(s) was required to be filed, without regard to any extensions for filing.

Plan administrators who fail to file an annual report may be assessed a penalty of $300 per day, up to $30,000 per year, until a complete annual report is filed. Penalties are applicable to each annual report required to be filed under Title I of ERISA. The Department may, in its discretion, waive all or part of a civil penalty assessed under section 502(c)(2) upon a showing by the administrator that there was reasonable cause for the failure to file a complete and timely annual report.

The Department has determined that the possible assessment of these civil penalties may deter certain delinquent filers from voluntarily complying with the annual reporting requirements under Title I of ERISA. In an effort to encourage annual reporting compliance, therefore, the Department implemented the Delinquent Filer Voluntary Compliance (DFVC) Program (the Program) on April 27, 1995 (60 FR 20873). Under the Program, administrators otherwise subject to the assessment of higher civil penalties are permitted to pay reduced civil penalties for voluntarily complying with the annual reporting requirements under Title I of ERISA.

This ICR covers the requirement of providing data necessary to identify the plan along with the penalty payment. This data is the means by which each penalty payment is associated with the appropriate plan. With respect to most pension plans and welfare plans, the requirement is satisfied by sending a photocopy of the delinquent Form 5500 annual report [2] that has been filed, along with the penalty payment.

Under current regulations, apprenticeship and training plans may be exempted from the reporting and disclosure requirements of Part 1 of Title I, and certain pension plans maintained for highly compensated employees, commonly called ''top hat'' plans may comply with these reporting and disclosure requirements by using an alternate method by filing a one-time identifying statement with the Department. The DFVC Program provides that apprenticeship and training plans and top hat plans may, in lieu of filing any past due annual reports and paying otherwise applicable civil penalties, complete and file specific portions of a Form 5500, file the identifying statements that were required to be filed, and pay a one-time penalty.

II. Desired Focus of Comments

The Department of Labor is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

[1] Adjusted to $1,100 per day pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 and the Debt Collection Improvement Act of 1996. *See* 62 FR 40696, July 29, 1997.

[2] DFVC information collection provisions originally required submission of the first page of the Form 5500 annual report. because of the recent revisions to the Form 5500, the information needed to process the DFVC filing is no longer confined to the first page of the Form 5500. DFVC filers using a 1999 or later Form 5500 must submit a copy of all pages of the Form 5500 (generally 4), dated with original signature but without any schedules or attachments.

including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

This notice requests comments on the extension of the ICR included in the Delinquent Filer Voluntary Compliance Program. The Pension and Welfare Benefits Administration is not proposing or implementing changes to the existing ICR in connection with this extension.

Type of Review: Extension of a currently approved collection.

Agency: U.S. Department of Labor, Pension and Welfare Benefits Administration.

Title: Delinquent Filer Voluntary Compliance Program.

OMB Number: 1210–0089.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Frequency: On occasion.

Average Burden Hours/Minutes Per Response: 21 minutes.

Number of Respondents: 3,100.

Total Annual Responses: 3,100.

Total Annual Burden Hours: 109.

Total Burden Cost (Operating and Maintenance): $74.000.

Dated: August 16, 2001.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration.

[FR Doc. 01–21156 Filed 8–21–01; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meetings/ Conference Calls

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming meetings/ conference calls for working groups of NCD's advisory committees—International Watch. Notice of this meeting is required under section 10 (a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

International Watch: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Work Group: International Convention on the Human Rights of People with Disabilities.

Dates and Times: October 4, 2001, 12:00 p.m.–1:00 p.m. EDT; November 1, 2001, 12:00 p.m.–1:00 p.m. EST; December 6, 2001, 12:00 p.m.–1:00 p.m. EST.

Work Group: Inclusion of People with Disabilities in Foreign Assistance Programs.

Dates and Times: October 18, 2001, 12:00 p.m.–1:00 p.m. EDT; November 15, 2001, 12:00 p.m.–1:00 p.m. EST; December 20, 2001, 12:00 p.m.–1:00 p.m. EST.

For International Watch Information, Contact: Kathleen A. Bank, Attorney Advisor, NCD, 1331 F Street NW, Suite 850, Washington, DC 20004; 202–272–2004 (Voice), 202–272–2074 (TTY) 202–272 –2022 (Fax), kblank@ncd.gov (e-mail).

Agency Mission: NCD is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Open Meetings/Conference Calls: These advisory committee meetings/ conference calls of NCD will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference calls at the NCD office. Those interested in joining these conference calls should contact the appropriate staff member listed above.

Records will be kept of all International Watch meetings/ conference calls and will be available after the meeting for public inspection at NCD.

Signed in Washington, DC, on August 17, 2001.

Mark S. Quigley,

Action Executive Director and Director of Communications.

[FR Doc. 01–21133 Filed 8–21–01; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of the National Museum Services Board and the National Commission on Libraries and Information Science

AGENCY: Institute of Museum and Library Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board and the National Commission on Libraries and Information Science. This notice also describes the function of the boards. Notice of this meeting is required under the Government through the Sunshine Act (Public Law 94–409) and regulations of the Institute of Museum and Library Services, 45 CFR 1180.84.

TIME/DATE: 1:30 pm–4:30 pm on Thursday, September 13, 2001.

STATUS: Open.

ADDRESSES: The Conference Room at Old Sturbridge Village, One Old Sturbridge Village Road, Sturbridge, MA 01566, (508) 347–3362.

FOR FURTHER INFORMATION CONTACT: Elizabeth Lyons, Special Assistant to the Director, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Room 510, Washington, DC 20506, (202) 606–4649.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94–462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under the Museum Services Act.

The United States National Commission on Libraries and Information Science (NCLIS) is established under Public Law 91–345 as amended, The National Commission on Libraries and Information Science Act. In accordance with section 5(b) of the Act, the commission has the responsibility for advising the Director of the Institute of Museum and Library Services on general policies relating to library services.

The meeting on Thursday, September 13, 2001 will be open to the public. If you need special accommodations due to a disability, please contact: Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506—(202) 606–8536—TDD (202) 606–8638 at least seven (7) days prior to the meeting date.

Agenda

5th Annual Meeting of The National Museum Services Board and The National Commission on Libraries and Information Science in The Conference Room of Old Sturbridge Village, One Old Sturbridge Village Road, Sturbridge, MA 01566 on Thursday, September 13, 2001

1:30 pm–4:30 pm

I. The Chairs' Welcome and Minutes of the 4th Annual Meeting.
II. Director's Welcome and Opening Remarks.
III. Museum/Library Collaboration: A Case Study.
IV. National Leadership Grants.
  a. Analysis: National Leadership Grants 2001.
  b. Panel and Field Review Process.
  c. Discussion: Emerging Issues and Opportunities.
V. 21st Century Learner: Conference Preview.
VI. National Award for Museum Service/National Award for Library Service.
VII. Budget Update: New Opportunities.

Dated: August 16, 2001.

Linda Bell,

Director of Policy, Planning and Budget, National Foundation on the Arts and Humanities, Institute of Museum and Library Services.

[FR Doc. 01–21313 Filed 8–20–01; 2:11 pm]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from July 30, 2001 through August 10, 2001. The last biweekly notice was published on August 8, 2001 (66 FR 41609).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By September 21, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the

petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Branch, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Assess 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, 304–415–4737 or by email to pdr@nrc.gov.

AmerGen Energy Company, LLC

[Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois]

[Docket No. 50–219, Oyster Creek Generating Station, Ocean County, New Jersey]

[Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania]

Date of amendment request: July 9, 2001.

Description of amendment request: The proposed amendments would incorporate TS changes that are being made to provide consistency with the changes to 10 CFR 50.59, ''Changes, tests, and experiments,'' as published in the **Federal Register** (FR) Volume 64, beginning on page 53582 (i.e., 64 FR 53582), dated October 4, 1999. Specifically, the changes replace the terms ''safety evaluation'' with ''10 CFR 50.59 evaluation'' and ''unreviewed safety question'' with ''requires NRC approval pursuant to 10 CFR 50.59.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?*

The proposed changes reflect revision to 10 CFR 50.59, ''Changes, tests, and experiments,'' issued as a Final Rule on October 4, 1999, and do not impact the operation of any system or component assumed in any accident analysis. The proposed changes do not change the requirement to perform a 10 CFR 50.59 review when required by the Technical Specifications Administrative Controls or by a license condition. Due to the administrative nature of these proposed changes there will be no direct impact on the consequences of any accident previously evaluated. Therefore, these proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. *Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed changes are administrative in nature and do not involve a change to the plant design or operation. No new or different types of equipment will be installed as a result of these changes. The proposed changes make the language in the Technical Specifications Administrative Controls and a license condition conform to the revised 10 CFR 50.59 rule, dated October 4, 1999. No new accident modes or equipment failure modes are created by these proposed changes. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *Does the change involve a significant reduction in a margin of safety?*

The proposed changes do not have a direct effect on any safety analysis assumptions. The proposed changes are administrative in nature and make the Technical Specifications Administrative Controls and a license condition language conform to the revised 10 CFR 50.59 rule, dated October 4, 1999. Changes to the facility that result in meeting the criteria of 10 CFR 50.59 will still require NRC approval pursuant to 10 CFR 50.59. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Jr., Vice President, General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: Anthony J. Mendiola.

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: December 19, 2000.

Description of amendment request: The proposed amendment would revise the Oyster Creek Technical Specification (TS) Section 3.17 Bases to remove reference to the current licensing basis control room calculated dose consequences and substitute the associated regulatory dose limits that apply for control room habitability in accordance with General Design Criterion 19 and Section 6.4 of the Standard Review Plan. The existing licensing basis control room calculated dose values specified in TS Section 3.17 Bases have been reevaluated as a result of Oyster Creek Licensee Event Report No. 00–006 dated June 26, 2000. This reevaluation has confirmed that the control room habitability dose limits continue to be met. However, this reevaluation is based on use of the U.S. Nuclear Regulatory Commission (NRC)-approved ARCON96 Code methodology for calculation of atmospheric dispersion coefficients (X/Q) for the control room intakes and updated site meteorological data. Incorporation of this new methodology and updated meteorological data into the Oyster Creek licensing basis requires prior NRC review and approval.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. *The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.*

Substitution of the applicable regulatory limits for operator dose in lieu of the specific analyzed values in Technical Specification Section 3.17 Bases is [requested] to be consistent with the existing Technical Specification 4.17 Bases. The proposed change to utilize ARCON96 methodology and updated meteorological data results in control room operator doses that are less than the previously analyzed values, and, therefore, remain within the allowable limits. The probability of accidents is not affected by the computer codes used to assess the consequences of environmental releases. The use of updated, more extensive meteorological data provides a more accurate atmospheric dispersion coefficient (X/Q) value for the Turbine Building release to the control room ventilation system air intake.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. *The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.*

The change to incorporate ARCON96 methodology and updated meteorological data for assessing the control room operator doses from the releases of radioactive material following an accident has no [e]ffect on creating a new or different kind of accident. The proposed change does not affect the operation or functionality of any structures, systems or components.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *The proposed change does not involve a significant reduction in a margin of safety.*

The proposed change involves [a] revision to Technical Specification Section 3.17 Bases to substitute applicable regulatory limits in lieu of the specific analyzed dose values. The proposed change to incorporate ARCON96 methodology and updated meteorological data results in a more accurate determination of conservative control room air intake X/Q values and the resulting control room operator dose. ARCON96 is an NRC approved methodology which provides an acceptable level of conservatism. The updated meteorological data [are] obtained in accordance with NRC Regulatory Guide 1.23 requirements.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kevin P. Gallen, Morgan, Lewis & Bockius, LLP, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Richard P. Correia, Acting.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 29, 2001.

Description of amendment request: The proposed amendment would revise the Haddam Neck Plant Defueled Physical Security Plan referenced in License Condition 2.C(5). The proposed amendment reflects the intent of Connecticut Yankee Atomic Power Company (CYAPCO) to transfer all spent nuclear fuel and Greater than Class C waste from wet storage in the spent fuel pool to dry casks located at an on-site Independent Spent Fuel Storage Installation (ISFSI). CYAPCO proposed to make this ISFSI Security Plan an attachment to the existing Defueled Physical Security Plan. Adding the ISFSI Security Plan as an attachment to the Defueled Physical Security Plan would enable CYAPCO to implement the ISFSI Security Plan portion prior to commencement of fuel transfer operations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Connecticut Yankee Atomic Power Company (CYAPCO) has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendment to the Security Plan provides the basis for establishing security functions necessary to implement appropriate security/safeguards measures for the CYAPCO Independent Spent Fuel Storage Installation (ISFSI). As such, the changes will not:

1. *Involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed amendment to the Security Plan, which incorporates ISFSI security functions, does not reduce the ability of the Security organization to prevent radiological sabotage and, therefore, does not increase the probability or consequences of a radiological release previously evaluated. The proposed Security Plan changes will not affect any important to safety systems or components, their mode of operation or operating strategies. The proposed Security Plan changes have no affect on accident initiators or mitigation. Therefore, the proposed amendment to the Security Plan will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. *Create the possibility of a new or different kind of accident from any accident previously evaluated.*

The proposed amendment of the Security Plan incorporating ISFSI security functions does not affect the operation of systems important to safety. The Security Plan amendment does not affect any of the parameters or conditions that could contribute to the initiation of any accident. No new accident scenarios are created as a result of Security Plan changes requested to incorporate the ISFSI security functions. In addition, the design functions of equipment important to safety are not altered as a result of the proposed Security Plan changes. Therefore, the proposed Security Plan changes will not create the possibility of a new or different accident from any previously evaluated.

3. *Involve a significant reduction in the margin of safety.* Implementation of the proposed amendment to the Security Plan incorporating ISFSI security functions will not reduce a margin of safety as detailed in the Technical Specifications as there are no Technical Specification requirements associated with the physical security system. Specifically, the proposed changes to the Security Plan do not represent a change in initial conditions, system response time, or in any other parameter affecting the course of an accident analysis supporting the Basis of any Technical Specification. The proposed amendment to the Security Plan does not reduce the effectiveness of any security/safeguards measures currently in place at CYAPCO. Therefore, the proposed Security Plan changes will not involve a significant reduction in the margin of safety.

Based on the considerations noted above, it is concluded that the proposed changes will not endanger the public health and safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Robert K. Gad, III, Ropes & Gray, One International Plaza, Boston, Massachusetts 02110–2624.

NRC Section Chief: Stephen Dembek.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 30, 2001.

Description of amendment request: The proposed amendment would correct terminology, clarify the specification for consistency with established programs and Standard Technical Specifications, (TSs) and reflect current plant conditions. The proposed changes also reflect the current organization titles. The licensee also proposed changes to the TS Bases for spent fuel pool water level and cooling.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Connecticut Yankee Atomic Power Company (CYAPCO) has provided its analysis of the issue of no significant hazards consideration, which is presented below:

CYAPCO has reviewed the proposed changes to the Operating License and the Technical Specifications in accordance with 10 CFR 50.92 and concluded that the changes do not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised. An evaluation against these standards is provided below as first a summary against the overall change, and also against each of the specific proposed changes.

The proposed changes do not involve an SHC because the changes would not:

1. *Involve a significant increase in the probability or consequences of an accident previously evaluated.*

In the present plant configuration, the reactor-related accidents previously evaluated (i.e., LOCA, MSLB, etc.) are no longer possible. The accidents previously evaluated that are still applicable to the plant are fuel handling accidents and gaseous and liquid radioactive releases. The following events are presently considered as bounding of all other events:

- Fuel handling and cask drop accidents in the spent fuel building,
- Criticality in the spent fuel pool,
- Loss of spent fuel cooling,
- Resin fire (gaseous release), and
- Rupture of a tank containing radioactive liquid.

There is no significant increase in the probability of a fuel handling accident since refueling operations have ceased, with a corresponding decrease in the frequency of fuel movement. The radiological consequences of a fuel handling accident, should one occur, decrease the longer the spent fuel is allowed to decay. The spent fuel inventory of radioactive iodine and noble gases have decayed more than 20 half-lives since shutdown and are no longer a release concern. The allowed weight over the spent fuel pool is still less than that previously approved. Therefore, there has been no increase in the probability or consequences of a fuel handling or cask drop accident.

Criticality controls are imposed by specifications 3/4.9.13 and 3/4.9.14. There have been no technical changes to these specifications. Therefore, there has been no increase in the probability or consequences of a criticality event.

Spent fuel cooling is maintained by keeping the pool temperature below 150°F. Should normal cooling be lost, the availability of an abundant supply of water ensures that sufficient time is available to restore cooling. This is controlled by specifications 3/4.9.11 and 3/4.9.16. There have been no technical changes to these specifications. Therefore, there has been no increase in the probability or consequences of a loss of cooling event.

The probability of a gaseous or liquid radioactive release is not changed by the proposed revisions. As the plant undergoes decommissioning, the previous limiting events are no longer applicable, and previous non-limiting events now become limiting. These new events have not changed from how they might have occurred in the past. The radiological consequences of a gaseous or liquid radioactive release are bounded by the fuel handling accident during defueled operation and a spent resin fire during processing of resin from the reactor coolant system decontamination. The rupture of a tank containing radioactive liquid was assessed and found to be bounded by these events. With the plant defueled and permanently shutdown, the demands on the radwaste systems are lessened since no new radioisotopes are being generated by irradiation or fission. Therefore, there is no increase in the probability or consequences of a gaseous or liquid radioactive release.

The changes to conform to Section 6.0 to draft NUREG–1625 are of an administrative nature, and have been reviewed and found to be safe.

2. *Create the possibility of a new or different kind of accident from any accident previously evaluated.*

The proposed changes are generally of an administrative nature and do not have an effect on the physical plant. The events considered bound other potential events and are considered the limiting cases for potential gaseous or liquid releases to the environment.

With the plant undergoing decommissioning, the types of accidents one might be concerned with involve criticality of the spent fuel, or draining of the spent fuel pool. None of the proposed changes affect the possibility of such an event. Also, none of the proposed changes could lead to a radiological release of a greater magnitude than for the events considered, such as might occur with the accumulation of a greater quantity of radioactive material in one location, or with damage to a greater number of fuel assemblies than considered in the fuel handling accident.

The proposed changes do not affect systems, structures and components and have no adverse impact on the storage of fuel nor on the processing of radioactive wastes presently at the site. The present set of limiting events is a subset of events previously considered. Therefore these changes do not create the possibility of a new or different kind of accident from any accident previously considered.

3. *Involve a significant reduction in a margin of safety.*

The proposed changes do not reduce a margin of safety because there is no direct affect on any safety analysis assumptions. Changes to the Technical Specifications Bases reflect current plant conditions.

Based on the above evaluation, CYAPCO concludes that the activities associated with the above described changes present no significant hazards consideration under the standards set forth in 10 CFR 50.92 and accordingly, a finding by the NRC of no significant hazards consideration is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Robert K. Gad, III, Ropes & Gray, One International Plaza, Boston, Massachusetts 02110–2624.

NRC Section Chief: Stephen Dembek.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: July 13, 2001.

Description of amendment request: The proposed amendment would make a one-time change to Technical Specification Surveillance Requirement 4.4.A.3 to revise the frequency for the containment integrate leak rate test (ILRT, Type A test) from at least once per 10 years to once per 15 years. The change would apply only to the interval following the last Type A test that was satisfactorily performed in June 1991 at Indian Point Nuclear Generating Unit No. 2 (IP2).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.*

The change does not affect the ability of the containment to mitigate the consequences of an accident. The containment is not an accident initiating system or structure. The proposed one time change to Type A testing frequency has been determined to be adequate as documented in NUREG–1493 [''Performance-Based Containment Leak-Test Program,'' September 1995] which determined generically that very few potential containment leakage paths are not identified by Type B and C tests. The NUREG concluded that reducing the Type A (ILRT) testing frequency to one per twenty years was found to lead to an imperceptible increase in risk. This generic result has been confirmed for IP2 by a plant specific risk impact assessment. Past IP2 Type A tests show leakage to be below acceptance criteria, indicating a very leak-tight containment, without credit for the weld channel and penetration pressurization system (WC&PPS). Inspections required by other TS and by the ASME [American Society of Mechanical Engineers] code are performed in order to identify indications of containment degradation that could affect that leak tightness. The WC&PPS monitors the leak tightness of liner plate welds in the containment during plant operation as required by Technical Specifications. Type B and C testing required by TS will identify any containment opening such as valves that would otherwise be detected by the Type A tests. The frequency of performance of surveillance does not result in any hardware changes or the response of equipment in performing its specified function. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. *Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.*

The proposed change does not introduce nor increase the number of failure mechanisms of a new or different type of accident than those previously evaluated since there are no physical changes being made to the facility. Performance of the testing on the revised schedule will not have an adverse affect on the ability of the containment to perform its intended function. The proposed change does not degrade the reliability of systems, structures, or components or create a new accident initiator or precursor. No new failure modes are created. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in the margin of safety.*

The one time change to the current frequency for Type A testing still provides adequate assurance of containment integrity. The NUREG–1493 generic study of the effects of extending containment leakage testing found that a 20-year extension in Type A leakage testing resulted in an imperceptible increase in risk to the public. NUREG -1493 found that, generically, the design containment leakage rate contributes about 0.1 percent to the individual risk and that the decrease in Type A testing frequency would have a minimal affect on this risk since 95% of the potential leakage paths are detected by Type B & C testing. The risk impact change of the test frequency was small. Online testing of the integrity of liner plate welds using the WC&PPS and regular inspections will further reduce the risk of a containment leakage path going undetected. There are no changes being made to TS safety limits or safety system settings that would adversely affect plant safety. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

NRC Section Chief: Richard P. Correia, Acting.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: July 13, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 6.12, ''High Radiation Area,'' to delete the administrative requirements for the control of access to high radiation areas. The control of access to these areas is assured by the licensee's radiation protection programs that comply with 10 CFR 20.1601 by using the alternate methods in NRC Regulatory Guide 8.38, ''Control of Access to High and Very High Radiation Areas in Nuclear Power Plants,'' June 1993.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Does the proposed license amendment involve a significant increase in the probability or in the consequences of an accident previously evaluated?*

The proposed TS change is administrative in nature. It involves deleting specific requirements for complying with a subparagraph of 10CFR20 for the purpose of controlling access to high radiation areas. Accident evaluations do not consider the effects of methods of controlling access to high radiation areas. The proposed changes do not result in a change to the design or operation of [...] any plant structure, system, or component. Therefore any assumptions of the operability or performance of any structure, system, or component in accident evaluations are unchanged.

Therefore, there is no increase in the probability or in the consequences of an accident previously evaluated.

2. *Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed change is administrative in nature. The methods of controlling access to high radiation areas do not affect the design or operation of any plant structure, system, or component. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *Does the proposed amendment involve a significant reduction in a margin of safety?*

The proposed TS change is administrative in nature. It involves deleting specific

requirements for complying with a subparagraph of 10CFR20. However, effective compliance with 10CFR20 is mandated by the IP2 [Indian Point 2] Facility Operating License Section C. The effectiveness of Con Edison compliance with 10CFR20 is not adversely affected by this change. In addition, this change does not affect any design function for or the operation of any plant structure, system, or component.

Therefore, the change does not affect any of the safety analyses or any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

NRC Section Chief: Richard P. Correia, Acting.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: July 13, 2001.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to delete TS Tables 3.6–1, ''Non-Automatic Containment Isolation Valves Open Continuously or Intermittently for Plant Operation,'' and 4.4–1, ''Containment Isolation Valves.'' The proposed amendment would also revise other TS sections that reference these tables. The removal of the tables is in accordance with the guidance in NRC Generic Letter (GL) 91–08, ''Removal of Component Lists from Technical Specifications.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Does the proposed license amendment involve a significant increase in the probability or in the consequences of an accident previously evaluated?*

The proposed changes consist of removal of the containment isolation valve component lists from the IP2 [Indian Point 2] TS and corresponding editorial changes to support removal of the tables. The changes are being made in accordance with the guidance provided by the NRC in GL 91–08 and do not alter existing TS requirements or those components to which the TS requirements apply. The information contained in the Tables being removed is duplicated in the UFSAR [Updated Final Safety Analysis Report] and other appropriate plant procedures. Any subsequent changes regarding the individual components or their operation would be evaluated under the requirements of 10CFR50.59. The proposed changes do not involve a change to the design or operation of any plant structure, system, or component. Nor are the safety analyses affected as a result of the changes. Accordingly, the initiators of any accident as well as any structure, system or component relied upon for the mitigation of the accident are not affected by the proposed changes.

Therefore, there is no increase in the probability or in the consequences of an accident previously evaluated.

2. *Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed changes do not involve a change to the design or operation of [...] any plant structure, system or component. The proposed changes involve the removal of component lists for containment isolation valves from the TS. In accordance with the guidance provided by GL 91–08, the conditions, actions, and requirements of the TS will apply to those valves that are classified as containment isolation valves by the plant licensing basis. This includes the testing of Containment Isolation Valves as required by 10CFR50 Appendix J and IP2 TS 4.4.D.1.a. Required specifications and requirements of the tables remain applicable. There are no changes to any parameter used in the accident analyses. Therefore, the proposed changes do not create the possibility of a new or different kind of accident for any previously evaluated.

3. *Does the proposed amendment involve a significant reduction in a margin of safety?*

The proposed changes are in accordance with the guidance provided by the NRC in GL 91–08 and NUREG–1431, Standard Technical Specifications. The changes will maintain current safety margins while reducing the regulatory and administrative burdens to both the NRC and IP2. The proposed changes will not result in changes to the design or operation of any plant system and do not involve changes to any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

NRC Section Chief: Richard P. Correia, Acting.

Consumers Energy Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix, County, Michigan

Date of amendment request: July 31, 2001.

Description of amendment request: The proposed amendment requests U.S. Nuclear Regulatory Commission (NRC) approval of Big Rock Point Plant's (Big Rock Point) Security Plan, Suitability Training and Qualification Plan, and Safeguards Contingency Plan. These plans reflect the addition of provisions relating to the loading and storage of spent nuclear fuel at the Independent Spent Fuel Storage Installation (ISFSI).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not:

1. *Involve a significant increase in the probability or consequences of an accident previously evaluated.*

The currently approved and implemented Security Plan (Defueled Security Plan) is not being changed. The ISFSI Security Plan is being added to the scope of the overall security plan for the Big Rock Point site. The additions to the overall [Security] Plan have been evaluated in accordance with 10 CFR 50.54(p) and 10 CFR 72.212(b)(4) and it has been determined that the implementation of the ISFSI Security Plan would not decrease the effectiveness of the Defueled Security Plan, the Defueled Suitability Training and Qualification Plan, or the first four categories of the Defueled Safeguards Contingency Plan.

The ISFSI Security Program staffing will be parallel to the staffing requirements of the Defueled Security Plan, except that one Central Alarm Station [CAS] operator will be employed during the period when spent fuel is located in the spent fuel pool in the plant and also located in dry fuel storage at the ISFSI facility.

The operational and physical venues of the Defueled Security Plan and the ISFSI Security Plan are separate and distinct, except for the utilization of a single CAS operator, and the lines of demarcation between the two plans [are] clearly defined and not overlapping. The implementation of any of the plans does not therefore degrade or inhibit the implementation of the other plan.

The Defueled Suitability Training and Qualification Plan and the Defueled Safeguards Contingency Plan also have not been changed. A separate and parallel ISFSI Training and Qualification Plan and ISFSI Contingency Plan is included in the ISFSI Security Plan. The physical protection systems described in the ISFSI Plans are designed to protect against the loss of control of the facility that could be sufficient to cause a radiation exposure exceeding the dose as described in 10 CFR 72.106.

Therefore, the ISFSI Plan revisions of the Big Rock Point Plant Security Plan, Suitability Training and Qualification Plan and the Safeguards Contingency Plan will not increase the probability or the consequences of an accident previously evaluated since the previously approved Defueled Suitability Training and Qualification Plan and the Safeguards Contingency Plan remain unchanged.

2. *Create the possibility of a new or different kind of accident from any accident previously evaluated.*

The ISFSI Security Plan has no impact on the existing Defueled Security Plan since they operate in different physical and licensing venues. The accidents considered for the Spent Fuel Pool, the venue of the Defueled Security Plan, are described in the Big Rock Point Updated Final Hazards Summary Report. The accidents considered for the ISFSI are contained in the FuelSolutions Final Safety Analysis Reports [FSARs] for the W150 Storage Cask, W100 Transfer Cask and the W74 Canister under Docket No. 72–1026.

The ISFSI Security Plan has been crafted to meet or exceed all of the assumptions of the FuelSolutions FSARs concerning accident analyses and the plan meets or exceeds all of the applicable requirements of 10 CFR 73.55 with approved exceptions or approved alternative measures. The physical protection systems described in the ISFSI Security Plan are designed to protect against the loss of control of the facility that could be sufficient to cause a radiation exposure exceeding the dose as described in 10 CFR 72.106.

The proposed action does not affect plant systems, structures or components within the venue of the existing Defueled Security Plan. The ISFSI additions to the Security Plan, Suitability Training and Qualification Plan and the Safeguards Contingency Plan do not create the possibility of a new or different kind of accident from any accident previously evaluated since the previously approved Defueled Security Plan, [Suitability] Training and Qualification Plan and Safeguards Contingency Plan remain the same.

3. *Involve a significant reduction in a margin of safety.*

The addition of a separate, parallel ISFSI Security Plan, Suitability Training and Qualification Plan, and Safeguards Contingency Plan does not alter or reduce the effectiveness of the previously approved Defueled Security Plan. The physical protection systems described in the ISFSI Plan are designed to protect against the loss of control of the facility that could be sufficient to cause a radiation exposure exceeding the dose as described in 10 CFR 72.106. Therefore, the margin of safety will not be reduced as a result of the ISFSI addition to the Security Plan, or an ISFSI specific addition of a Suitability Training and Qualification Plan or an ISFSI specific addition of a Safeguards Contingency Plan.

The NRC staff has reviewed the licensee's significant hazards analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David A. Mikelonis, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Section Chief: Robert A. Gramm.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: July 31, 2001.

Description of amendment request: The proposed amendment would revise and relocate the inservice testing portion of Technical Specification (TS) 5.0.5 to TS 6.5.8, and eliminate the inservice inspection portion of TS 4.0.5. In addition, other sections of the TSs that reference TS 4.0.5 would be revised to be consistent with the revisions discussed above.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequence of an accident previously evaluated?*

The proposed change relocates the requirements to test and inspect ASME [American Society of Mechanical Engineers] Code [Boiler and Pressure Vessel Code] Class 1, 2, and 3 components from TS 4.0.5 to the administrative section of the TSs and includes modifications to the wording to make it consistent with NUREG–1432 [Standard Technical Specifications, Combustion Engineering Plants]. This change will not reduce the current testing and inspection requirements. The performance of a code inservice test is not an accident initiator. The proposed change for removing the statement for NRC [Nuclear Regulatory Commission] granting written relief for [from the] ASME Code does not involve a significant increase in the probability or consequences of an accident. Verbally issuing relief to the ASME Code by the NRC does not reduce assurance of the health and safety of the public since the NRC still reviews the basis for the relief on its technical merit and the NRC Staff still obtains management approval prior to granting the relief.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. *Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?*

[The citation at] 10 CFR 50.55a, ''Codes and Standards'' governs inservice testing and inspection requirements. The inspection requirements contained in 10 CFR 50.55a paragraph (g) are duplicated in TS 4.0.5. This duplication is unnecessary and therefore, the wording related to the inspection requirements will be deleted in the proposed change. No actual change to the inspection or testing activities are proposed as the requirements in 10 CFR 50.55a continue to govern these. Therefore, the testing and inspection requirements will remain the same as those presently required. The proposed change is administrative in nature in that it relocates testing requirements from one section of the TSs to another and modifies the wording to be consistent with NUREG–1432. The removal of the requirement to obtain written relief from the NRCc staff will not create the possibility of any new or different types of accidents. Staff review is still required prior to granting the relief.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. *Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?*

The testing and inspection requirements contained in TS 4.0.5 are governed by 10 CFR 50.55a, ''Codes and Standards.'' The 10 CFR requirements to perform the ASME code testing and inspections will not be reduced by the proposed change. The inspection and tests will continue to be performed as they are currently. This change moves the present requirements from one section of the TSs to another.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: July 31, 2001.

Description of amendment request: The proposed amendment would revise the technical specifications (TSs) to allow an extension of the three-year inspection interval of the reactor coolant pump flywheel voumetric examination to ten years. In addition, the requirement discussed above would be moved to the administrative controls section of the TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Will operation of the facility in accordance with this proposed change involve a significant increase in the*

probability or consequences of an accident previously evaluated?

Inspections of the reactor coolant pump (RCP) flywheels are conducted to detect a flaw in the flywheel prior to it becoming a missile that could damage other portions of the facility. The fracture mechanics analyses conducted as part fo the NRC [U.S. Nuclear Regulatory Commission] approved Topical Report SIR–94–080–A, Rev. 1, shows that a conservatively sized pre-existing crack will not grow to a flaw size necessary to create flywheel missiles with the current or extended life of the facility. This analysis conservatively assumes minimum material properties, maximum flywheel speed, location of the flaw in the highest stress area, and a number of startup and shutdown cycles higher than expected. Since a conservative flaw in the RCP flywheels will not grow to the allowable flaw size under large break LOCA [loss-of-coolant accident] conditions over the life of the plant, reducing the inspection frequency of the flywheels will not significantly increase the probability or consequences of an accident previously evaluated.

The change to move the survillance requirements for the RCP flywheels to the programs section of the technical specifications is administrative and has no impact on probability or consequences of an accident.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. *Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed changes will not alter the plant configuration or require any new or usual operator actions. They do not alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. These changes do not introduce any new failure modes.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. *Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?*

The ANO–2 [Arkansas Nuclear One, Unit 2] flywheels are made of either ASTM [American Society for Testing and Materials] A–533, Grade B, Class 1 or A–508, Class 5 steel plate material, which is pressure vessel quality steel. These materials have high tensile and yield strength qualities. The operating temperature of the flywheel is not less than 100 °F and the RT_{NDT} value is below +10 °F. Therefore, there is at least 90 °F margin below the lowest temperature at which operating speed is achieved which is in accordance with Regulatory Guide 1.14, Rev. 1, ''Reactor Coolant Pump Flywheel Integrity.'' The fracture mechanics analyses conducted to support the extension of the inspection frequency from 3 to 10 years was performed with substantial conservatism built into the analyses. Even with this analytical conservatism, the results indicate that the flywheels have sufficient margin that there is only a negligible potential for gross failure of the flywheels.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satsified. Therefore, the NRC staff proposes to determine that the amendment request involves no sigificant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 10, 2001.

Description of amendment request: Technical Specification (TS) Surveillance Requirement (SR) 4.8.1.1.2.e requires certain emergency diesel generator (EDG) surveillances be performed during shutdown. The proposed change will modify this SR to allow performance of specific surveillances during any mode of plant operation. This will provide flexibility in the scheduling of testing activities consistent with online maintenance activities and improve EDG availability during plant shutdown periods.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?*

The EDG is designed to operate in the event of a loss of offsite power or upon receipt of a SIAS [Safety Injection Actuation Signal]. No modifications or design changes are proposed to the EDG in conjunction with this proposed TS change. Periodic testing of the EDG starting circuitry, lockout relays, capability to reject a load and maintain voltage and frequency, ability to run for 24-hours, and various other tests prove the EDG is qualified to function upon demand. The changes proposed will allow several SRs to be performed in modes other than only during shutdown. A review of each of these has been performed. The system alignment needed to achieve these tests is the same whether the test is performed during shutdown or during power operations. When performing SR 4.8.1.1.2.e.1, 2, 4, 6, and 9, the EDG is operable and capable of performing its intended function, if called upon. When performing SR 4.8.1.1.2.e.10 and 12, the EDG that is being tested is inoperable for less than two hours, which is well within the allowable outage time. While performing these SRs, operations personnel are available to quickly respond to align the EDG as needed for an unexpected event. Additionally, the equipment covered by these specifications are not accident initiators and can not cause an accident.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. *Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed change does not impact any system or component which could cause an accident. The proposed change will not alter the plant configuration (no system design modifications are required) or require any unusual operator actions. The proposed change will not alter the way any structure, system, or component functions, and will not significantly alter the manner in which the plant is operated. A review of the proposed change indicates that the required testing will be performed in a similar configuration and the interrelationship with other components is the same whether the testing is performed at power or during shutdown. The proposed change does not introduce any new failure modes. Additionally, the response of the plant and the operators following an accident will not be significantly different as a result of these changes.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. *Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?*

The proposed TS change is associated with the surveillance requirements for the EDGs. The proposed change allows certain EDG surveillance requirements to be performed when the plant is at power rather than when shutdown. When performing SR 4.8.1.1.2.e.1, 2, 4, 6, and 9, the EDG is operable and capable of performing its intended function, if called upon. When performing SR 4.8.1.1.2.e.10 and 12, the EDG that is being tested is inoperable for less than two hours, which is well within the allowable outage time. The proposed change will have no adverse effect on plant operation or equipment important to safety. The plant response to the design basis accidents will not change and the accident mitigation equipment will continue to function as assumed in the design basis accident analysis.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment request involves no significant hazards consideration.

Attorney for licensee: N. S. Reynolds, Esquire, Winston & Strawn 1400 L Street NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 23, 2001.

Description of amendment request: This submittal requests a change to administrative Technical Specification (TS) 6.15. The change postpones the next Type A test performed after May 12, 1991, to no later than May 11, 2006, which basically results in an extended interval of 15 years for performance of the next Integrated Leak Rate Test (ILRT).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?*

[Appendix J of 10 CFR [Part] 50], was amended to incorporate provisions for performance-based testing in 1995. The proposed amendment to Technical Specification (TS) 6.15 adds a one-time extension to the current interval for Type A testing (*i.e.,* the integrated leak rate test). The current interval of ten years, based on past performance, would be extended on a one-time basis to 15-years from the date of the last test. The proposed extension to the Type A test cannot increase the probability of an accident since there are no design or operating changes involved and the test is not an accident initiator. The proposed extension of the test interval does not involve a significant increase in the consequences since research documented in NUREG–1493 has found that, generically, fewer than 3% of the potential containment leak paths are not identified by Type B and C testing. Waterford 3 [Waterford Steam Electric Station, Unit 3], through testing and containment inspections, also provides a high degree of assurance that the containment will not degrade in a manner detectable only by a Type A test. Inspections required by the Maintenance Rule (10 CFR 50.65) and by the American Society of Mechanical Engineers Boiler and Pressure Vessel Code are performed to identify containment degradation that could affect leaktightness.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. *Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed extension to the interval for the Type A test does not involve any design or operational changes that could lead to a new or different kind of accident from any accidents previously evaluated. The test itself is not changing and is just to be performed after a longer interval. The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. *Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?*

The generic study of the increase in the Type A test interval, NUREG–1493, concluded there is an imperceptible increase in the plant risk associated with extending the test interval out to twenty years. Further, the extended test interval would have a minimal effect on this risk since Type B and C testing detect 97% of potential leakage paths. For the requested change in the Waterford 3 ILRT interval, it was determined that the risk contribution of leakage will increase 0.17%. This change is considered very small and does not represent a significant reduction in the margin of safety.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: N. S. Reynolds, Esquire, Winston & Strawn 1400 L Street NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 23, 2001.

Description of amendment request: The proposed change is to delete Technical Specifications (TS) 3.9.12, ''Fuel Handling Building Ventilation System,'' and TS 3.3.3.1 requirements for the Fuel Storage Pool area radiation monitors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.*

The FHBVS [Fuel Handling Building Ventilation System] is not involved in the initiation of any accidents. The system is not credited with providing any supplemental filtration of any releases from an accident occurring in the containment building. It was designed to provide an accident mitigation function by isolating the system and filtering the radioiodines that may be released from a damaged fuel assembly in the event of a Fuel Handling Accident (FHA). The charcoal adsorber was the primary component that supported this filtration function. However, based on a revised analysis of the dose consequences of the FHA, it has been demonstrated that doses due to the FHA, to both the public and the control room operator, remain well within regulatory acceptance limits even assuming no credit for either isolation or filtration. The charcoal filtration function is not required and need not be tested. Thus, there is no required safety function in the event of a fuel handling accident provided by either the ventilation system or the area radiation monitor.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. *Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.*

The FHBVS is not involved in the initiation of any accidents. It was designed to provide an accident mitigation function by isolating the system and filtering the radioiodines that may be released from a damaged fuel assembly in the event of a Fuel Handling Accident (FHA). Recent analyses show that the isolation and filtration functions are no longer required. The charcoal adsorber can not influence any accident initiators. Further, it has been demonstrated that the deletion of the technical specification requirements does not impact this conclusion and does not influence any new potential accident scenarios in any way.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. *Does Not Involve a Significant Reduction in the Margin of Safety.*

The FHBVS was designed to provide an accident mitigation function by filtering the radioiodines that may be released from a damaged fuel assembly in the event of a Fuel Handling Accident (FHA). Charcoal adsorbers had been provided for this function. Recent analysis of the FHA in the Fuel Handling Building demonstrate that the isolation function and the charcoal adsorber are not required to satisfy the margin of safety provided by the Technical Specification requirements. Based on a revision to the dose consequence analysis of the FHA, it has been determined that doses remain well within the regulatory allowable for exposure even assuming no credit for charcoal filtration. The margin of safety, as defined by SRP [Standard Review Plan] 15.7.4, Rev 1, and General Design Criterion 19, has not been significantly reduced.

Therefore, the proposed changes do not significantly reduce the margin [of] safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: N. S. Reynolds, Esquire, Winston & Strawn 1400 L Street NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

[Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois]

[Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania]

[Docket Nos. STN 50–277 and STN 50–278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania]

[Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois]

Date of amendment request: July 9, 2001.

Description of amendment request: The proposed amendments would incorporate Technical Specifications (TS) changes that are being made to provide consistency with the changes to 10 CFR 50.59, ''Changes, tests, and experiments,'' as published in the **Federal Register** (FR) Volume 64, beginning on page 53582 (i.e., 64 FR 53582), dated October 4, 1999. Specifically, the changes replace the terms ''safety evaluation'' with ''10 CFR 50.59 evaluation'' and ''unreviewed safety question'' with ''requires NRC approval pursuant to 10 CFR 50.59.''

In addition, Exelon proposes to change a condition 3.B of Operating License Nos. DPR–44 and DPR–56 for the Peach Bottom Atomic Power Station, Units 2 and 3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?*

The proposed changes reflect revision to 10 CFR 50.59, ''Changes, tests, and experiments,'' issued as a Final Rule on October 4, 1999, and do not impact the operation of any system or component assumed in any accident analysis. The proposed changes do not change the requirement to perform a 10 CFR 50.59 review when required by the Technical Specifications Administrative Controls or by a license condition. Due to the administrative nature of these proposed changes there will be no direct impact on the consequences of any accident previously evaluated. Therefore, these proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. *Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed changes are administrative in nature and do not involve a change to the plant design or operation. No new or different types of equipment will be installed as a result of these changes. The proposed changes make the language in the Technical Specifications Administrative Controls and a license condition conform to the revised 10 CFR 50.59 rule, dated October 4, 1999. No new accident modes or equipment failure modes are created by these proposed changes. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *Does the change involve a significant reduction in a margin of safety?*

The proposed changes do not have a direct effect on any safety analysis assumptions. The proposed changes are administrative in nature and make the Technical Specifications Administrative Controls and a license condition language conform to the revised 10 CFR 50.59 rule, dated October 4, 1999.

Changes to the facility that result in meeting the criteria of 10 CFR 50.59 will still require NRC approval pursuant to 10 CFR 50.59. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Vice President, General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: Anthony J. Mendiola.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of amendment request: September 29, 2000, as supplemented by letter dated March 1, 2001 (previously noticed in the **Federal Register** on December 27, 2000, 65 FR 81908).

Description of amendment request: The March 1, 2001, supplement requests an amendment to revise the technical specifications to (1) increase the number of required automatic depressurization system (ADS) valves from four to five, (2) add surveillance requirements for the operability of the additional ADS valve, (3) change a surveillance requirement to verify the flow rate of two low-pressure coolant injection pumps instead of three pumps, consistent with the accident analyses, and (4) remove an allowance to continue operating for 72 hours if certain combinations of emergency core cooling system systems are inoperable. These are additional changes to those that were requested in the September 29, 2000, application. The changes to the technical specifications support a change in fuel vendors from Siemens Power Corporation to General Electric (GE) and a transition to the use of GE–14 fuel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed changes do not affect the initiators of analyzed events or the assumed mitigation of accident or transient events. Analyzed events are initiated by the failure of plant structures, systems or components. The proposed changes do not impact the condition or performance of these structures, systems or components. Consequences of analyzed events are the result of the plant being operated within assumed parameters at the onset of any events. The evaluations supporting the transition to GE fuel revealed that the current Technical Specification (TS) Limiting Condition for Operation (LCO) and conditions must be revised to place additional limitations on equipment to ensure that the plant is operated within the assumptions of the safety analyses. With the additional limitations, the analyses demonstrate that all of the acceptance criteria continue to be met. As a result, the changes do not involve a significant increase in the probability of consequences of an accident previously evaluated.

2. *The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.*

The proposed changes do not involve a physical alteration of the facility or change the normal facility operation. No new or different equipment is being installed and no installed equipment is being removed. There is no alteration to the parameters within which the plant is normally operated or in the setpoints that initiate protective or mitigative actions. Consequently, no new failure modes are introduced and the changes therefore do not increase the possibility of a new or different kind of accident from any previously evaluated.

3. *The proposed TS changes do not involve a significant reduction in a margin of safety.*

Margin of safety is established through the design of the plant structures, systems and components, the parameters within which the plant is operated, and the establishment of setpoints for the actuation of equipment relied upon to respond to an event. The proposed changes do not impact the condition or performance of structures, systems or components relied upon for accident mitigation or any safety analysis assumptions. The changes reflect a reduction in redundancy in the capability of the Automatic Depressurization System (ADS)[.] However, the proposed changes impose more restrictive requirements on operation to ensure that all of the accident analyses continue to meet acceptance criteria. Therefore the proposed changes do not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Vice President, General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: Anthony J. Mendiola.

Exelon Energy Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: May 23, 2001.

Description of amendment request: Exelon proposed changes that would delete Action Statement b. associated with Limiting Condition for Operation 3.4.2 regarding operations with a stuck open safety/relief valve.

Basis for proposed no significant hazards consideration determination: As required by Section 50.91 (a) of Title 10 of the Code of Federal Regulations (CFR), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has review the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff review is presented below:

1. *The proposed TS change does not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed TS change deletes Action Statement b. associated with Limiting Condition for Operation (LCO) 3.4.2 concerning plant operations with stuck open safety/relief valves. The operator action described in the LCO represents detailed methods of responding to an event, and therefore, if eliminated, would not result in increasing the probability of the event nor act as an additional initiator of an event. Therefore, this action can be eliminated, and will not involve a significant increase in the probability of an accident previously evaluated.

As discussed in Section 15.1.4 (''Inadvertent Main Steam Relief Valve Opening''), of the Limerick Generating Station, Units 1 and 2, Updated Final Safety Analysis Report (UFSAR), a main steam relief valve is postulated to inadvertently open. While this transient does not result in fuel failure, it does result in the discharge of normal coolant activity to the suppression pool via relief valve operation. Because this activity is contained within the primary containment, there is no exposure to operating personnel or uncontrolled release of radioactivity to the environment. Therefore, this change does not increase the consequences of an accident previously evaluated.

The requirement to scram the reactor within 2 minutes of identifying a stuck open safety/relief valve was not incorporated into the BWR Standard Technical Specifications (NUREG–1433, ''Standard Technical Specifications General Electric Plants, BWR/4,'' Revision 1, dated April 1995).

2. *The proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.*

The proposed TS change deletes Action Statement b. associated with Limiting Condition for Operation 3.4.2 concerning safety/relief valves. This change does not change the design or configuration of the plant. The safety/relief valves are accident mitigators. Section 15.1.4 (''Inadvertent Main Steam Relief Valve Opening''), of the Limerick Generating Station, Units 1 and 2, Updated Final Safety Analysis Report (UFSAR), postulates an inadvertent opening of a main steam relief valve. This change will not alter the assumptions or results of this analysis. No new operation or failure modes are created, nor is a system-level failure mode created that is different than those that already exist. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *The proposed TS change does not involve a significant reduction in a margin of safety.*

The proposed change does not involve a significant reduction in a margin of safety, nor does it affect any analytical limits. There are no changes to accident or transient core thermal hydraulic conditions, or fuel or reactor coolant boundary design limits, as a result of the proposed change. The proposed change will not alter the assumptions or results of the analysis contained in the UFSAR. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Edward Cullen, Vice President & General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: James W. Clifford.

Exelon Energy Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: June 26, 2001.

Description of amendment request: The proposed amendment would revise the Limerick Generating Station (LGS) Units 1 and 2, Technical Specifications (TSs) 3/4.3.3, Actions 36 and 37 of Table 3.3.3–1, and the associated TS Bases. The change to Action 36 clarifies equipment affected by inoperable components. The change to Action 37 takes advantage of the inherent overlap of the degraded voltage relays' characteristics such that inoperable relays that define a channel can be taken out of service without placing its associated source breaker in the trip position.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. *The proposed TS amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The changes to Action 36 detail what equipment is impacted by an inoperable bus under voltage relay. Making these changes assures that the appropriate equipment is considered inoperable. Identifying the impacted equipment for an inoperable under voltage relay does not increase the probability or the consequences of an accident previously evaluated.

Action 37 presently requires placing an inoperable channel (relay) in the tripped condition which results in making the associated offsite source circuit breaker unavailable to that bus. Changing Action 37 to place a relay in the bypass condition, rather than the tripped condition, permits the offsite source of power to still be available to the bus in the event of an inoperable degraded voltage relay. The change to Action 37 takes advantage of the inherent overlap of the degraded voltage relays' characteristics such that inoperable relays that define the channel can be taken out of service without placing its associated source breaker in the trip position. The change to Action 37 does not adversely impact the availability or reliability of the offsite power system. Therefore, the proposed changes to Action 37 do not increase the probability or

consequences of an accident previously evaluated.

2. *The proposed TS amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.*

The changes to Action 36 detail what equipment is impacted by an inoperable bus under voltage relay and does not involve physical changes to the plant that would create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to Action 37 take advantage of the overlap of the degraded voltage relays by providing actions to be taken when an individual relay within a channel is inoperable. Changing Action 37 does not make any physical changes to the plant. Therefore, the changes to Action 37 do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *The proposed TS amendment does not involve a significant reduction in a margin of safety.*

The changes to Action 36 and Action 37 do not affect the availability or operation of mitigation systems. Therefore, there is no impact on event analysis that would affect the resultant analyses or reduce a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Edward Cullen, Vice President & General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: James W. Clifford.

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: September 29, 2000, as supplemented by letter dated March 1, 2001 (previously noticed in the **Federal Register** on December 27, 2000, 65 FR 81912).

Description of amendment request: The March 1, 2001, supplement requests an amendment to revise the technical specifications to increase the number of required automatic depressurization system (ADS) valves from four to five, to add surveillance requirements for the operability of the additional ADS valve, and to remove an allowance to continue operating for 72 hours if certain combinations of emergency core cooling systems are inoperable. These are additional changes to those that were requested in the September 29, 2000, application. The changes to the technical specifications support a change in fuel vendors from Siemens Power Corporation to General Electric (GE) and a transition to the use of GE–14 fuel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed changes involve more restrictive limitations on operation. These changes do not affect the initiators of analyzed events or the assumed mitigation of accident or transient events. Analyzed events are initiated by the failure of plant structures, systems or components. The proposed changes do not impact the condition or performance of these structures, systems or components. Consequences of analyzed events are the result of the plant being operated within assumed parameters at the onset of any events. The evaluations supporting the transition to GE fuel revealed that the current Technical Specification (TS) Limiting Condition for Operation (LCO) and conditions must be revised to place additional limitations on equipment to ensure that the plant is operated within the assumptions of the safety analyses. With the additional limitations, the analyses demonstrate that all of the acceptance criteria continue to be met. As a result, the changes do not involve a significant increase in the probability of consequences of an accident previously evaluated.

2. *The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.*

The proposed changes do not involve a physical alteration of the facility or change the manner in which the facility is operated. No new or different equipment is being installed and no installed equipment is being removed. There is no alteration to the parameters within which the plant is normally operated or in the setpoints that initiate protective or mitigative actions. Consequently, no new failure modes are introduced and the changes therefore do not increase the possibility of a new or different kind of accident from any previously evaluated.

3. *The proposed TS changes do not involve a significant reduction in a margin of safety.*

Margin of safety is established through the design of the plant structures, systems and components, the parameters within which the plant is operated, and the establishment of setpoints for the actuation of equipment relied upon to respond to an event. The proposed changes do not impact the condition or performance of structures, systems or components relied upon for accident mitigation or any safety analysis assumptions. The changes reflect a reduction in redundancy in the capability of the Automatic Depressurization System (ADS). However, the proposed changes impose more restrictive requirements on operation to ensure that all of the accident analyses continue to meet acceptance criteria. Therefore the proposed changes do not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Vice President, General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: Anthony J. Mendiola.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–412, Beaver Valley Power Station, Unit 2, Beaver County, Pennsylvania

Date of amendment request: March 28, 2001.

Description of amendment request: The proposed amendment would revise the Technical Specification (TS) requirements to credit the soluble boron in the fuel storage pool analyses. This amendment would revise the index, modify TS 3.9.14, ''Fuel Storage—Spent Fuel Storage Pool,'' add TS 3.9.15, ''Fuel Storage Pool Boron Concentration,'' modify applicable Bases and revise Design Feature Section 5.3.1.1, ''Criticality.'' TS 3.9.14 would be modified by separating this specification into two specifications to support crediting soluble boron in the fuel storage pool. The revised TS 3.9.14 would provide controls for fuel assembly enrichment and burnup in the spent fuel pool and also include an increase in the maximum enrichment from 4.85 weight percent (w/o) to 5.0 w/o. A new TS 3.9.15 would provide control for soluble boron requirements in the spent fuel pool. Separating this specification into two specifications follows the general guidance provided in the improved standard TS (ISTS) of NUREG–1431.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?*

Because of the Boraflex deterioration that has been observed, the spent fuel racks have been reanalyzed neglecting the presence of Boraflex to allow storage of Westinghouse 17x17 fuel assemblies with nominal

enrichments up to 5.0 weight percent (w/o) using credit for checkerboarding, burnup and soluble boron. The proposed changes will not have a significant impact on the safety of the plant or on the spent fuel storage pool and are consistent with the NRC approved changes identified for other plants (i.e., Prairie Island Units 1 and 2, Vogtle Units 1 and 2). Criteria set forth in Table 3.9–1 provide qualification requirements for fuel assembly storage to ensure the NRC acceptance criteria and accident analysis assumptions are satisfied. Increasing the enrichment from 4.85 w/o up to and including 5.0 w/o U–235 [uranium 235] has minor effects on the radiological source terms and subsequently the potential releases, both normal and accidental, are not significantly affected.

The proposed Technical Specification changes credit the use of soluble boron in the spent fuel pool criticality analyses. These criticality analyses were performed using the NRC approved methodology developed by the Westinghouse Owners Group (WOG) and described in WCAP–14416-NP-A, Revision 1, ''Westinghouse Spent Fuel Rack Criticality Analysis Methodology,'' November 1996. The analysis includes evaluations that factor in the axial burnup bias correction and utilizing identified conservatisms in the analysis demonstrate that Keff remains less than or equal to the design limits.

The proposed changes do not involve a change to plant equipment and do not affect the performance of plant equipment used to mitigate an accident. They do not affect the operation of the spent fuel pool cooling system or any other system and are consistent with applicable analyses including [those associated with postulated] fuel handling accidents. They will not affect the ability of any system to perform its design function; therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. *Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?*

There are no hardware changes associated with this license amendment nor are there any changes in the method by which any safety-related plant system performs its safety function. No new accident scenarios, transient precursors, failure mechanisms or limiting single failures are introduced as a result of the proposed changes. The proposed changes do not introduce any adverse effects or challenges to any safety-related systems.

The potential criticality accidents have been reanalyzed to demonstrate that the pool remains subcritical. Soluble boron has been maintained in the fuel storage pool water since its initial operation. The possibility of a fuel storage pool dilution is not affected by the proposed changes to the Technical Specifications. Therefore, implementation of Technical Specification controls for the soluble boron will not create the possibility of a new or different kind of accidental pool dilution.

With credit for soluble boron now a major factor in controlling subcriticality, an evaluation of fuel storage pool dilution events was completed. This evaluation concluded that no credible events would result in a reduction of the criticality margin below the 5% margin recommended by the NRC. In addition, the No Soluble Boron 95/95 probability/confidence level criticality analysis assures that dilution to 0 ppm [parts per million] will not result in criticality.

The proposed Technical Specification changes ensure the maintenance of the fuel pool boron concentration and storage configuration. Therefore, the proposed changes will not create the possibility of any new or different kind of accident from any accident previously evaluated.

3. *Does the change involve a significant reduction in a margin of safety?*

The proposed changes do not affect the acceptance criteria for any analyzed event nor impact any plant safety analyses since the analysis assumptions are not changed. The safety limits assumed in the accident analyses and the design function of the equipment required to mitigate the consequences of any postulated accidents will not be changed since the proposed changes do not affect equipment required to mitigate design basis accidents described in the Updated Final Safety Analysis Report. The Technical Specifications continue to assure that applicable operating parameters are maintained within required limits.

The proposed changes to the fuel storage pool boron concentration and storage requirements will provide adequate margin to assure that the fuel storage array will always remain subcritical by the 5% margin recommended by the NRC. These limits are based on a criticality analysis performed in accordance with NRC approved Westinghouse fuel storage rack criticality analysis methodology.

While criticality analysis utilized credit for soluble boron, the storage configurations have been defined using K_{eff} calculations to ensure that the spent fuel rack K_{eff} will be less than 1.0 with no soluble boron. Soluble boron credit is used to offset off-normal conditions (such as a misplaced assembly) and to provide subcritical margin such that the fuel storage pool K_{eff} is maintained less than or equal to 0.95.

The spent fuel pool boron dilution analysis concludes that an unplanned or inadvertent event which would result in dilution of the spent fuel pool boron concentration from 2000 ppm to 450 ppm is not a credible event. This conclusion is based on the substantial volume of unborated water required to dilute the pool and the fact that a large dilution event would be readily detected by plant personnel via alarms, flooding in the fuel handling building or detected during normal operator rounds through the spent fuel pool area.

The margin of safety depends upon maintenance of specific operating parameters within design limits. The Technical Specifications continue to require that these limits be maintained and provide appropriate remedial actions if a limit is exceeded. The maintenance of these limits continues to be assured through performance of surveillances. Therefore, the plant will be maintained within the analyzed limits and the proposed changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mary O'Reilly, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Section Chief: Richard P. Correia, Acting.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: July 24, 2001.

Description of amendment request: The proposed amendment would accommodate future changes in plant design, including increased levels of Once-Through Steam Generator tube plugging. The changes are categorized into two sets. The first set of changes relocate parameters from the Improved Technical Specifications (ITS) to the cycle-specific Core Operating Limits Report (COLR). These parameters are the Variable Low Pressure Trip equation specified in ITS Table 3.3.1–1, and Reactor Coolant System (RCS) pressure limit within Surveillance Requirement (SR) 3.4.1.1. The second set of changes is directly related to tube plugging equivalent to up to 20% of all tubes, and addresses its impact. These changes include the revision of the hot leg maximum temperature limit, and the revision of the RCS minimum flow limits for four- and three-reactor coolant pump operation. The RCS limits associated with 20% plugging will be maintained in the ITS, however, cycle-specific values for these limits will be relocated to the COLR. The hot leg temperature and RCS flow limit values within SR 3.4.1.2 and 3.4.1.3 ''RCS Pressure, Temperature, and Flow DNB [departure from nucleate boiling] Limits,'' will be relocated to reflect their location in the COLR. For both sets of changes, ITS 5.6.2.18(a) will be modified to reflect the relocation of cycle-specific values from the ITS to the COLR.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) *Does not involve a significant increase in the probability or consequences of an accident previously analyzed.*

The proposed change relocates several Reactor Coolant System (RCS) parameters from the ITS to the Core Operating Limits Report (COLR). The purpose for this relocation is to permit the values of these parameters to be changed under the 10 CFR 50.59 change process for cycle-specific analyses. In addition, these changes will allow increased Once-Through Steam Generator (OTSG) tube plugging. The increased plugging limit is in accordance with the analysis and will support continued proper maintenance of the OTSGs. The increased OTSG plugging will result in a small decrease in RCS flow and primary to secondary heat transfer. The difference in heat transfer results in small changes to primary and secondary operational parameters but will not result in any challenges to plant equipment. The change in RCS parameters will have no impact on the probability of accident initiators or precursors. Increased OTSG plugging will slightly reduce mass release to the containment following some loss of primary coolant accidents. Previously analyzed accidents were reevaluated considering the proposed changes and were found to be within established limits. Therefore, the change will not significantly increase the probability or consequences of an accident previously evaluated.

(2) *Does not create the possibility of a new or different kind of accident from any accident previously analyzed.*

The proposed changes do not introduce any new operating methods or configurations. The revised RCS parameters have been analyzed and have been determined to be within established limits. No new failure modes or limiting single failures were identified. All safety and design criteria continue to be met. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) *Does not involve a significant reduction in the margin of safety.*

The proposed changes affect RCS parameters, which are inputs to the plant's safety limits. The changes have been evaluated and the resultant plant analysis and configuration remain within the existing safety limits. The safety limits themselves are not being altered. The accident analysis was reevaluated and it has been determined that there is no significant impact on the fuel cladding, reactor coolant system or the containment structure. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore the NRC staff proposes to determine if the amendment request involves no significant hazards consideration.

Attorney for licensee: R. Alexander Glenn, Associate General Counsel (MAC-BT15A), Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Section Chief, Acting: Kahtan N. Jabbour.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment requests: May 17, 2001.

Description of amendment requests: The proposed amendments would revise Technical Specification (TS) 3/4.9.3, ''Decay Time,'' to allow the start of a core offload at 100 hours after reactor subcriticality between September 15 and June 15, and 148 hours after reactor subcriticality between June 16 and September 14. The difference in the required decay times is dependent on the time of year due to the lake temperature assumed in the spent fuel pool cooling analysis. In addition, the proposed license amendment would make format changes to the TS pages.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below: According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not:

1. involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated;

2. create the possibility of a new or different kind of accident from any previously analyzed; or

3. involve a significant reduction in a margin of safety.

The determinations that the criteria set forth in 10 CFR 50.92 are met for this amendment request is indicated below:

1. *Does the change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?*

The proposed license amendment would allow fuel assemblies to be removed from the reactor core and be stored in the spent fuel pool in less time after subcriticality than currently allowed by the TSs. Decreasing the decay time of the fuel affects the isotopic make-up of the fuel to be offloaded as well as the amount of decay heat that is present from the fuel at the time of offload. The proposed changes do not involve a significant increase in the probability of occurrence of an accident previously evaluated. The accident previously evaluated that is associated with the proposed license amendment is the fuel handling accident. Allowing the fuel to be offloaded as early as 100 hours after subcriticality does not impact the manner in which the fuel is offloaded. The accident initiator is the dropping of the fuel assembly. Since earlier offload does not effect fuel handling, there is no increase in the probability of occurrence of a fuel handling accident. The time frame in which the fuel assemblies are moved has been evaluated against the 10 CFR Part 20 and 10 CFR Part 100 dose limits for members of the public and licensee personnel and 10 CFR 50.67 control room dose limits. All dose limits are met with the reduced core offload times.

The proposed changes do not involve a significant increase in the consequences of an accident previously evaluated. The accident previously evaluated that is associated with fuel movement is the fuel handling accident. Thus, there is no significant increase in consequences.

The TS page format changes are administrative in nature and have no impact on any accident previously evaluated. Thus, the probability of occurrence of an accident previously evaluated is not changed.

Therefore, the proposed license amendment does not increase the probability of occurrence or the consequences of accidents previously evaluated are not increased.

2. *Create the possibility of a new or different kind of accident from any accident previously evaluated.*

The proposed license amendment would allow core offload to occur in less time after subcriticality, which affects the isotopic make-up of the fuel to be offloaded as well as the amount of decay heat that is present from the fuel at the time of offload. The isotopic makeup of the fuel assemblies and the amount of decay heat produced by the fuel assemblies do not currently initiate any accident. A change in the isotopic makeup of the fuel at the time of core offload or an increase in the decay heat produced by the fuel being offloaded will not cause the initiation of any accident. There is no change to the manner in which fuel is being handled or in the equipment used to offload or store the fuel. The effects of the additional decay heat load have been analyzed. The analysis demonstrated that the existing spent fuel pool cooling system and all associated systems under worst-case circumstances would maintain the integrity of the spent fuel pool and the proposed method of offload does not create a new or different kind of accident from any accident previously evaluated.

The TS page format changes are administrative in nature and have no impact on the operation of either unit. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *Does the change involve a significant reduction in a margin of safety?*

The margin of safety pertinent to the proposed changes is the dose consequences

resulting from a fuel handling accident. The shorter decay time prior to fuel movement has been evaluated against the 10 CFR Part 100 in the current licensing basis and all limits continue to be met. In addition, the integrity of the spent fuel pool has been demonstrated with the additional decay heat load. As stated above, the changes in isotopic makeup and additional heat load do not impact any safety settings and do not cause any safety limit to not be met. In addition, the integrity of the spent fuel pool is maintained.

The proposed format changes do not affect plant operation, and, therefore, do not involve a significant reduction in a margin of safety.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: Claudia M. Craig.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment requests: July 17, 2001.

Description of amendment requests: The proposed amendments would revise Technical Specification Surveillance Requirement 4.0.3 to provide a delay period following discovery of a missed surveillance prior to declaring that the Limiting Condition for Operation has not been met. The proposed delay period would be 24 hours from the time of discovery of the missed surveillance or the limit of the specified surveillance interval, whichever is less. The proposed changes are consistent with the intent of Generic Letter 87–09, ''Sections 3.0 and 4.0 of the Standard Technical Specifications on the Applicability of Limiting Conditions for Operation and Surveillance Requirements.'' Indiana Michigan Power Company is submitting this request to reduce the potential for unnecessary plant system and equipment manipulations.

The proposed license amendment also includes format changes that improve appearance and are not intended to introduce other changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Does the change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?*

It is overly conservative to assume components are inoperable when a surveillance requirement has not been performed. The 24-hour delay period to perform a missed surveillance does not involve a significant increase in the probability of occurrence of an accident previously evaluated because it allows time to perform the surveillance without requiring other plant manipulations such as a plant shutdown. If a plant shutdown is required before a missed surveillance is completed, it is likely that the surveillance would be conducted when the plant is being shut down because completion of a missed surveillance would terminate the shutdown requirement. A forced plant shutdown or other forced actions prior to completion of the missed surveillance increases risk to the plant, as it requires the manipulation of additional equipment. Delaying a surveillance test on a component cannot cause a failure of the component, nor would it significantly affect accident initiators or precursors. Therefore, there is no significant increase in the probability of occurrence of an accident previously evaluated.

Since this change does not affect plant design, operation, or the manner in which testing is performed, there is no effect on the consequences of an accident previously evaluated.

The T/S page format changes are administrative in nature and have no impact on plant operation.

Thus, the proposed change does not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

2. *Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?*

The proposed change does not affect plant design, operation, or the manner in which testing is performed. Delaying a surveillance test on a component cannot cause a failure of the component. As such, the proposed delay period will not cause any equipment malfunctions or introduce any changes to the way in which components operate. The T/S page format changes are administrative in nature and have no impact on plant operation. Therefore, the proposed changes do not increase the possibility of a new or different kind of accident from any accident previously evaluated.

3. *Does the change involve a significant reduction in a margin of safety?*

The margin of safety is neither described or prescribed for this specification. The proposed change simply provides additional time to perform a surveillance and verify that the operability of equipment is in conformance with the T/S requirements.

The T/S page format changes are administrative in nature and have no impact on plant operation.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: Claudia M. Craig.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment requests: June 29, 2001.

Description of amendment requests: The licensee requests to revise Technical Specifications (TSs) 3.7.10, ''Emergency Chilled Water (ECW)'' and 3.7.11, ''Control Room Emergency Air Cleanup System (CREACUS)'' and the associated TSs Bases. The proposed change would revise the Allowed Outage Time (AOT) for a single inoperable train of both the ECW and CREACUS from 7 days to 14 days.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. A discussion of these standards as they relate to this amendment request follows:

(1) *Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?*

Response: No.

This proposed change is to revise the Allowed Outage Time (AOT) for a single inoperable train of the Emergency Chilled Water (ECW) and Control Room Emergency Air Cleanup System (CREACUS) systems from 7 days to 14 days. The proposed change does not involve a change in the design configuration, or operation of the plant.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) *Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?*

Response: No.

This proposed change does not involve a change in the design, configuration, or method of operation of the plant.

Therefore, this proposed change will not create the possibility of a new or different kind of accident from any accident that has been previously evaluated.

(3) *Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?*

Response: No.

The proposed change does not affect the limiting conditions for operation or their bases that are used in the deterministic analyses to establish the margin of safety. Probabilistic risk analysis was used to evaluate these changes.

Therefore, there will be no significant reduction in a margin of safety as a result of this change.

Based on the responses to these three criteria, Southern California Edison (SCE) has concluded that the proposed amendment involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Section Chief: Stephen Dembek.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 9, 2001.

Description of amendment request: Proposed amendments revise Technical Specification 3.5.1, ''Emergency Core Cooling Systems—Accumulators,'' to extend the allowed outage time allowed for an inoperable accumulator to 24 hours.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

STPNOC has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, ''Issuance of amendment,'' as discussed below.

1. *Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?*

Response: No.

The proposed changes involve no significant increase in the probability of an accident previously evaluated because the accumulator has no role as an accident initiator.

The proposed extension to the allowed outage time has no significant effect on the availability of the accumulator to perform its design function and has no effect on the configuration or accident response of the accumulator. The proposed change involves no changes to the accident analyses. Consequently, the proposed extended allowed outage time involves no significant increase in the consequences of an accident previously evaluated.

The proposed changes to eliminate the surveillance requirements also have no significant effect on the availability of the accumulator to perform its design function and have no effect on the configuration or accident response of the accumulator. The changes to the surveillance requirements involve no change to the accident analyses. Consequently, the changes to the surveillance requirements involve no significant increase in the consequences of an accident previously evaluated.

The proposed changes in the structure of the specification to be more consistent with ITS are administrative and have no technical impact. Consequently, they involve no significant increase in the probability or consequences of an accident previously evaluated.

The correction of the typographical error is an administrative change which has no operational significance.

2. *Does the proposed change create the probability of a new or different kind of accident from any accident previously evaluated?*

Response: No.

The proposed change does not involve the installation or operation of any new or different kinds of equipment, nor does it involve a new or different mode of operation. The proposed changes do not result in systems operating in a manner different from existing procedures and practices. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes in the structure of the specification to be more consistent with ITS are administrative and have no technical impact. Consequently, they do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The correction of the typographical error is an administrative change which has no operational significance.

3. *Does the proposed change involve a significant reduction in a margin of safety?*

Response: No.

The proposed change will allow plant operation in a configuration outside the design basis for up to 24 hours before being required to begin shutdown. The impact of this on plant risk was evaluated and found to be very small. That is, increasing the time the accumulators will be unavailable to respond to large LOCA event, assuming design basis accumulator success criteria is necessary to mitigate the event, has a very small impact on plant risk. The analyses quantitatively demonstrate the change does not involve a significant reduction in the margin of safety.

The proposed change removes the 18 month test to verify that the accumulator isolation valves automatically open when a simulated or actual P–11 interlock setpoint is exceeded, or when an SI signal is received. The valves are verified open every 24 hours and the power is verified removed every 31 days in accordance with the TS. Should the valves be inadvertently closed, the normal testing would adequately identify the condition. If the condition is recognized, the failure would be addressed by plant administrative controls that would immediately result in the appropriate Actions being taken for all affected systems. Based on the existence of other measures which adequately address the reason for the current requirement, this change does not involve a significant reduction in a margin of safety.

The proposed change removes the requirement from the Technical Specifications to perform surveillances on the accumulator instrumentation. The TS does not specifically require this instrumentation to be used to meet the required pressure and level verification surveillances. The verification of accumulator level and pressure may be determined by either installed instrumentation or temporary test equipment. Therefore, the change does not involve a significant reduction in a margin of safety.

The proposed changes in the structure of the specification to be more consistent with ITS are administrative and have no technical impact. Consequently, they do not involve a significant reduction in the margin of safety.

The correction of the typographical error is an administrative change which has no operational significance.

Based upon the analysis provided herein, the proposed amendments will not increase the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident previously evaluated, or involve a reduction in a margin of safety. Therefore, the proposed amendments meet the requirements of 10 CFR 50.92 and do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Alvin H. Gutterman, Esq., Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Robert A. Gramm.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 30, 2001.

Description of amendment request: Proposed amendments would permit relaxation of the allowed outage times and bypass test times for limiting conditions for operations under Technical Specifications 3.31, ''Reactor Trip System Instrumentation,'' and 3.3.2, ''Engineered Safety Features Actuation System Instrumentation.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?*

Response: No.

The reactor protection and engineered safety features functions are not initiators of any design basis accident or event and therefore the proposed changes do not increase the probability of any accident previously evaluated. The proposed changes to the allowed outage and bypass test times have an insignificant impact on plant safety based on the calculated core damage frequency increase being approximately 1.OE–06. Therefore, the proposed changes do not result in a significant increase in the consequences of an accident previously evaluated.

2. *Will the change create the possibility of a new or different kind of accident from any accident previously evaluated?*

Response: No.

The proposed changes do not result in a change in the manner in which the Reactor Trip System (RTS) and Engineered Safety Features Actuation System (ESFAS) provide plant protection. The existing RTS and ESFAS actuation setpoints will be unaffected by these proposed changes. The changes to the allowed outage and bypass test times do not change any existing accident scenarios nor create any new or different accident scenarios. Therefore, this request does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. *Will the change involve a significant reduction in a margin of safety?*

Response: No.

The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The impact of increased allowed outage times and bypass test times should result in an overall improvement in safety by reducing the potential for spurious reactor trips and spurious actuation of safety equipment. The longer allowed outage times and bypass test times will provide additional time before being required to place the associated channel in trip. With the channel in trip, the logic required to cause a reactor trip or safety system actuation is reduced to 1-out-or-2 (for 2-out-of-3 logic) and 1-out-of-3 (for 2-out-or-4 logic). With one channel tripped, the potential for a spurious actuation is increased. Placing a channel in bypass for additional time does reduce the availability of signals to initiate component actuation for event mitigation when required, but as shown in WCAP–14333, the impact on safety is small due to the availability of other signals or operator action to trip the reactor or cause component actuation. Therefore, these proposed changes should reduce the potential for inadvertent reactor trips and inadvertent equipment actuations due to human error or spurious actuation, and will not involve a significant reduction in the margin of safety.

Based upon the analysis provided herein, the proposed amendments will not increase the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a reduction in a margin of safety. Therefore, the proposed amendments meet the requirements of 10 CFR 50.92 and do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Alvin H. Gutterman, Esq., Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Robert A. Gramm.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: August 6, 2001 (TS 01–05).

Description of amendment request: The proposed amendment would revise the Technical Specification (TS) surveillance requirements for containment isolation valves (CIVs) to be verified closed. More specifically, valves in high radiation areas may be verified by administrative means. In addition, valves which are locked sealed or otherwise secured do not need to be reverified closed and are eliminated from the scope of the surveillance.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. *The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed changes to the surveillance requirements (SR) for verification of valve position continues to assure the operability of these valves such that the containment isolation function assumed in the safety analyses is maintained. Since these proposed revisions will continue to support the required safety functions without modification of the plant features, the probability of an accident is not increased.

The provisions proposed in this change request will continue to maintain an acceptable level of protection for the health and safety of the public and will not impact the potential for the offsite release of radioactive products. The overall effect of the proposed change will result in specifications that have equivalent requirements compared to existing specifications for CIV operability and will not increase the consequences of an accident.

B. *The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.*

The proposed revisions are not the result of changes to plant equipment, system design, testing methods, or operating practices. The modified requirements will allow the use of administrative means for verification of valve closure for those CIVs located in high radiation areas and eliminate the requirement to verify close those valves that are locked, sealed, or otherwise secured. The specifications for CIVs serve to provide controls for maintaining the containment pressure boundary. TVA's proposed changes does not contribute to the generation of postulated accidents. Since the function of the CIVs and their associated systems remains unchanged, and the effects do not contribute to accident generation, the proposed changes will not create the possibility of a new or different kind of accident.

C. *The proposed amendment does not involve a significant reduction in a margin of safety.*

The proposed change involves upgrading the CIV TS surveillance requirement to be consistent with the S[Standard]TS. The proposed change has been developed considering the importance of the CIVs in limiting the consequences of a design basis event and the concerns for the plant's ability to perform required operational support functions with the necessary systems isolated. The proposed change allows for alternative protection to assure the isolation function of the valves remain available.

Since the proposed revision does not alter the intent or application of the current TS requirements, and the function of the CIVs and their associated systems remains unchanged, the proposed change will continue to provide controls for maintaining the containment pressure boundary.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible 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.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: June 5, 2000, as supplemented August 4, 2000, and July 6, 2001.

Brief description of amendment: This amendment revises Technical Specification (TS) 3.7.8 to establish Required Actions and Completion Times in the event that the service water system exceeds the maximum allowed TS temperature of 97 degrees F.

Date of issuance: August 9, 2001.

Effective date: August 9, 2001.

Amendment No. 191.

Facility Operating License No. DPR–23. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** August 9, 2000 (65 FR 48745). The August 4, 2000, and July 6, 2001, supplements contained clarifying information only, and did not change the initial no significant hazards consideration determination or expand the scope of the initial application.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 9, 2001.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: May 18, 2001

Brief description of amendment: The amendment revises Technical Specification (TS) 3/4.9.4 ''Containment Building Penetrations'' and the associated Bases to permit containment building penetrations to remain open, under administrative controls, during core alterations or the movement of irradiated fuel within the containment. Specifically, the amendment: (1) Incorporates an alternate source term methodology in the fuel handling accident analysis; (2) revises TS 3.9.4 to remove portions of a note restricting the applicability of administrative controls with respect to containment penetrations; and (3) includes the use of administrative controls on the equipment hatch and other penetrations that provide access from containment atmosphere to outside atmosphere.

Date of issuance: July 30, 2001.

Effective date: July 30, 2001.

Amendment No.: 104.

Facility Operating License No. NPF–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** June 27, 2001 (66 FR 34280).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 2001.

No significant hazards consideration comments received: No.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: May 10, 2001:

Brief description of amendment: The amendment removes Technical Specification surveillance requirement 4.6.A.4 that requires each emergency diesel generator (EDG) to be given a thorough inspection at least annually following the manufacturer's recommendations. The requirement for the EDG inspection will be relocated to the Updated Final Safety Analysis Report and will be in accordance with the licensee-controlled maintenance program. The inspection period required by the maintenance program will also be changed to specify that it will be ''in accordance with the manufacturer's recommendations.''

Date of issuance: July 30, 2001.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 218.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 12, 2001 (66 FR 31704).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 2001.

No significant hazards consideration comments received: No.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: March 1, 2001.

Brief description of amendments: The amendments revised the Technical Specifications (TS) to permit implementation of 10 CFR part 50, Appendix J, Option B and to reference Regulatory Guide 1.163, ''Performance-Based Containment Leak Test Program,'' dated September 1995, which specifies a method acceptable to the NRC for complying with Option B. These changes relate only to Type B and Type C (local) leakage rate testing. In addition, the amendments revised Surveillance Requirement 3.6.3.8 by deleting the requirement for soap bubble testing of welded penetrations that are

not individually testable and clarified the Bases for TS 3.6.2 pertaining to the containment air lock door.

Date of issuance: July 31, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 192/184.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 19, 2001 (66 FR 22028).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 31, 2001.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: May 11, 2001.

Brief description of amendment: The amendment extends, on a one-time-basis, the Limiting Condition for Operation allowable out-of-service time for the residual heat removal service water (RHRSW) system from 7 days to 11 days. The applicability of this change is limited to the one-time-only installation of the modification to the ''B'' RHRSW strainer.

Date of issuance: July 27, 2001.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 271.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 27, 2001 (66 FR 34282).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 27, 2001.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: February 9, 2001 as supplemented by letters dated May 18, 2001 and June 26, 2001.

Brief description of amendments: The one-time amendments revise Braidwood Unit 1 Technical Specifications (TS), section 5.5.9.d.2, ''Steam Generator Tube Surveillance Program, Inspection Frequencies,'' for the Braidwood Station, Unit 1, fall 2001 refueling outage to allow a 40 month inspection interval after its first (post-replacement) inservice inspection, resulting in a C–1 classification, rather than after two consecutive inspections.

Date of issuance: August 9, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 117 and 117.

Facility Operating License Nos. NPF–72 and NPF–77: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 2, 2001 (66 FR 22030). The May 18, 2001 and June 26, 2001, supplemental letters provided clarifying information that was within the scope of the original **Federal Register** notice and did not change the staff's initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 9, 2001.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–334, Beaver Valley Power Station, Unit No. 1 (BVPS–1), Beaver County, Pennsylvania

Date of application for amendment: December 21, 2000.

Brief description of amendment: The amendment revised Technical Specification 3/4.3.1, ''Reactor Trip System Instrumentation,'' and associated bases to reflect the deletion of the steam/feedwater flow mismatch and low steam generator water level reactor trip function.

Date of issuance: August 8, 2001.

Effective date: As of the day of issuance and shall be implemented by the first entry into MODE 2 following the BVPS–1 Refueling Outage 14.

Amendment No: 240.

Facility Operating License No. DPR–66: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 24, 2001 (66 FR 7680).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 8, 2001.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Beaver County, Pennsylvania

Date of application for amendments: December 27, 2000, as supplemented on March 28, April 12, June 9, June 13, and June 29 (3), 2001. The addition of a Technical Specification (TS) Bases control program was requested on March 28, 2001.

Brief description of amendments: These amendments allow: (1) Revisions to reactor trip and engineered safety feature actuation setpoints and allowable values, (2) implementation of the revised thermal design procedure, (3) relocations of TS requirements to the core operating limits report, (4) relocation of TS requirements to the licensee requirements manual, (5) miscellaneous editorial changes. In addition, License Condition 2.(C).(3) regarding less than 3-loop operation was deleted.

Date of issuance: July 20, 2001.

Effective date: Immediately and to be implemented within 120 days.

Amendment Nos.: 239 and 120.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications and License.

Date of initial notice in **Federal Register:** April 18, 2001 (66 FR 20002) for the December 27, 2000, amendment request. A portion of a March 28, 2001, amendment request was also issued in this amendment. The date of the initial notice for the March 28, 2001, amendment request was June 20, 2001 (66 FR 33111).

The March 28, April 12, June 9, June 13, and June 29 (3), 2001, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 20, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Miami-Dade County, Florida

Date of application for amendments: March 12, 2001 as supplemented June 26, 2001.

Brief description of amendments: The amendments to the emergency diesel generators (EDG) Technical Specifications (TS) revised the 72-hour allowed outage time specified in TS 3.8.1.1, Actions b and f, and Tss 3.4.3 and 3.5.2 to allow 14 days to restore an inoperable EDG to operable status. In addition, the amendments deleted TS Surveillance Requirement 4.8.1.1.2.g.1 and allowed its relocation to a licensee-controlled maintenance program that will be incorporated by reference into the Updated Final Safety Analysis Report.

Date of issuance: August 8, 2001.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos: 215 and 209.

Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the TS.

Date of initial notice in **Federal Register:** April 18, 2001 (66 FR 20005). The supplemental submittal of June 26, 2001, provided clarifying information that did not change the scope of the original request or change the initial proposed no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 8, 2001.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of application for amendments: August 18, 2000.

Brief description of amendments: The amendments would change Technical Specification (TS) 3/4.7.4, ''Essential Service Water (ESW) System,'' and the associated Bases to add requirements that would support cross-connection to the opposite unit. The proposed amendment would also delete a provision for a 60-day allowed outage time when an ESW flowpath is not available to support the opposite unit's shutdown functions. Administrative and editorial changes are also made to provide consistency between units, correct typographical errors, improve readability, and improve page layout.

Date of issuance: August 3, 2001.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 253 and 235.

Facility Operating License Nos. DPR–58 and DPR–74: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 20, 2000 (65 FR 56951) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 3, 2001.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of application for amendments: July 17, 2001.

Brief description of amendments: The amendments revise Technical Specification 3.3.1.1, Table 3.3–1, Action 2a, to increase the amount of time allowed to place an inoperable power range neutron flux channel in the tripped condition from one hour to six hours.

Date of issuance: August 8, 2001.

Effective date: As of the date of issuance and shall be implemented within 3 days.

Amendment Nos.: 254 and 236.

Facility Operating License Nos. DPR–58 and DPR–74: Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (66 FR 38753, dated July 25, 2001). The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided for an opportunity to request a hearing by August 24, 2001, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendments, finding of exigent circumstances, state consultation, and final NSHC determination are contained in a Safety Evaluation dated August 8, 2001.

Attorney for licensee: David W. Jenkins, Esq., Indiana Michigan Power Company, Nuclear Generation Group, One Cook Place, Bridgman, MI 49106.

NRC Section Chief: Claudia M. Craig.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: March 6, 2001.

Brief description of amendment: The amendment revises the Technical Specifications to change the standard by which the licensee tests charcoal used in engineered safeguards features systems to American Society for Testing and Materials D3803–1989. These revisions are made in accordance with Generic Letter 99–02, ''Laboratory Testing of Nuclear-Grade Activated Charcoal.''

Date of issuance: July 30, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 171.

Facility Operating License No. NPF–69: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register***: April 4, 2001 (66 FR 17968).

The staff's related evaluation of the amendment is contained in a Safety Evaluation dated

No significant hazards consideration comments received: No.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station Unit No. 2, Oswego County, New York

Date of application for amendment: March 29, 2001.

Brief description of amendment: The amendment revises the Technical Specifications, Section 3.7.2, ''Control Room Envelope Filtration (CREF) System,'' to establish actions to be taken for an inoperable CREF system due to a degraded control room envelope boundary.

Date of issuance: August 7, 2001.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 97.

Facility Operating License No. NPF–69: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register***: May 30, 2001 (66 FR 29360).

The staff's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: October 19, 2000, as supplemented March 23, April 9, and June 27, 2001.

Brief description of amendment: The amendment revises the licensing basis to utilize the full scope of an alternative radiological source term for accidents as described in NUREG–1465, ''Accident Source Terms for Light-Water Nuclear Power Plants,'' and revises the Technical Specifications implementing various assumptions in the alternative source term analyses.

Date of issuance: July 31, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 240.

Facility Operating License No. DPR–49: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register***: March 6, 2001 (66 FR 13598).

The March 6, 2001, notice provided an opportunity for a hearing and petition for leave to intervene. No requests for hearing or petition for leave to intervene were received. Subsequently, the staff determined that the licensing action was eligible for categorical exclusion from environmental review. The amendment request was noticed on June 27, 2001

(66 FR 34285), with the staff's proposed no significant hazards consideration determination. The June 27, 2001, supplement contained corrected TS pages and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 31, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: May 2, 2001, as supplemented June 22 and July 27, 2001.

Brief description of amendment: The amendment (1) relocates requirements of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (the Code), Section XI, Inservice Testing (IST) Program currently contained in Technical Specification (TS) Surveillance Requirement (TSSR) 4.15.B to TS Administrative Control Section 6.8, ''Programs and Manuals,'' (2) makes conforming changes to several SRs to reflect the change in reference from TSSR 4.15.B to the licensee-controlled IST Program, (3) rewords TSSRs 4.5.A.3 and 4.5.D.1 to be consistent with NUREG–1433, (4) incorporates TS Task Force (TSTF) initiative TSTF–279 into TS Administrative Control Section 6.8, and (5) revises TSSRs 4.6.H.1, 4.6.H.3, and Table 4.6.1 to change the inspection and functional testing interval extensions reference from plus-or-minus 25 percent to plus 25 percent.

Date of issuance: August 1, 2001.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment No.: 122.

Facility Operating License No. DPR–22. Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register***: May 30, 2001 (66 FR 29360).

The June 22, 2001, supplement provided clarifying information to the application and added a table defining IST testing frequencies to the proposed TS 6.8.G in order to be consistent with NUREG–1433. The July 27, 2001, supplement provided updated TS pages to reflect amendments issued subsequent to the application. The supplements were within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards considerations determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 1, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: April 2, 2001.

Brief description of amendment: Removes from the Technical Specifications all requirements for, and references to, the term ''Assembly Radial Peaking Factor.''

Date of issuance: August 1, 2001.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 205.

Facility Operating License No. DPR–20. Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 2, 2001 (66 FR 22027).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 1, 2001.

No significant hazards consideration comments received: No.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: March 6, 2001, as supplemented by letter dated June 6, 2001.

Brief description of amendment: The amendment revises Section 5.0, ''Administrative Controls,'' of the Permanently Defueled Technical Specifications by eliminating the position of Senior Vice President, Power Supply, and assigning those duties to the Trojan Site Executive; and dividing the position and duties of the Trojan Site Executive and Plant General Manager between two separate positions: (1) Trojan Site Executive, and (2) General Manager, Trojan. The amendment also revises the language used in Section 5.0 of the Permanently Defueled Technical Specifications to conform with the language of revised 10 CFR 50.59 by replacing phrases which included the wording ''unreviewed safety question'' and ''safety evaluation'' with wording that will continue to conform to the requirements of revised 10 CFR 50.59.

Date of issuance: July 31, 2001.

Effective date: This license amendment is effective as of the date of issuance.

Amendment No.: 207.

Facility Operating License No. NPF–1: The amendment changes the Permanently Defueled Technical Specifications.

Date of initial notice in **Federal Register:** April 4, 2001 (66 FR 17962).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 31, 2001.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: September 14, 2000, as supplemented April 24 and May 24, 2001.

Brief description of amendment: The amendment removes the references to the Independent Safety Engineering Group.

Date of issuance: July 30, 2001.

Effective date: July 30, 2001.

Amendment No.: 151.

Facility Operating License No. NPF–12: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** November 1, 2000 (65 FR 65349). The April 24 and May 24, 2001, supplements contained clarifying information only and did not change the initial no significant hazards consideration determination or expand the scope of the initial application.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 2001.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: May 30, 2001 (ULNRC–04481).

Brief description of amendment: The amendment removes the phrase ''and the charging flow control valve full open'' from Limiting Condition for Operation 3.5.5, Required Action A.1, and Surveillance Requirement 3.5.5.1 for the reactor coolant pump seal injection flow in the technical specifications.

Date of issuance: August 7, 2001.

Effective date: August 7, 2001, and shall be implemented within 60 days from the date of issuance.

Amendment No.: 146.

Facility Operating License No. NPF–30: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 27, 2001 (66 FR 34289)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 2001.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 22, 2001.

Brief description of amendment: The amendment changed the penetration values in Technical Specification (TS) 5.5.11.c for laboratory testing of the charcoal adsorber for the control room ventilation system from 2 percent to 2.5 percent and the auxiliary/fuel building emergency exhaust system from 2 percent to 5 percent. The amendment also deleted the ''≤'' sign associated with the temperature for the laboratory test of a sample of the charcoal adsorber.

Date of issuance: August 7, 2001.

Effective date: August 7, 2001, and shall be implemented within 60 days from the date of issuance.

Amendment No.: 139.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 16, 2001 (66 FR 27178).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 2001.

No Significant Hazards Consideration comments received: No.

Dated at Rockville, Maryland, this 14th day of August 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–20885 Filed 8–21–01; 8:45 am]

BILLING CODE 7590–01–P

PRESIDIO TRUST

Notice of Receipt of and Availability for Public Comment on an Application for Wireless Telecommunications Facilities Site; The Presidio of San Francisco, California

AGENCY: The Presidio Trust.

ACTION: Public notice.

SUMMARY: This notice announces the Presidio Trust's receipt of and availability for public comment on an application from GTE Mobilnet of California d/b/a Verizon Wireless for colocation at an existing wireless telecommunications facilities site (''Project'') in The Presidio of San Francisco. The proposed location of the Project is in the vicinity of 1255 Armistead Road.

The Project involves (i) replacing an existing utility pole (installed by AT&T Wireless) with a taller pole to accommodate two additional antenna panels, and (ii) placing the associated radio equipment within a new prefabricated equipment shelter. The utility pole will be approximately 60 feet tall, 10 feet taller than the existing AT&T Wireless pole. Power for the project will be provided through underground coaxial cables connected to existing power sources. Connection to telephone lines will be through existing telephone lines.

COMMENTS: Comments on the proposed project must be sent to Celeste Evans, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052, and be received by September 24, 2001. A copy of Verizon's application is available upon request to the Presidio Trust.

FOR FURTHER INFORMATION CONTACT: Celeste Evans, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052. Email: cevans@presidiotrust.gov. Telephone: 415–561–5300.

Dated: August 16, 2001.

Karen A. Cook,

General Counsel.

[FR Doc. 01–21139 Filed 8–21–01; 8:45 am]

BILLING CODE 4310–4R–U

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:* Earnings Information Request.

(2) *Form(s) submitted:* G–19–F.

(3) *OMB Number:* 3220–0184.

(4) *Expiration date of current OMB clearance:* 10/30/2001.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or Households.

(7) *Estimated annual number of respondents:* 1,500.

(8) *Total annual responses:* 1,500.

(9) *Total annual reporting hours:* 200.

(10) *Collection description:* Under Section 2 of the Railroad Retirement Act, an annuity is not payable or is reduced by any month(s) in which the beneficiary works for a railroad or earns more than the prescribed amounts. The collection obtains earnings information not previously or erroneously reported by a beneficiary.

Additional Information or Comments

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. 01–21108 Filed 8–21–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549: Extension: Rule 11Ac1–4, SEC File No. 270–405, OMB Control No. 3235–0462.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 11Ac1–4 [17 CFR 240.11Ac1–4] under the Securities Exchange Act of 1034 requires specialists and market makers to publicly display a customer limit order when that limit order is priced superior to the quote that is currently being displayed by the specialist or market maker. Customer limit orders that match the bid or offer being displayed by the specialist or market maker must also be displayed if the limit order price matches the national best bid or offer. It is estimated that approximately 926 broker and dealer respondents incur an aggregate burden of 9,056 hours per year to comply with this rule.

Rule 11Ac1–4 does not contain record retention requirements. Compliance with the rule is mandatory. Responses

are not confidential. 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 control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: August 15, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21158 Filed 8–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IA–1969; File No. 803–152]

Artisan Partners Limited Partnership; et al.; Notice of Application

August 16, 2001.

AGENCY: Securities and Exchange Commission (the ''SEC'').

ACTION: Notice of Application for Exemption under the Investment Advisers Act of 1940 (''Advisers Act'').

APPLICANTS: Artisan Partners Limited Partnership (''APLP'') and Hirtle Callaghan Trust (''Trust'').

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 206A of the Advisers Act from section 205 of the Advisers Act and Advisers Act rule 205–1.

SUMMARY OF APPLICATION: Applicants request an order permitting APLP to charge a performance fee based on the performance of that portion of a Trust portfolio managed by APLP (''APLP Account''). Applicants further request that the order permit them to compute the performance-related portion of the fee using changes in the APLP Account's gross asset value rather than net asset value.

FILING DATES: The application was filed on August 3, 2000, and amended on July 9, 2001 and August 1, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with copies of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 10, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549–0609. Applicants, Artisan Partners Limited Partnership, 1000 North Water Street, Milwaukee, Wisconsin 53202; Hirtle Callaghan Trust, 575 Swedesford Road, Wayne, Pennsylvania 19087.

FOR FURTHER INFORMATION CONTACT: Sarah B. Ackerson, Senior Special Counsel, at (202) 942–4780, or Jennifer L. Sawin, Assistant Director, at (202) 942–0719 (Division of Investment Management, Office of Investment Adviser Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. APLP is an investment adviser registered under the Advisers Act. The Trust is an open-end management investment company registered under the Investment Company Act of 1940. The Trust was organized by Hirtle, Callaghan & Co. (''Hirtle Callaghan''), an investment adviser registered under the Advisers Act. The Trust is a series company that currently consists of several separate investment portfolios. Shares of the Trust are available only to clients of Hirtle Callaghan or clients of financial intermediaries, such as investment advisers, that are acting in a fiduciary capacity with investment discretion and that have established relationships with Hirtle Callaghan.

2. Hirtle Callaghan serves as a ''manager of managers'' for the Trust. Pursuant to its agreement with the Trust, Hirtle Callaghan is not authorized to exercise investment discretion with respect to the Trust's assets. Hirtle Callaghan is responsible for monitoring the overall investment performance of the Trust's portfolios and the performance of the portfolio managers that manage the Trust's portfolios. Hirtle Callaghan may also from time to time recommend that the Trust's Board of Trustee (the ''Board'') retain additional portfolio managers or terminate existing portfolio managers. Authority to select new portfolio managers and reallocate assets among the portfolio managers, however, resides with the Trust's Board.

3. APLP and Capital Guardian Trust Company (''Cap Guardian'') provide portfolio management services to the International Equity Portfolio (''Portfolio''), one series of the Trust. Pursuant to a portfolio management agreement, APLP provides portfolio management services for a portion of the Portfolio's assets that the Trust's Board allocates to APLP (''APLP Account''). Each of APLP and Cap Guardian manages a separate portion of the Portfolio, each acting as though it were advising a separate investment company. Percentage limitations on investments are applied to each portion of the Portfolio without regard to investments in the other adviser's portion of the Portfolio. Each adviser receives information about portfolio positions from the Trust or its custodian that generally contains only information about the portion of the Portfolio assigned to it and not about the positions held by the Portfolio as a whole. Each adviser generally is responsible for preparing reports to the Trust and the Board only with respect to its discrete portion of the Portfolio.

4. APLP is not affiliated with Hirtle Callaghan, the Trust, or Cap Guardian (except to the extent such affiliation may exist because APLP serves as an investment adviser to the Portfolio). APLP's services to the Trust are limited to investment selection for the APLP Account, placement of transactions for execution and certain compliance functions directly related to such services. APLP does not act as a distributor or sponsor for the Trust or Portfolio. No member of the Trust's Board is affiliated with APLP. APLP currently receives a fee at the annual rate of 0.40 percent of the average daily net assets of the APLP Account, payable monthly.

5. On June 8, 1999 the Trust's Board approved an amendment to the portfolio management agreement between APLP and the Trust under which the existing fee structure would be replaced with a fee structure that includes a performance component. On July 23, 1999 the shareholders of the Portfolio approved the amendment to the agreement.[1]

[1] The proxy statement associated with this shareholder meeting specifically informed shareholders that, if approved by the shareholders, the proposed fee would not become effective until receipt of assurances from the SEC that calculating the fee as proposed would not be viewed as

Continued

6. Under the proposed fee arrangement, APLP would receive an initial fee at the annual rate of 0.40 percent of the average daily net assets of the APLP Account, payable quarterly, for each of the first three quarters following the date on which the proposed fee arrangement becomes effective. At the end of the fourth quarter, APLP would begin to receive a base fee, payable quarterly, at an annual rate of 0.40 percent of the average daily net assets of the APLP Account. The base fee would be increased or decreased by a Performance Component. The Performance Component would equal 25 percent of the amount by which the gross performance of the APLP Account, during the 12 months immediately preceding the calculation date, exceeded or underperformed the sum of (i) the total return of the Morgan Stanley Capital International Europe, Australasia, Far East Index (''Index'') plus (ii) 40 basis points. Gross performance does not give effect to the Portfolio's expenses, but does reflect the effect (*i.e.*, reducing performance) of all applicable brokerage and transaction costs. The maximum annual fee payable for any 12 month period would not exceed 80 basis points, and there is no minimum fee. If the APLP underperforms the index by at least 120 basis points, APLP could receive no fee for a given period.[2] However, APLP's fee can never be less than zero.

Applicants' Legal Analysis

1. Section 205(a)(1) of the Advisers Act generally prohibits an investment adviser from entering into any investment advisory agreement that provides for compensation to the adviser on the basis of a share of capital gains or capital appreciation of a client's account.

2. Section 205(b) of the Advisers act provides a limited exception to this prohibition, permitting an adviser to charge a registered investment company and certain other entities a fee that increases and decreases ''proportionately with the investment performance of the investment company or fund over a specified period in relation to the investment record of an appropriate index of securities prices or such other measure of investment performance as the [SEC] by rule, regulation or order may specify.''

3. Rule 205–1 requires that the investment performance of an investment company be computed based on the change in the net (of all expenses and fees) asset value per share of the investment company.

4. Applicants request exemptive relief from section 205 and rule 205–1 to permit them to charge the proposed fee (i) applying the proposed fee only to the APLP Account and not to the Portfolio as a whole, and (ii) computing the Performance Component measured by the change in the APLP Account's gross asset value, rather than the change in the net asset value of the APLP Account.

5. Applicants state that Congress, in adopting and amending section 205 of the Advisers Act, and the SEC, in adopting rule 205–1, put into place safeguards designed to ensure that investment advisers would not take advantage of advisory clients.

6. Applicants assert that the SEC required that performance fees be calculated based on the net asset value of the investment company's shares to prevent a situation where an adviser could earn a performance fee even though investment company shareholders did not derive any benefit from the adviser's performance after the deduction of fees and expenses.

7. Applicants state that, unlike traditional performance fee arrangements, APLP would not receive the Performance Component of its fee unless its management of the APLP Account has resulted in performance in excess of the Index performance plus a ''performance hurdle'' equal to the 40 basis point base fee. Applicants assert that increasing the performance of the Index by the 40 basis point hurdle would have an effect similar to deducting APLP's fees. In the event the base fee changes, the performance hurdle also would be changed so that the maximum total fee would be twice the base fee and the minimum would remain zero, so that the fee would continue to have the potential to increase and decrease proportionately. Applicants state that since the fee structure contains a performance hurdle, the Portfolio's shareholders will have protections similar to those contemplated by the net asset value requirement of rule 205–1.

8. Applicants state that Congress concern, in enacting the safeguards of section 205, came about because the vast majority of investment advisers exercised a high level of control over the structuring of the advisory relationship. Applicants state that the proposed fee, however, was negotiated actively at arm's length between the parties. Applicants state that APLP has little, if any, influence over the overall management of the Trust or the Portfolio beyond stock selection, and does not control the Portfolio or the Trust. Management functions of the Trust and the Portfolio reside in the Trust's Board. The Trust is directly and fully responsible for supervising the Trust's service providers and monitoring expenses of each of the Trust's portfolios. The Trust's Board is responsible for allocating the assets of the several portfolios among the portfolio managers. Neither APLP nor its affiliates sponsored or organized the Trust, nor serves as a distributor or principal underwriter of the Trust. APLP and its affiliates do not own any shares issued by the Trust. No officer, director, or employee of APLP, or of its affiliates, serves as an executive officer or director of the Trust. Neither APLP nor any of its affiliates is an affiliated person of Hirtle Callaghan or any other person who consults or provides investment advice with respect to the Trust's advisory relationships (except to the extent that such affiliation may exist by reason of APLP serving as investment adviser to the Trust).

9. Applicants argue that the proposed fee arrangement satisfies the purpose of rule 205–1 because it was negotiated at arm's length between the parties and the Trust does not need the protections afforded by calculating a performance fee based on met assets. Applicants assert that the proposed fee arrangement is therefore consistent with the underlying policies of section 205 and rule 205–1 under the Advisers Act because it is appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policies and provisions of the Advisers Act.

Applicant's Conditions

1. If the base fee changes, the performance fee will be adjusted to equal the base fee rate.

2. To the extent APLP relies on the requested order with respect to advisory arrangements with other investment companies that it advises, these arrangements will meet the following requirements: (i) The investment advisory fee will be negotiated between APLP and the investment company or its primary investment adviser; (ii) the fee structure will contain a performance hurdle that is, at all times, no lower than the base fee; (iii) neither APLP nor any of its affiliates will serve as distributor or sponsor of the investment

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inconsistent with the Advisers Act, and that there could be no guarantee that the SEC would give such assurances.

[2] If application of the Performance Component to the first four quarters would result in an annual fee at a rate lower than 40 basis points, the amount of any excess fee paid for the first year would be credited to the Portfolio in subsequent quarters before additional fee amounts would be payable to APLP. If the portfolio management agreement between the Trust and APLP is terminated, the Trust would not recoup any outstanding excess fees that had been paid in previous quarters.

company; (iv) no member of the board of the investment company will be affiliated with APLP or its affiliates; (v) neither APLP nor any of its affiliates will organize the investment company; and (vi) neither APLP nor any of its affiliates will be an affiliated person of any primary adviser to the investment company or of any other person who consults or provides advice with respect to the investment company's advisory relationships (except to the extent that APLP may be affiliated with another portfolio manager by virtue of the fact that APLP or the affiliate serves as a portfolio manager to the investment company or to another investment company).

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21119 Filed 8–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25113; File Nos. 812–12532 and 812–12534]

The Dreyfus/Laurel Funds, Inc., *et al.;* Notice of Applications

August 16, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of applications for orders under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for exemptions from section 17(a) of the Act.

Summary of Applications: Applicants request orders to permit the proposed reorganizations of (a) Dreyfus Disciplined Smallcap Stock Fund (''Smallcap Stock Fund''), a series of The Dreyfus/Laurel Funds, Inc. (''Dreyfus/Laurel''), with and into MPAM Small Cap Stock Fund (''Small Cap Stock Fund''), a series of MPAM Funds Trust (''MPAM'') [File No. 812–12534], and (b) Dreyfus Disciplined Intermediate Bond Fund (''Intermediate Bond Fund''), a series of Dreyfus/Laurel, with and into MPAM Bond Fund (''Bond Fund''), a series of MPAM [File No. 812–12532]. Because of certain affiliations, Applicants may not rely on rule 17a–8 of the Act.

Applicants: Dreyfus/Laurel, MPAM and the Dreyfus Corporation (''Dreyfus'').

Filing Dates: The applications were filed on May 25, 2001 and amended on August 6, 2001.

Hearing or Notification of Hearing: Orders granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 10, 2001 and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW, Washington, DC 20549–0609. Applicants, c/o Clifford J. Alexander, Esq., Kirkpatrick & Lockhart LLP, 1800 Massachusetts Avenue, NW, 2d Floor, Washington, DC 20036–1800.

FOR FURTHER INFORMATION CONTACT: Jaea Hahn, Senior Counsel, at (202) 942–0614, or Janet Grossnickle, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the applications. The complete applications may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Dreyfus/Laurel, a Maryland corporation, is registered under the Act as an open-end management investment company and currently offers nineteen series, including Smallcap Stock Fund and Intermediate Bond Fund. MPAM, a Massachusetts business trust, is registered under the Act as an open-end management investment company and currently offers thirteen series, including Small Cap Stock Fund and Bond Fund. Smallcap Stock Fund, Intermediate Bond Fund, Small Cap Stock Fund and Bond Fund are each a ''Fund.'' Smallcap Stock Fund and Intermediate Bond Fund are the ''Acquired Funds,'' and Small Cap Stock Fund and Bond Fund are the ''Acquiring Funds.''

2. Dreyfus, an investment adviser registered under the Investment Advisers Act of 1940, serves as investment adviser for the Acquired Funds. MPAM Advisers, a division of Dreyfus, serves as investment adviser for the Acquiring Funds. Dreyfus is a wholly owned subsidiary of Mellon Bank, N.A. (''Mellon Bank''), which is a wholly owned subsidiary of Mellon Financial Corporation (''Mellon''). As of April 10, 2001, Mellon, directly or through affiliates, owned, with power to vote in the aggregate, approximately 91% of the outstanding voting securities of Smallcap Stock Fund, 93% of the outstanding voting securities of Intermediate Bond Fund, 67% of the outstanding voting securities of Small Cap Stock Fund, and 69% of the outstanding voting securities of Bond Fund. No Mellon subsidiary owns an economic interest in any of the Funds that equals or exceeds five percent.

3. On April 26, 2001 and May 9, 2001, the board of directors or trustees of each Fund (the ''Boards''), including the directors or trustees who are not ''interested persons'' of the Funds, as defined in section 2(a)(19) of the Act (''Independent Directors''), unanimously approved an Agreement and Plan of Reorganization (each a ''Plan,'' and together the ''Plans'') for their respective funds. Under the Plans, each Acquiring Fund will acquire all of the assets and certain stated liabilities of the corresponding Acquired Fund in exchange for shares of the Acquiring Fund (each, a ''Reorganization''). The shares of each Acquiring Fund exchanged will have an aggregate net asset value equal to the aggregate net asset value of the corresponding Acquired Fund's shares determined as of the close of regular trading on the New York Stock Exchange on the closing date of each Reorganization (each, a ''Closing Date''). The value of the assets of each Fund will be determined according to the Fund's then-current prospectus and statement of additional information. As soon as practicable after each Closing Date, each Acquired Fund will make a pro rata distribution of shares of the corresponding Acquiring Fund to its shareholders and liquidate.

4. Applicants state that the Acquiring Funds have investment objectives, policies and restrictions that are substantially similar to those of the Acquired Funds. Smallcap Stock Fund currently offers shares that are not subject to sales charges, but are subject to distribution fees. Shareholders of the Smallcap Stock Fund will receive shares of one of two classes of Small Cap Stock Fund,[1] neither of which will have either

[1] Small Cap Stock Fund currently offers only one class of shares, which it proposes to designate as ''MPAM Shares.'' On May 9, 2001, the Trust filed with the Commission a Post-Effective Amendment to its Registration Statement on Form N–1A to register Small Cap Stock Fund's ''Investor Shares.'' MPAM Shares will be for MPAM clients that maintain qualified fiduciary, custody or other accounts with Mellon Bank or Boston Safe Deposit and Trust Company, or their bank affiliates (''MPAM Clients''). Smallcap Stock Fund

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a sales charge or a distribution fee. The Small Cap Stock Fund shares designated ''Investor Shares'' will, however, be subject to a services plan compensating its distributor for shareholder servicing activities. Intermediate Bond Fund currently offers two classes of shares designated ''Restricted Class Shares'' and ''Investor Class Shares.'' Neither class of the Intermediate Bond Fund is subject to a sales charge, but the Investor Class Shares are subject to distribution fees. Bond Fund currently offers only one class of shares, but in connection with the Reorganization will offer two classes of shares designated ''MIPAM Shares'' and ''Investor Shares.'' [2] Neither of Bond Fund's class of shares will be subject to a sales charge or distribution fees, but the Investor Shares will be subject to a shareholder services plan. No sales charge will be imposed in connection with the Reorganizations. Each Fund will bear its pro rate share of the related Reorganization expenses.

5. Each Board, including all of the Independent Directors, unanimously found that the participation of its Fund in the respective Reorganization was in the best interest of each of their respective Funds and their shareholders and that the interests of each Fund's existing shareholders will not be diluted as a result of its Reorganization. In approving the Reorganizations, the Board of each Acquired Fund considered various factors, including, among other things: (a) The compatibility of the investment objectives, management policies and investment restrictions of the Funds; (b) the terms and conditions of the Reorganizations; (c) the respective expense ratios of the Funds; (d) the tax-free nature of the Reorganizations; and (e) the estimated costs to the Funds as a result of the Reorganizations.

6. The Reorganizations are subject to a number of conditions including: (1) Each Fund will have received an opinion of counsel stating, among other things, that the Reorganization will not result in federal income tax liability for the Fund or its shareholders; (b) the shareholders of each Acquired Fund will have approved their respective Reorganizations; and (c) the Funds will have received from the Commission an order exempting the Reorganization from the provisions of section 17(a) of the Act. An Acquired Fund or Acquiring Fund may terminate its Plan if the Fund's Board determines that circumstances have developed that make proceeding with the Reorganization inadvisable, or if there is a material breach by the other party of any representation, warranty or agreement contained in the Plan, or if a condition cannot be met. Applicants agree not to make any material changes to either Plan of Reorganization without prior approval of the Commission or its staff.

7. A registration statement on Form N–14 with respect to each Reorganization, containing a proxy statement/prospectus, was filed with the Commission on June 22, 2001 and amended on August 3, 2001. A registration statement containing a combined prospectus/proxy statement will be mailed to each Acquired Fund's shareholders on or about August 8, 2001. A meeting of shareholders of each Acquired Fund will take place on or about September 25, 2001.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from selling any security to, or purchasing any security from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) certain mergers, consolidations, and sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied.

3. Applicants state that Mellon, directly or through affiliates, owns as nominee with power to vote in the aggregate more than 5% (and even more than 25%) of the total outstanding voting securities of each of the Funds. Because of this nominee ownership, each Acquiring Fund and each Acquired Fund may be deemed to be an affiliated person for reasons other than those set forth in rule 17a–8 and, therefore, may be unable to rely on the rule.

4. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request orders under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganizations. Applicants submit that the Reorganizations satisfy the standards of section 17(b) of the Act. Applicants state that the terms of the Reorganizations are reasonable and fair and do not involve overreaching. Applicants state that the investment objectives, policies and restrictions of the Acquired Funds are substantially similar to those of the corresponding Acquiring Funds. Applicants also state that the Boards, including all of the Independent Directors, unanimously found that the participation of the Acquired and the Acquiring Funds in the Reorganizations are in the best interests of each Fund and its shareholders and that such participation will not dilute the interests of the existing shareholders of each Fund. In addition, Applicants state that the Reorganizations will be on the basis of the Funds' relative net asset values.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

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shareholders will receive MPAM Shares in the Reorganization if they are MPAM Clients, and Investor Shares if they are not MPAM Clients.

[2] Bond Fund currently offers only one class of shares, which it proposes to designate as ''MPAM Shares.'' On May 9, 2001, the Trust filed with the Commission a Post-Effective Amendment to its Registration Statement on Form N–1A to register Bond Fund's ''Investor Shares.'' In the Reorganization, only shareholders of Intermediate Bond Fund's Restricted Class will receive MPAM Shares.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25116; 812–12568]

Mutual Fund Trust, et al.; Notice of Application

August 17, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application under section 17(b) of the Investment Company Act of 1940 (''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain series of registered open-end management investment companies to acquire all of the assets and liabilities of certain series of registered open-end management investment companies. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: Mutual Fund Trust (''MFT''), Mutual Fund Group (''MFG''), J.P. Morgan Funds (''JPMF''), J.P. Morgan Institutional Funds (''JMIF''), J.P. Morgan Series Trust (''JPMST'') (each, a ''Trust,'' and collectively, the ''Trusts''), J.P. Morgan Fleming Asset Management (USA) Inc. (''JPMFAM''), and J.P. Morgan Investment Management Inc. (''JPMIM'').

FILING DATES: The application was filed on July 2, 2001 and amended on August 17, 2001. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 6, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants: c/o Joseph J. Bertini, JPMIM, 522 Fifth Avenue, New York, NY 10036.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 942–0567, or Michael W. Mundt, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. MFT, MFG, JPMF, JPMIF, and JPMST, each a Massachusetts business trust, are open-end management investment companies registered under the Act. MFT has nine series, three of which are involved in the proposed transactions. MFG has seventeen series, three of which are involved in the proposed transactions. JPMF has eighteen series, eight of which are involved in the proposed transactions. JPMIF has thirty-four series, eleven of which are involved in the proposed transactions. JPMST has thirteen series, one of which is involved in the proposed transactions. The twenty-six series involved in the proposed transactions are collectively the ''Funds.'' Certain of these Funds are ''Acquiring Funds'' and certain Funds are ''Acquired Funds'' [1] JPMorgan Fleming International Equity (''Fleming International Equity Fund'') and the nineteen Funds that are series of JPMF and JPMIF currently operate as ''feeder'' Funds (each, a ''Feeder Fund'' and collectively, the ''Feeder Funds'') in a ''master-feeder'' structure. Each Feeder Fund invests all of its investable assets in a corresponding ''master'' portfolio (each, a ''Master Fund'') that is registered as an open-end management investment company under the Act.

2. JPMFAM and JPMIM are registered as investment advisers under the Investment Advisers Act of 1940 (the ''Advisers Act''). JPMFAM serves as the investment adviser to the Funds that are series of MFT and MFG (other than Fleming International Equity Fund) and to the corresponding Master Fund of Fleming International Equity Fund. JPMIM serves as the investment adviser to each remaining Master Fund and to J.P. Morgan Institutional California Bond Fund, J.P. Morgan Fleming Asset Management (London) Limited (''Subadviser'') is registered as an investment adviser under the Advisers Act and serves as the sub-adviser to JPMorgan Fleming European Fund and to the corresponding Master Fund of Fleming International Equity Fund. JPMFAM, JPMIM, and Subadviser are wholly-owned subsidiaries of J.P. Morgan Chase & Co. (''JPMC'').

3. Morgan Guaranty Trust Company of New York (''Morgan'') and The Chase Manhattan Bank (''Chase'') are both wholly-owned subsidiaries of JPMC. As of May 23, 2001, Morgan or Chase, as applicable, held of record for the benefit of others, in trust, more than 5% (in some cases, more than 25%) of the outstanding voting securities of certain of the Funds.

4. On January 23–24 and March 26–27, 2001 (with respect to JPMF, JPMIF and JPMST) and February 22 and April 3, 2001 (with respect to MFT and MFG), the board of trustees of each Trust (each, a ''Board'' and collectively, the ''Boards''), including all the trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (the ''Independent Trustees''), unanimously approved an agreement and plan of reorganization (each, a ''Plan'' and collective, the ''Plans'') for each Fund. Under the Plans, each Acquiring Fund will acquire all of the assets and liabilities of the corresponding Acquired Fund in exchange for shares of designated classes of the Acquiring Fund (each, a ''Reorganization'' and collectively, the ''Reorganizations''). The shares of each Acquiring Fund exchanged will have an aggregate net asset value equal to the aggregate net asset value of the corresponding Acquired Fund's shares determined as of the close of regular trading on the New York Stock Exchange on the closing date of each Reorganization (each a ''Closing Date''), currently anticipated to occur as soon as

[1] The Acquired Funds and the corresponding Acquiring Funds are: (i) J.P. Morgan Global Strategic Income Fund and J.P. Morgan Institutional Global Strategic Income Fund; (ii) J.P. Morgan Tax Exempt Money Market Fund and JPMorgan Tax Free Money Market Fund; (iii) J.P. Morgan Institutional European Equity Fund and JPMorgan Fleming European Fund; (iv) J.P. Morgan International Opportunities Fund and J.P. Morgan Institutional International Opportunities Fund; (v) JPMorgan Fleming International Equity Fund and J.P. Morgan Institutional International Opportunities Fund; (vi) J.P. Morgan U.S. Equity Fund and J.P. Morgan Institutional U.S. Equity Fund; (vii) J.P. Morgan U.S. Equity Fund—Advisor Series and J.P. Morgan Institutional U.S. Equity Fund; (viii) JPMorgan Large Cap Equity Fund and J.P. Morgan Institutional U.S. Equity Fund; (ix) J.P. Morgan U.S. Small Company Fund and J.P. Morgan Institutional U.S. Small Company Fund; (x) J.P. Morgan Diversified Fund and J.P. Morgan Institutional Diversified Fund; (xi) J.P. Morgan Bond Fund and J.P. Morgan Institutional Bond Fund; (xii) J.P. Morgan Institutional Bond Fund—Ultra and J.P. Morgan Institutional Bond Fund; (xiii) JPMorgan California Intermediate Tax Free Income Fund and J.P. Morgan Institutional California Bond Fund; (xiv) J.P. Morgan Federal Money Market Fund and JPMorgan Federal Money Market Fund II; (xv) J.P. Morgan Institutional Federal Money Market Fund and JPMorgan Federal Money Market Fund II; and (xvi) J.P. Morgan Institutional Service Federal Money Market Fund and JPMorgan Federal Money Market Fund II.

practicable after the granting of the order of the Commission requested by the application. The value of the assets of each Fund will be determined according to the Fund's then-current prospectus and statement of additional information. On the Closing Date, each Acquired Fund will be liquidated by the distribution of the corresponding Acquiring Fund's shares pro rata to the shareholders of the Acquired Fund. In connection with the Reorganizations, each Feeder Fund will either convert to, or be reorganized with, a Fund that invests directly in securities.

5. Applicants state that the investment objectives and policies of each Acquired Fund (or corresponding Master Fund) are identical to or generally similar to those of its corresponding Acquiring Fund (or corresponding Master Fund). Applicants state that shareholders of the Acquired Funds will receive shares of the Acquiring Funds that are subject to the same service fees, sales charges, or distribution fees as their Acquired Fund shares, except for shareholders of J.P. Morgan U.S. Equity Fund—Advisory Series who will receive shares of a class of its corresponding Acquiring Fund (ordinarily with a maximum front-end sales charge of 5.75%) if a concurrent reorganization occurs. For purposes of calculating deferred sales charges on shares of an Acquired Fund that currently have a deferred sales charge, the amount of time a shareholder held shares of the Acquired Fund will be added to the amount of time the shareholder holds shares of the applicable Acquiring Fund. Applicants represents that the rights and obligations of each class of shares of each Acquired Fund are substantially similar to those of the corresponding class of shares of the Acquiring Funds into which they will be reorganized. No sales charge will be imposed in connection with the Reorganizations. JPMC will bear all of the costs associated with the Reorganizations.

6. Each Board, including the Independent Trustees, unanimously determined that the participation of each Fund in the respective Reorganization was in the best interests of the Fund and its shareholders, and that the interests of the shareholders of the Fund would not be diluted as a result of the Reorganization. In approving the Reorganizations, the Boards considered various factors, including: (a) The terms of the Plan; (b) a comparison of each Fund's historical and projected expense ratio; (c) the investment objectives and policies of the relevant Acquired Fund and the Acquiring Fund; (d) the fact that all costs and expenses of the relevant Reorganization will be borne by JPMC; and (e) the tax-free nature of the Reorganizations. With respect to the Reorganizations involving Feeder Funds, each applicable Board also considered other factors, including agreements by Morgan or Chase to waive or reimburse certain expenses of the Acquiring Funds.

7. The Reorganizations are subject to a number of conditions, including that: (a) The shareholders of each Acquired Fund will have approved the Reorganization; (b) the Funds will have received opinions of counsel concerning the tax-free nature of each Reorganization; and (c) applicants will have received exemptive relief from the Commission to permit the Reorganizations. The consummation of certain of the Reorganizations is also contingent upon the consummation of one or more reorganizations, including reorganizations that are not covered by the application. An Acquired Fund or Acquiring Fund may terminate its Plan if certain conditions are not satisfied prior to the Closing Date. Applicants agree not to make any material changes to any Plan that affect the exemptive order without prior approval of the Commission or its staffs.

8. A registration statement on Form N–14 with respect to each Reorganization, containing a prospectus/Proxy statement, was filed with the Commission on April 12, 13, or 16, 2001, and became effective on May 12, 13, or 16, 2001, respectively. Definitive combined prospectus/proxy statement materials were first mailed to shareholders of the Acquired Funds on or about May 22, 2001. Each Acquired Fund held a special meeting of shareholders on July 3, 2001, which meetings (except for the meeting of shareholders of JP Morgan California Intermediate Tax Free Income Fund (''Tax Free Income Fund'')) were adjourned until July 25, 2001, because a quorum was not present. The shareholders of Tax Free Income Fund approved its Reorganization at the July 3, 2001 meeting. At the special meetings of shareholders on July 25, 2001, shareholders of each remaining Acquired Fund approved the respective Reorganizations.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an affiliated person of another person to include, among others: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) certain mergers, consolidations, and sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of affiliated persons, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied.

3. Applicants state that Morgan or Chase, as applicable, holds of record for the benefit of others, in trust, more than 5% (in some cases, more than 25%) of the outstanding voting securities of certain of the Funds. Because Morgan or Chase holds these securities, certain Acquiring Funds and Acquired Funds may be deemed to be affiliated persons, or affiliated persons of affiliated persons, for reasons other than those set forth in rule 17a–8 and therefore unable to rely on the rule.

4. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) exempting them from section 17(a) to the extent necessary to complete the Reorganizations. Applicants submit that the Reorganization satisfy the standards of section 17(b). Applicants state that the Boards, including the Independent Trustees, unanimously found that the participation of the Acquired Funds and Acquiring Funds in the Reorganizations is in the best interests of each Fund and its shareholders and that such participation will not dilute the interests of the existing shareholders of each Fund. In addition, applicants state

that the Reorganizations will be on the basis of the Funds' relative net asset values.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21280 Filed 8–20–01; 11:41 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44712; File No. SR–Amex–2001–58]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by American Stock Exchange LLC Relating to Billing of Annual Fee for Listed Companies

August 16, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 2, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 141 of the Amex *Company Guide* as follows (deletions are bracketed; new language is italicized):

ANNUAL FEES

Sec. 141

Stock Issues

[No change to annual fee schedule.]

The annual fee is payable in January of each year and is based on the total number of all classes of shares (excluding treasury shares) and warrants according to information available on Exchange records as of December 31 of the preceding year. (The above fee schedule also applies to companies whose securities are admitted to unlisted trading privileges.)

In the calendar year in which a company first lists, the annual fee will be prorated to reflect only that portion of the year during which the security has been admitted to dealings and will be payable [In December] *within 30 days of the date the company received the invoice*, based on the total number of outstanding shares of all classes of stock at the time of original listing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 141 of the Amex *Company Guide* sets out the schedule of annual fees payable by listed companies. The section provides that, in the calendar year in which a company first lists, the annual fee will be prorated to reflect the portion of the year that the company has been listed, and is payable in December based on the total number of outstanding shares at the time of original listing. Current Exchange billing practice for annual fees is to send the company an invoice after listing, payable on receipt.

In the interest of facilitating more timely receipt of the annual fee in the first year of listing, the Exchange proposes to provide that the annual fee in the first year of listing will be payable 30 days from the date the company receives the invoice.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[2] in general and furthers the objectives of Section 6(b)(5)[3] in particular in that it is designed to remove impediments to the perfect the mechanism of a free and open market and a national market system, and, in general, to protect investor and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By orders approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the file number in the caption above and should be submitted by September 12, 2001.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78f(b).

[3] 15 U.S.C. 78f(b)(6).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21161 Filed 8–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44710; File No. SR–CBOE–2001–45]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to Exercise Prices for FLEX Equity Options

August 16, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 there under,[2] notice is hereby given that on August 14, 2001, Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6)[4] thereunder, which renders the proposal effective upon filing with the Commission.[5] The Commissiion is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposal

The Exchange proposes to amend CBOE Rule 24A.4 to provide that exercise prices for Flexible Exchange options (''FLEX Options'') on specified equity securities (''FLEX Equity Options'') may be stated in fractional or decimal form. The text of the proposed rule change is below. Additions are in italics.

CHAPTER XXIVA

Flexible Exchange Options

Rule 24A.4 Terms of FLEX Options

(a)–(b) Unchanged.

(c)

(1) Unchanged.

(2) Exercise prices and premiums may be stated in dollar amount or percentage of the price of the underlying security, rounded to the nearest minimum tick or, in the case of exercise prices, to the nearest *$.10 or* one-eighth of a dollar;

(3)–(4) Unchanged.

Interpretations and Policies:

.01 Unchanged.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Rule 24A.4, Terms of FLEX Options, to provide that exercise prices for FLEX Equity Options may be stated in fractional or decimal form. Specifically, the Exchange proposes to amend paragraph (c)(2) of Rule 24A.4 to state that exercise prices for FLEX Equity Options may be rounded to the nearest $.10, as well as to the nearest one-eighth of a dollar. The proposed rule change would enable market participation to state both exercise prices and premiums for FLEX Equity Options in decimal form, thereby facilitating transactions in FLEX Equity Options.[6]

2. Statutory Basis

CBOE believes the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[7] in general, and Section 6(b)(5)[8] in particular, in that it is designed to facilitate transactions in securities, to protect investors and the public interest, and to remove impediments to and perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Exchange has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal to become operative upon filing with the Commission because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow CBOE to better compete with the over-the-counter market and those options exchanges that have already adopted rules to permit offering FLEX Equity Options strike prices in $.10 increments. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.[11]

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[4] 17 C.F.R. 200.3–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 250.19b–4(f)(6).

[5] The Exchange provided the Commission with written notice of its intent to file the proposal on August 6, 2001, pursuant to Rule 19b–4(f)(6). 17 CFR 204.19b–4(f)(6). *See* August 3, 2001 letter from Jamie Galvan, Attorney, CBOE to Nancy Sanow, Division of Market Regulation, SEC.

[6] The proposed rule change is based upon the rules of other securities exchanges, specifically AMEX Rule 903G(c), PCX Rule 8.102(f) and PHLX Rule 1079(a).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] For purposes only of accelerating the operative date of this proposal, the Commission has

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to file number SR–CBOE–2001–45 and should be submitted by September 12, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21162 Filed 8–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44713; File No. SR–DTC–2001–11]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Authorizing DTC to Act Upon Instructions Provided by a Central Matching Service Provider

August 16, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 27, 2001, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would authorize DTC to act upon instructions provided by a Central Matching Service Provider[2] to (1) accept deliver order instructions to settle transactions between DTC participants and (2) collect service fees on behalf of a Central Matching Service Provider from DTC participants. Under the proposed rule change, DTC would notify its participants of its intention to act upon the instructions of the Central Matching Service Provider except with respect to the account of a participant that advises DTC to the contrary.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On April 17, 2001, the Commission approved DTC's proposal to combine its TradeSuite business with institutional trade processing services offered by Thomson Financial ESG in a newly-formed joint venture company, Omgeo LLC (''Omgeo'').[4] The Commission also granted an exemption from clearing agency registration to Global Joint Venture Matching Services-US, LCC, a wholly-owned subsidiary of Omgeo, with respect to Omgeo's provision of Central Matching Services.[5] DTC expects that other entities will seek to become Central Matching Service Providers.[6]

DTC neither engages in matching institutional trade information nor communicates to its participants or others prior to settlement that a transaction has been matched. DTC assumes that the Central Matching Service Provider will make arrangements for the communication of this information to the DTC participants expected to settle matched transactions by book-entry delivery at DTC. DTC is prepared to accept from a Central Matching Service Provider a file of deliver order instructions to settle transactions between DTC participants that have authorized DTC to accept such instructions. The purpose of the proposed rule change is to obtain Commission approval of DTC's proposal whereby DTC will act upon deliver order instructions received from the Central Matching Service Provider and will collect service fees on behalf of the Central Matching Service Provider[7] without the delay and inconvenience to both Central Matching Service Providers and DTC participants that would result if DTC were to require each participant to execute a written form of authorization. Under the proposed rule change, DTC would provide notice to participants of its intention to act upon the instructions of a Central Matching Service Provider, as described above, giving each participant the opportunity to advise DTC not to accept such instructions with respect to its account.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[8] and the rules and regulations thereunder applicable to DTC because it will allow DTC to act upon deliver order instructions received from a Central Matching Service Provider and to collect service fees on behalf of the Central Matching Service Provider without the delay and inconveniece to both Central Matching Service Providers and participants that would result were DTC to require each articipant to execute a written form of authorization.

considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Central Matching Service Provider as such term is used in this proposed rule change refers to an entity that (i) provides a Central Matching Service and (ii) has registered with the Commission as a clearing agency or has been granted an exemption by the Commission from clearing agency registration. Central Matching Service means an electronic service to centrally match information between a broker-dealer and its institutional customer (so long as one or both such parties is a U.S. person) relating to transactions in securities issued by a U.S. issuer regardless of where the transactions are settled.

[3] The Commission has modified the text of summaries prepared by DTC.

[4] Securities Exchange Act Release No. 44189 (April 17, 2001), 66 FR 20502 [File No. DTC–00–10].

[5] Securities Exchange Act Release No. 44188 (April 17, 2001), 66 FR 20494 [File No. 600–32].

[6] GSTP AG has filed an application with the Commission for an exemption from registration as a clearing agency. If such exemption is granted, under the proposed rule change, DTC would accept and act upon instructions submitted by GSTP AG.

[7] While DTC will include such fees as debits in the participant's settlement account, DTC's collection of such amounts shall be on a ''best efforts'' basis.

[8] 15 U.S.C. 78q–1.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change since it will apply to any Central Matching Service Provider.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute roceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consisent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written communications relating to the proposed rule change between the Commission and any person, other than those that may be witheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC.

All submissions should refer to File No. SR–DTC–2001–11 and should be submitted by September 12, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21160 Filed 8–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44708; File No. SR–GSCC–00–09]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to an Earlier Daily Trade Data Submission Deadline and the Imposition of Fines For Late Submissions

August 15, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 23, 2000, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would adopt an earlier daily trade submission deadline of 8:00 p.m. EST and impose a fine schedule for late trade submission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.[2]

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by GSCC.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Since the inception of GSCC's netting system in July 1989, the daily deadline for submission of trade data to GSCC has been 10:00 p.m. Eastern Standard Time (''EST''). GSCC first announced its intention to move to an earlier trade submission deadline in 1997 in a White Paper detailing GSCC's plans for providing straight-through processing and a point of trade guarantee. GSCC explained that an earlier deadline would be necessary to ensure that members have enough time to reconcile all their activity by the end of the processing day. Plans to move the submission deadline from 10:00 p.m. to 8:00 p.m. were further announced in the Interactive Messaging and Real-time Comparison New Service Bulletin distributed to members in December 1999 and in the Interactive Messaging Participant Specifications (SWIFT formats) made available in February 2000.

On June 2, 2000, GSCC informed its members by an Important Notice that in preparation for the planned implementation of Real-Time Comparison services members should begin submitting trade data to GSCC by 8:00 p.m. on July 10, 200. GSCC members have thus had the opportunity to make all necessary system and other internal changes in order to accommodate the earlier deadline and to become accustomed to it. GSCC has strongly encouraged all members to abide by the 8:00 p.m. deadline but has not enforced the deadline.

GSCC now proposes to adopt the 8:00 p.m. trade submission deadline and to impose a fine schedule for late trade submission so that it may enforce the deadline. The earlier trade submission deadline provides members with more time to reconcile trading activity prior to end of day because GSCC will be able to prepare and its members will be able to view their comparison results at an earlier time. The earlier submission deadline is one of the first steps in accomplishing GSCC's plan to move to real-time interactive messaging and T+0 settlement. In the near future, GSCC will be actively encouraging members to submit trade data in real-time.

The move to the earlier submission deadline is an important interim measure that will allow members to become accustomed to submitting trade data earlier in the day. After full implementation of the interactive messaging process, GSCC may ultimately establish an even earlier

submission deadline, as required, in accordance with future business developments and market practices. Finally, the earlier submission deadline supports GSCC's cross-margining initiatives with other clearing corporations, including those in Europe. Earlier submission will facilitate close coordination of data transfer among clearing corporation across multiple time zones.

The imposition of the fine schedule is important in order to promote full compliance with the earlier submission deadline. The proposed fine schedule closely tracks GSCC's existing fine schedule for the late payment of funds settlement debits and the late satisfaction of clearing fund deficiency calls. Like the existing fine schedule, the proposed fine schedule provides for a warning mechanism before any fine is imposed. In addition, the dollar amounts of the fines in the proposed schedule are similar to those in the existing schedule.

GSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder because it will ensure that members will be able to reconcile their trading activity by the end of the processing day and will support GSCC initiatives that will provide important benefits to members such as real-time processing and cross-margining.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received.[3] GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publications of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) institute proceeds to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at GSCC's principal office. All submissions should refer to File No. SR–GSCC–00–09 and should be submitted by September 12, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21120 Filed 8–21–01; 8:45 am]

BILLING CODE 8010–01–M

[3] Members will be notified of the rule change filing and comments will be solicited by an Important Notice.

[4] 17 CFR 220.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44714; File No. SR–GSCC–00–08]

Self-Regulatory Organizations Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Permitting Clearing Fund Offsets for Category 2 Dealer Netting Members and Category 2 Futures Commission Merchants

August 16, 2001.

On July 31, 2000, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''M'' a proposed rule change (File No. SR–GSCC–00–08) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on January 11, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

GSCC has established two membership categories, ''category 1'' and ''category 2,'' for dealers and futures commission merchants (''FCMs'') that want to participate in GSCC's netting system. GSCC established category 2 membership for dealers and FCMs that meet all of GSCC's requirements for participating in the netting system but have less net worth than GSCC's category 1 members. The minimum net worth requirement for category 1 members is $50 million, and the minimum net worth requirement for category 2 members is $25 million.[3]

While category 2 members have a lower net worth threshold than category 1 members, category 2 members currently have a more stringent clearing fund requirement under GSCC Rule 4, Section 2(d). Specifically, the clearing fund requirement for category 2 members is calculated (i) without the benefit of any of the offsets across opposite net settlement positions[4] that are permitted for category 1 members and (ii) with margin factors set at the 99 percent-of-movements confidence level.[5] (Margin factors for a category 1 member are set at the 95 percent confidence level.) In addition, if a category 2 member elects to receive credit forward margin amounts[6] in its daily funds-only settlements, its margin factors are set at levels that are based on the greater of: (i) the category 2 margin factors or (ii) margin factors adjusted to reflect GSCC's historical two-day price

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 43793 (Jan. 3, 2001), 66 FR 2465 (Jan. 11, 2001).

[3] Both categories have identical requirements for minimum excess net or liquid capital of $10 million.

[4] This means that GSCC does not allow category 2 members to offset long positions against short positions.

[5] This means that the category 2 margin factors are based on GSCC's historical daily price volatility data covering 99 percent of all movements.

[6] A credit forward margin amount refers to GSCC's daily process of computing a member's collateral by marking to market the member's transactions that will settle in the future. The result will produce a net credit or a net debit. If the member has a net credit, it can elect to have GSCC pay it the value of the net credit. It the member has a net debt, it must pay GSCC.

volatility data covering 95 percent of all movements.[7]

GSCC currently has no active category 2 members. GSCC believes that certain entities that meet the eligibility requirements for category 2 membership and that recognize the many benefits of GSCC's netting system have not applied for membership because they consider the liquidity burden associated with the current clearing fund calculation for category 2 members to be too onerous. In order to broaden the availability of GSCC's netting services, GSCC proposes to allow for offsets in the clearing fund calculation for category 2 members. The current prohibition of offsets for category 2 members was implemented years ago as a conservative measure designed to avoid any risk arising from the creation of the category 2 level. Now, after many years of experience in conducting risk assessments, netting, and calculating margin, GSCC believes that prohibiting offsets is overly conservative and punitive. In addition, expanding the roster of GSCC netting members should also enhance the netting benefits for the existing members that currently trade with potential category 2 members.

Recognizing that category 2 members have smaller net worth bases and may therefore be deemed to pose a greater risk of default than category 1 members, the margin factors applied to category 2 members will continue to be set at the 99 percent confidence level (versus 95 percent for category 1 members). Furthermore, category 2 members will still be required to make an election regarding the receipt of forward margin. By permitting certain offsets for category 2 members and at the same time maintaining the more stringent margin factor requirements, GSCC will collect sufficient margin from category 2 members while expanding the range of netting members in a prudent manner.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F)[8] of the Act. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission finds that GSCC's rule change meets these requirements because it should result in additional broker-dealers and banks becoming GSCC netting members, which will promote the prompt and accurate clearance and settlement of securities transactions. In addition, by maintaining the more stringent margin factor requirements for category 2 members, GSCC should collect sufficient margin from duly approved category 2 members to allow GSCC to assure the safeguarding of securities and funds even while permitting certain offsets for category 2 members.

III. Conclusion

On the basis of the foregoing, The Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–00–08) be, and hereby is, approved.

For the Commission by the Division of Market Regulation pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21164 Filed 8–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44709; File No. SR–Phlx–2001–71]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Trading of Standardized Equity Options on Trust Issued Receipts

August 16, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 19, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, and amended such proposed rule change on August 13, 2001,[3] as described in Items I and II below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to approve the proposal and Amendment No. 1 on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new listing and maintenance standards to allow for trading of standardized equity options on trust issued receipts. Below is the text of the proposed rule change. Proposed new language is in italics.

* * * * *

Rule 1009. Criteria for Underlying Securities

Rule 1009(a)–(c)—No change.

* * * * *

Commentary

.01–.06—No change.

.07 Securities deemed appropriate for options trading shall include shares or other securities (''Trust Issued Receipts'') that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as a national market security, and that represent ownership of the specific deposited securities held by a trust, provided:

(a)(i) the Trust Issued Receipts meet the criteria and guidelines for underlying securities set forth in Commentary .01 to this Rule 1009; or

(ii) the Trust Issued Receipts must be available for issuance or cancellation each business day from the Trust in exchange for the underlying deposited securities; and

(b) not more than 20% of the weight of the Trust Issued Receipt is represented by ADRs on securities for which the primary market is not subject to a comprehensive surveillance agreement.

* * * * *

Rule 1010. Withdrawal of Approval of Underlying Securities

Rule 1010—No change.

* * * * *

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[7] A category 2 member that elects to receive credit forward margin amounts will have higher margin factors than a category 2 member that does not make that election.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 added language stating that options on trust issued receipts will be physically-settled and have the American-style exercise feature and that FLEX Equity options will be available with both the American-style and European-style exercise feature. *See* letter from Carla Behnfeldt, Director, New Product Development Group, Legal Department, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, SEC, dated August 10, 2001.

Commentary

.01–.08—No change.

.09—Absent exceptional circumstances, securities initially approved for options trading pursuant to Commentary .07 to Phlx Rule 1009 (such securities are defined and referred to in that Commentary as ''Trust Issued Receipts'') shall not be deemed to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Trust Issued Receipts, whenever the Trust Issued Receipts are delisted and trading in the Receipts is suspended on a national securities exchange, or the Trust Issued Receipts are no longer traded as national market securities through the facilities of a national securities association. In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Trust Issued Receipts in any of the following circumstances:

(1) In accordance with the terms of Commentary .01 of this Rule in the case of options covering Trust Issued Receipts when such options were approved pursuant to paragraph (a)(i) of Commentary .07 under Rule 1009;

(2) The Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts for 30 or more consecutive trading days;

(3) The Trust has fewer than 50,000 receipts issued and outstanding;

(4) The market value of all receipts issued and outstanding is less than $1,000,000; or

(5) Such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

.10 For Holding Company Depositary Receipts (HOLDRs), the Exchange will not open additional series of options overlying HOLDRs (without prior Commission approval) if: (1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or (2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide for the trading of options, including FLEX equity options, on trust issued receipts. The Exchange believes that the listing and maintenance criteria proposed in its new rule are consistent with the options listing and maintenance criteria proposed in its new rule are consistent with the options listing and maintenance criteria for trust issued receipts currently used by the American Stock Exchange LLC (''Amex''), the Chicago Board Options Exchange, Inc. (''CBOE''), the Pacific Exchange, Inc. (''PCX''), and the International Securities Exchange (''ISE'')[4] Trust issued receipts are exchange-listed securities representing beneficial ownership of the specific deposited securities represented by the receipts.[5] They are negotiable receipts issued by a trust representing securities of issuers that have been deposited and are held on behalf of the holders of the trust issued receipts. Trust issued receipts, which trade in round-lots of 100, and multiples thereof, may be issued after their initial offering through a deposit with the trustee of the required number of shares of common stock of the underlying issuers. This characteristic of trust issued receipts is similar to that of exchange-traded fund shares, which also may be created on any business day upon deposit of the requisite securities comprising a creation unit.[6] The trust will only issue receipts upon the deposit of the shares of underlying securities that are represented by a round-lot of 100 receipts. Likewise, the trust will cancel, and an investor may obtain, hold, trade or surrender trust issued receipts in a round-lot and round-lot multiples of 100 receipts.

Generally, options (including FLEX equity options) on trust issued receipts are proposed to be traded on the Exchange pursuant to the same rules and procedures that apply to trading in options on equity securities or indexes of equity securities. The Exchange will list option contracts covering 100 trust issued receipts, the minimum required round-lot-trading size for the underlying receipts. Strike prices for the non-FLEX contracts will be set to bracket the trust issued receipts at the same intervals that apply to other equity options under Phlx Rule 1012. The proposed position and exercise limits for non-FLEX options on trust issued receipts would be the same as those established for other non-FLEX equity options, as set forth in Phlx Rule 1001 and Phlx Rule 1002, respectively. The Exchange anticipates that most options on trust issued receipts will initially qualify for the lowest position limit. However, as with other equity options, applicable position limits will be increased for options if the volume of trading in the trust issued receipts increases to the extent needed to permit a higher limit consistent with Rule 1001. As is the case of all FLEX equity options, no position and exercise limits will be applicable to FLEX equity options overlying trust issued. receipts.[7]

The listing and maintenance standards proposed for options on trust issued receipt are set forth respectively in proposed Commentary .07 to Phlx Rule 1009, and in proposed Commentary .09 to Phlx Rule 1010. Pursuant to the proposed initial listing standards, the Exchange will list only trust issued receipts that are principally traded on a national securities exchange or through the facilities of national securities association and reported as national market securities. In addition, the initial listing standards require that either: (i) the trust issued receipts meet the uniform options listing standards in Phlx Rule 1009(a), Commentary .01, which include criteria covering the

[4] *See* Securities Exchange Act Release Nos. 42947 (June 15, 2000), 65 FR 39211 (June 23, 2000) (approving SR–Amex–99–37); 43043 (July 17, 2000), 65 FR 46520 (July 28, 2000) (approving SR–CBOE–00–25); 44138 (March 30, 2001), 66 FR 19593 (April 16, 2001) (approving SR–PCX–2001–15); and 44331 (May 21, 2001), 66 FR 29193 (May 29, 2001) (approving SR–ISE–2001–11).

[5] The Exchange received approval to trade certain trust issued receipts on December 27, 2000. *See* Securities Exchange Act Release No. 43773 (December 27, 2000), 66 FR 838 (January 4, 2001) (approving SR–Phlx–00–31). Specifically, the Exchange received approval to trade the following Holding Company Depositary Receipts (''HOLDRs''), a type of trust issued receipt, pursuant to unlisted trading privileges: biotech, Broadband, business to business, Internet, Internet Architecture, Internet Infrastructure, Market 2000+, Pharmaceutical, Regional Bank, Semiconductor, Software, Telecom and Utilities HOLDRs. ''HOLDRs'' and ''Holding Company Depositary Receipts'' are service marks of Merrill Lynch & Co.

[6] The Exchange received approval to trade options on exchange-traded fund shares on February 2, 2001. *See* Securities Exchange Act Release No. 43921 (February 2, 2001), 66 FR 9739 (February 9, 2001) (approving SR–Phlx–00–107).

[7] *See* Phlx Rule 1079(d)(2).

minimum public float, trading volume, and share price of the underlying security in order to list the option,[8] or (ii) the trust issued receipts must be available for issuance or cancellation each business day from the trust in exchange for the underlying deposited securities.

In addition, listing standards for options on trust issued receipts will require that any American Depositary Receipts (''ADRs'') in the portfolio on which the Trust is based for which the securities underlying the ADRs' primary markets are in countries that are not subject to comprehensive surveillance agreements will not in the aggregate represent more than 20 percent of the weight of the portfolio.

The Exchanges' proposed maintenance standards provide that if a particular series of trust issued receipts should cease to trade on an exchange or as national market securities in the over-the-counter market, there will be no opening transactions in the options on the trust issued receipts, and all such options will trade on a liquidation-only basis (*i.e.,* only closing transactions to permit the closing of outstanding open options positions will be permitted). In addition, the addition, the Exchange will consider the suspension of opening transactions in any series of options of the class covering trust issued receipts if: (i) The options fail to meet the option maintenance standards in Phlx Rule 1010, Commentary .01 when the options on trust issued receipts were listed pursuant to the equity option listing standards in Phlx Rule 1009, Commentary .01,[9] (ii) the trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of trust issued receipts for 30 or more consecutive trading days; (iii) the trust has fewer than 50,000 receipts issued and outstanding; (iv) the market value of all receipts issued and outstanding is less than $1,000,000; or (v) such other event shall occur or condition exists that, in the opinion of the Exchange, makes further dealing in such options on the Exchange inadvisable. Furthermore, the Exchange will not open additional series of options on any HOLDRs, a type of trust issued receipt, without prior Commission approval, if: (i) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80 percent (as measured by the relative weighings in the HOLDRs trust);[10] or (ii) less than 80 percent of the number of securities held by a HOLDR trust underlie standardized options.

Options on trust issued receipts will be physically-settled and will have the American-style exercise feature used on all non-FLEX equity options, and not the European style feature. The Exchange, however, also proposes to trade FLEX Equity options which will be available with both the American-style and European-style exercise feature, as well as other FLEX Equity features.[11]

The proposed margin requirements for options on trust issued receipts are at the same levels that apply to options generally under Phlx Rule 722, except, with respect to trust issued receipts based on a broad-based portfolio, minimum margin must be deposited and maintained equal to 100 percent of the current market value of the option plus 15 percent of the market value of equivalent units of the underlying security value. Trust issued receipts that hold securities based upon a narrow-based portfolio must have options margin that equals at least 100 percent of the current market value of the contract plus 20 percent of the market value of equivalent units of the underlying security value. In this respect, the margin requirements proposed for options on trust issued receipts are comparable to margin requirements that currently apply to broad-based and narrow-based index options. Also, holders of options on trust issued receipts that exercise and receive the underlying trust issued receipt must receive a product description or prospectus, as appropriate.

Lastly, the Exchange believes it has the necessary systems capacity to support the additional series of options that would result from the trading of options on HOLDRs.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(5)[13] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's State on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change that are filed with the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to file number SR–Phlx–2001–71 and should be submitted by September 12, 2001.

[8] Specifically, Rule 1009, Commentary .01 generally requires the underlying security to have a public float of 7,000,000 shares, 2,000 holders, trading volume of 2,400,000 shares, in the preceding 12 months, a share price $7.50 for the majority of the business days during the three calendar months preceding the date of the selection, and that the issuer of the underlying security is in compliance with the Act.

[9] Specifically, Rule 1010, Commentary .01 generally provides that an underlying security will not meet the Exchange's requirements for continued listing when, among other things: (1) There are fewer than 6,3000,000 publicly-held shares; (ii) there are fewer than 1,600 holders; (iii) trading volume was less than 1,800,000 shares in the preceding twelve months; or (iv) the share price of the underlying security closed below $5 on a majority of the business days during the preceding 6 months.

[10] The weight of each security in a HOLDR trust will be determined by calculating the sum of the number of shares of each security (represented by a single HOLDR) and underlying options multiplied by its respective share price divided by the sum of the number of shares of all securities (represented in a single HOLDR) multiplied by their respective share prices.

[11] An American-style option may be exercised at any time prior to its expiration. A European-style option, however, may be exercised only on its expiration date.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5) of the Act.[14] The Commission notes that it has previously approved similar listing standards proposed by the Amex, the CBOE, the PCX, and the ISE for options on trust issued receipts, and it believes that the Phlx's proposal contains in adequate safeguards, matching those previously approved.[15] As the Commission found in its previous approvals of the listing standards proposed by the other exchanges, the listing and trading of options, including FLEX equity options, on exchange-traded trust issued receipts, should give investors a better means to hedge their positions in the underlying trust issued receipts. The Commission also believes that pricing of the underlying trust issued receipts may become more efficient, and market makers in these shares, by virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets. In sum, the Commission believes that options on trust issued receipts likely will engender the same benefits to investors and the marketplace that exist with respect to options on common stock, thereby serving to promote the public interest, to remove impediments to a free and open securities market, and to promote efficiency, competition, and capital formation.[16]

The Commission finds that the Exchange's listing and delisting criteria for options on trust issued receipts are adequate. The proposed listing and maintenance requirements should ensure that there exist adequate supplies of the underlying trust issued receipts in case of the exercise of an option, and a minimum level of liquidity to control against manipulation and to allow for the maintenance of fair and orderly markets.[17] The Phlx's additional requirements for opening additional series of options on HOLDERs will also ensure that the underlying securities are options eligible, and, for the most part, will satisfy minimum thresholds previously approved by the Commission.

The Commission also believes that the surveillance standards developed by the Phlx for options on trust issued receipts are adequate to address the concerns associated with the listing and trading of such securities. The Phlx's proposal to limit the weight of the portfolio that may be composed of ADRs whose primary markets are in countries that are not subject to comprehensive surveillance agreements is similar to that previously approved by the Commission.[18] As to domestically traded trust issued receipts themselves and the domestic stocks in the underlying portfolio, the Internmarket Surveillance Group (''ISG'') Agreement will be applicable to the trading of options on trust issued receipts.[19]

Finally, the Commission believes that the Phlx's proposed margin requirements are appropriate. The Commission notes that they are comparable to margin requirements that currently apply to broad-based and narrow-based index options, and to those previously approved for use at the Amex, the CBOE, the ISE, and the PCX.[20]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[21] As noted above, the trading requirement for options on trust issued receipts at the Phlx will be substantially similar to those at the Amex, the CBOE, the ISE, and the PCX, which the Commission has previously approved.[22] The Commission does not believe that the proposed rule change raises novel regulatory issues that were not already addressed and should benefit holders of trust issued receipts by permitting them to use options to manage the risks of their positions in the receipts. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,[23] to approve the proposal on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–Phlx–2001–71) and Amendment No. 1 are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to deletated authority.[25]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21163 Filed 8–21–01; 8:45 am]

BILLING CODE 8010–01–M

[14] 15 U.S.C. 78f(b)(5).

[15] *See supra* note 4.

[16] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] The Commission notes that even if options on trust issued receipts were not listed under the uniform equity option listing standards, the exchanges trading trust issued receipts generally require a minimum number of trust issued receipts to be outstanding before trading in a series of trust issued receipts may commence. *See* Amex Rule 1202; Boston Stock Exchange Guide, Chapter XXIV-A, Sec. 5; Chicago stock Exchange Guide, Rule 27; Cincinnati Stock Exchange, Rule 11.9(w); PCX Rule 8.200; and Phlx Rule 803(j).

[18] *See supra* note 4.

[19] ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets.

[20] *See supra* 4.

[21] 15 U.S.C. 78s(b)(2).

[22] *See supra* note 4.

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Region IV—Georgia District Advisory Council Public Meeting

The Small Business Administration Region IV Georgia District Advisory Council, located in the geographical area of Atlanta, Georgia, will hold a public meeting on Friday, September 21, 2001 at 9:00 a.m. EST at the Hyatt Regency, 2 West Bay Street, Savannah, Georgia 31401, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

Anyone wishing to make an oral presentation to the Board must contact Charles E. Anderson, District Director, in writing by letter or fax no later than September 7, 2001, in order to be put on the agenda. Charles E. Anderson, District Director, U.S. Small Business Administration, 233 Peachtree Street, NE, Suite 1900, Atlanta, Georgia 30303, (404) 331–0266 phone (404) 331–0269 fax.

Steve Tupper,

Committee Management Officer.

[FR Doc. 01–21126 Filed 8–21–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R101

As a result of Public Law 106–50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan program. Effective August 24, 2001, small businesses employing military reservists may apply for economic injury disaster

loans if those employees are called up to active duty during a period of military conflict existing on or after March 24, 1999 and those employees are essential to the success of the small business daily operations. Since this program applies to military conflicts existing on or after March 24, 1999, small businesses that meet all other eligibility criteria will have until November 26, 2001 to apply. Otherwise the filing period for small businesses to apply for economic injury loan assistance under the Military Reservist Economic Injury Disaster Loan Program begins on the date the essential employee is ordered to active duty and ends on the date 90 days after the essential employee is discharged or released from active duty.

The purpose of the Military Reservist Economic Injury Disaster Loan Program (MREIDL) is to provide funds to eligible small businesses to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up to active duty in their role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty.

Applications for loans for military reservist economic injury loans may be obtained and filed at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303, 1–800–659–2955.

The interest rate for eligible small businesses is 4 percent. The number assigned for economic injury is R10100.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: August 16, 2001.

Herbert L. Mitchell,

Associate Administrator For Disaster Assistance.

[FR Doc. 01–21201 Filed 8–21–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R201

As a result of Public Law 106–50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan Program. Effective August 24, 2001, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called up to active duty during a period of military conflict existing on or after March 24, 1999, and those employees are essential to the success of the small business daily operations. Since this program applies to military conflicts existing on or after March 24, 1999, small businesses that meet all other eligibility criteria will have until November 26, 2001, to apply. Otherwise the filing period for small businesses to apply for economic injury loan assistance under the Military Reservist Economic Injury Disaster Loan Program begins on the date the essential employee is ordered to active duty and ends on the date 90 days after the essential employee is discharged or released from active duty.

The purpose of the Military Reservist Economic Injury Disaster Loan Program (MREIDL) is to provide funds to eligible small businesses to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up to active duty in their role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty.

Applications for loans for military reservist economic injury loans may be obtained and filed at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, 1–800–359–2227.

The interest rate for eligible small businesses is 4 percent. The number assigned for economic injury is R20100.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: August 16, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–21202 Filed 8–21–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R301

As a result of Public Law 106–50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan Program. Effective August 24, 2001, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called up to active duty during a period of military conflict existing on or after March 24, 1999 and those employees are essential to the success of the small business daily operations. Since this program applies to military conflicts existing on or after March 24, 1999, small businesses that meet all other eligibility criteria will have until November 26, 2001 to apply. Otherwise the filing period for small businesses to apply for economic injury loan assistance under the Military Reservist Economic Injury Disaster Loan Program begins on the date the essential employee is ordered to active duty and ends on the date 90 days after the essential employee is discharged or released from active duty.

The purpose of the Military Reservist Economic Injury Disaster Loan Program (MREIDL) is to provide funds to eligible small businesses to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up to active duty in their role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty.

Applications for loans for Military Reservist Economic Injury Loans may be obtained and filed at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 75155, 1–800–366–6303.

The interest rate for eligible small businesses is 4 percent. The number assigned for economic injury is R30100.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: August 16, 2001.

Herbert L. Mitchell,

Associate Administrator For Disaster Assistance.

[FR Doc. 01–21203 Filed 8–21–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R401

As a result of Public Law 106–50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan Program.

Effective August 24, 2001, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called up to active duty during a period of military conflict existing on or after March 24, 1999 and those employees are essential to the success of the small business daily operations. Since this program applies to military conflicts existing on or after March 24, 1999, small businesses that meet all other eligibility criteria will have until November 26, 2001 to apply. Otherwise the filing period for small businesses to apply for economic injury loan assistance under the Military Reservist Economic Injury Disaster Loan Program begins on the date the essential employee is ordered to active duty and ends on the date 90 days after the essential employee is discharged or released from active duty.

The purpose of the Military Reservist Economic Injury Disaster Loan Program (MREIDL) is to provide funds to eligible small businesses to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up to active duty in their role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty.

Applications for loans for Military Reservist Economic Injury Loans may be obtained and filed at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795, 1–800–488–5323.

The interest rate for eligible small businesses is 4 percent. The number assigned for economic injury is R40100.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: August 16, 2001.

Herbert L. Mitchell,

Associate Administrator For Disaster Assistance.

[FR Doc. 01–21204 Filed 8–21–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3758]

Determination: Assistance to Peru: Determination Pursuant to Section 530 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001

Pursuant to section 530 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, I hereby determine that the Government of Peru has made substantial progress in creating the conditions for free and fair elections, respecting human rights, rule of law, independence and constitutional role of judiciary and national congress, freedom of expression and independent media. This determination shall be published in the **Federal Register**.

Dated: August 7, 2001.

Colin L. Powell,

Secretary of State.

[FR Doc. 01–21141 Filed 8–21–01; 8:45 am]

BILLING CODE 4710–10–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determinations Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative has determined that Malawi has adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents in connection with shipments of textile and apparel articles and has implemented and follows, or is making substantial progress toward implementing and following, the customs procedures required by the African Growth and Opportunity Act. Therefore, imports of eligible products from Malawi qualify for the textile and apparel benefits provided under the AGOA.

EFFECTIVE DATE: August 15, 2001.

FOR FURTHER INFORMATION CONTACT: James Roth, Deputy Director for African Affairs, Office of the United States Trade Representative, (202) 395–9514.

SUPPLEMENTARY INFORMATION: The African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Pub. L. No. 106–200) (AGOA) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries. The textile and apparel trade benefits under the AGOA are available to imports of eligible products from countries that the President designates as ''beneficiary sub-Saharan African countries,'' provided that these countries (1) have adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents, and (2) have implemented and follow, or are making substantial progress toward implementing and following, certain customs procedures that assist the Customs Service in verifying the origin of the products.

In Proclamation 7350 (Oct. 2, 2000), the President designated Malawi as a ''beneficiary sub-Saharan African country.'' Proclamation 7350 delegated to the United States Trade Representative (USTR) the authority to determine whether designated countries have met the two requirements described above. The President directed the USTR to announce any such determinations in the **Federal Register** and to implement them through modifications of the Harmonized Tariff Schedule of the United States (HTS). Based on actions that Malawi has taken, I have determined that Malawi has satisfied these two requirements.

Accordingly, pursuant to the authority vested in the USTR by Proclamation 7350, U.S. note 7(a) to subchapter II of chapter 98 of the HTS and U.S. note 1 to subchapter XIX of chapter 98 of the HTS are each modified by inserting ''Malawi'' in alphabetical sequence in the list of countries. The foregoing modifications to the HTS are effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after the effective date of this notice. Importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries meet the applicable visa requirements. *See Visa Requirements Under the African Growth and Opportunity Act,* 66 FR 7837 (2001).

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 01–21186 Filed 8–21–01; 8:45 am]

BILLING CODE 3190–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Relating to the Generalized System of Preferences

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative (USTR) has determined that the effective date of certain modifications to the Harmonized Tariff Schedule of the United States (HTS) that the President proclaimed in Proclamation 7454 of June 29, 2001, relating to the eligibility of certain products of India under the Generalized System of Preferences (GSP) program shall be the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elena Bryan, Director for India and Indochina Affairs, Office of the United States Trade Representative, (202) 395–6813.

SUPPLEMENTARY INFORMATION: Under the GSP program, imports of many products of designated beneficiary developing countries enter the United States duty-free. (19 U.S.C. 2461 *et seq.*) In Proclamation 7454 of June 29, 2001 (66 FR 35365 (July 5, 2001)), the President modified the eligibility of certain products of India for duty-free treatment under the GSP program. The President (1) Redesignated certain products of India that previously were not eligible for duty-free treatment under the GSP program because imports of these products from India had exceeded the statutory ''competitive need limitations'' (CNLs); (2) granted ''de minimis'' CNL waivers to India for certain products; and (3) granted full CNL waivers to India for certain other products.

Annex III of Proclamation 7454 sets forth the modifications to the HTS that are necessary to implement these changes. Proclamation 7454 delegated to the USTR the authority to determine the effective date of these HTS modifications and directed the USTR to announce that date in the **Federal Register**. Accordingly, pursuant to the authority vested in me by Proclamation 7454, I have determined that the modifications to the HTS set forth in Annex III of Proclamation 7454 shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice in the **Federal Register**.

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 01–21157 Filed 8–21–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–10402]

Chemical Transportation Advisory Committee; Charter Renewal

AGENCY: Coast Guard, DOT.

ACTION: Notice of charter renewal.

SUMMARY: The Secretary of Transportation has renewed the charter for the Chemical Transportation Advisory Committee (CTAC) for 2 years from May 27, 2001 until May 27, 2003. CTAC is a Federal advisory committee under 5 U.S.C. App.2. It advises the Coast Guard on safe transportation and handling of hazardous materials in bulk on U.S.-flag vessels and barges in U.S. ports and waterways.

ADDRESSES: You may request a copy of the charter by writing to Commandant (G–MSO–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–1217; or by faxing 202–267–4570. This notice and the charter are available on the Internet at *http://dms.dot.gov* in docket [USCG–2001–10402].

FOR FURTHER INFORMATION CONTACT: Commander James Michalowski, Executive Director of CTAC, or Ms. Sara Ju, Assistant to the Executive Director, telephone 202–267–1217, fax 202–267–4570.

Dated: August 16, 2001.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–21182 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 25.1435–1, Hydraulic System Certification Tests and Analysis

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 25.1435–1, Hydraulic System Certification Tests and Analysis. This AC provides guidance material for use as an acceptable means, but not the only means, of demonstrating compliance with the airworthiness standards for transport category airplanes that contain hydraulic system requirements. It is not mandatory and does not constitute a regulation.

DATES: Advisory Circular 25.1435–1 was issued by the Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100, on May 21, 2001.

How to obtain copies: A paper copy of AC 25.1435–1 may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse, SVC–121.23, Ardmore East Business Center, 3341Q 75th Ave., Landover, MD 20785, telephone 301–322–5377, or faxing your request to the warehouse at 301–386–5394. The AC also will be available on the Internet at *http://www.faa.gov/avr/air/airhome.htm,* at the link titled ''Advisory Circulars'' under the ''Available Information'' down-drop menu.

Dated: Issued in Renton, Washington, on August 14, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 01–21169 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 25.723–1, Shock Absorption Tests

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 25.723–1, Shock Absorption Tests. This AC sets forth an acceptable means, but not the only means, of demonstrating compliance with the provisions of part 25 of the Federal Aviation Regulations (FAR) related to the use of landing gear shock absorption tests and analyses to determine landing loads for transport category airplanes.

DATE: Advisory Circular 25.723–1 was issued by the Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100, on May 25, 2001.

How to obtain copies: A paper copy of AC 25.723–1 may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse, SVC–121.23, Ardmore East Business Center, 3341Q 75th Ave., Landover, MD 20785, telephone 301–322–5377, or faxing your request to the warehouse at 301–386–

5394. The AC also will be available on the Internet at *http://www.faa.gov/avr/air/airhome.htm,* at the link titled ''Advisory Circulars'' under the ''Available Information'' down-drop menu.

Issued in Renton, Washington, on August 14, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 01–21168 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice Before Waiver With Report to Land at Hamilton Municipal Airport, Hamilton, New York

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The FAA is publishing notice of the proposed release of approximately 10 acres of land in two parcels, a 5.5 acre tract and a 4.5 acre tract, at Hamilton Municipal Airport to allow their sale for the non-aviation development. The 5.5 acre parcel is proposed to house a single-story 30,000 square foot professional photography studio. A 15,000 square foot, single-story private health care facility is proposed on the 4.5 acre tract. Both of these land parcels are adjacent to New York State Route 12B.

There are no impacts to the Airport and the land is not needed for airport development as shown on the Airport Layout Plan. The Fair Market Value of the land will be paid to the Airport Sponsor, and used for the maintenance, operation and capital development of the airport.

Any comments the agency receives will be considered as a part of the decision.

DATES: Comments must be received on September 21, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Philip Brito, Manager, FA New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Charles Getchonis, Mayor, Village of Hamilton, at the following address: Mayor Charles Getchonis, Village of Hamilton, 3 Broad Street, Hamilton, New York 13346.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Brito, Manager, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530; telephone (516) 227–3803; FAX (516) 227–3818; E-Mail *Philip.Brito@faa.gov.*

SUPPLEMENTARY INFORMATION: On April 5, 2000, new authorizing legislation became effective. That bill, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61) (AIR 21) requires that a 30 day public notice must be provided before the Secretary may waive any condition imposed on an interest in surplus property.

Issued in Garden City, New York on August 9, 2001.

Philip Brito,

Manager, New York Airports District Office, Eastern Region.

[FR Doc. 01–21171 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; General Aviation Certification and Operations Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: The FAA assigned the Aviation Rulemaking Advisory Committee a new task to evaluate miscellaneous systems and recommend rulemaking to address system safety that would improve the safety of part 23 airplanes. This notice is to inform the public of this ARAC activity.

FOR FURTHER INFORMATION CONTACT: Leslie Taylor, Aerospace Engineer, Federal Aviation Administration, Central Region Headquarters, 901 Locust, Kansas City, Missouri 64106, (816) 329–4134, *leslie.taylor@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA established the Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator on the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitments to harmonize Title 14 of the Code of Federal Regulations (14 CFR) with its partners in Europe and Canada.

The Task

Evaluate the requirements for systems in the sections below and recommend rulemaking changes, in the form of an NPRM, to address systems safety which would improve the safety of part 23 airplanes—

- Revise § 23.735 to clarify the requirement for operation of brakes after a single failure in the braking system in commuter category airplanes.
- Revise § 23.1301 by deleting paragraph (d), and revise § 23.1309 to include warning requirements, probability values, and failure conditions applicable to powerplant systems; and make warning requirements compatible with other regulations; and delete paragraph (c) and (d).
- Add a new § 23.1310, Power Source Capacity and Distribution from existing paragraphs 23.1309 (c) and (d).
- Revise § 23.1311 to address redundancy requirements for primary flight instruments; define ''indicator'', the sensory cue requirements in paragraph (a)(6), and delete the redundancy requirement in paragraph (b).
- Review and revise §§ 23.1326(b)(1) and 23.1322 requiring the amber light to be illuminated when the pitot tube heater is ''off''.
- Review and revise § 23.1311 to call out required flight instruments as indicated in §§ 23.1303 and 91.205.

Schedule: The draft NPRM is to be submitted no later than December 31, 2002.

ARAC Acceptance of Task

ARAC accepted the task and assigned the task to the newly formed Part 23 Electrical Systems Harmonization Working Group, General Aviation Certification and Operations Issues. The working group serves as staff to ARAC and assists in the analysis of the assigned tasks. ARAC must review and approve the working group's recommendations. If ARAC accepts the working group's recommendations, it will forward them to the FAA. Recommendations that are received from ARAC will be submitted to the agency's Rulemaking Management Council to address the availability of resources and prioritization.

Working Group Activity

The part 23 Electrical Systems Harmonization Working Group is expected to comply with the procedures

adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the task, including the rationale supporting such a plan for consideration at the next meeting of the ARAC on general aviation certification and operations issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations prior to proceeding with the work stated in item 3 below.

3. Draft the appropriate documents, required analyses, and any other related materials or documents.

4. Provide a status report at each meeting of the ARAC held to consider general aviation certification and operations issues.

Participation in the Working Group

The part 23 Electrical Systems Harmonization Working Group will be composed of technical experts having an interest in the assigned task. A working group member need not be a representative or a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and stating the expertise he or she would bring to the working group. We must receive all requests by September 7, 2001. The co-assistant chairs, the co-assistant executive directors, and the working group chairs will review the requests. We will advise individuals whether or not we can accommodate their request.

Individuals chosen for membership on the working group will be expected to represent their aviation community segment and actively participate in the working group (e.g., attend all meetings, provide written comments when requested to do so, etc.). We also expect them to devote the resources necessary to support the working group in meeting any assigned deadlines. Members must keep their management chain and those they represent advised of working group activities and decisions to ensure that the proposed technical solutions do not conflict with their sponsoring organization's position when the subject being negotiated is presented to ARAC for approval.

Once the working group has begun deliberations, members will not be added or substituted without the approval of the co-assistant chairs, the co-assistant executive directors, and the working group chairs.

The Secretary of Transportation determined that the formation and use of the ARAC is necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of the ARAC are open to the public. Meetings of the part 23 Electrical Systems Harmonization Working Group are not open to the public, except to the extent that individuals with an interest and expertise are selected to participate. The FAA makes no public announcement of working group meetings.

Issued in Washington, DC, on August 16, 2001.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 01–21172 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 01–05–C–00–PLB To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Clinton County Airport, Plattsburgh, New York

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Clinton County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

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

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ralph Hensel, Airport Manager at the following address: Clinton County Airport, 11 Airport Road, Suite 101, Plattsburgh, New York, 12901.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Clinton under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Robert Levine, Airport Engineer, New York Airports District Office, 600 Old Country Road, Garden City, New York 11530, Telephone: (516) 227–3807. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Clinton County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 7, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by County of Clinton was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 17, 2001.

The following is a brief overview of the application.

PFC Application No.: 01–05–C–00–PLB.

Level of the proposed PFC: $3.00.

Proposed charge effective date: December 1, 2001.

Proposed charge expiration date: March 1, 2005.

Total estimated PFC revenue: $56,500.

Brief description of proposed project(s):

—On Airport Obstruction Removal (Phase I & II).

—Transient Apron Rehabilitation.

—Purchase Runway Sweeper.

—Runway 1–19 & 14–32 Crack Repair.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Non-Scheduled/On Demand Operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional airports office located at: Federal Aviation Administration, Eastern Region, Airports Division, AEA–610, 1 Aviation Plaza, Jamaica, New York 11434–4809.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of Clinton.

Issued in Garden City, New York on August 13, 2001.

Philip Brito,

Manager, New York Airports District Office, Eastern Region.

[FR Doc. 01–21170 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–9664]

Drug Test Results Study

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; extension of comment period.

SUMMARY: The FMCSA extends this notice's comment period until September 8, 2001. This is in response to two petitions for an extension of the comment period. The Motor Carrier Safety Improvement Act of 1999 (MCSIA) directs the Federal Motor Carrier Safety Administration (FMCSA) to conduct a study and report to the Congress on the feasibility and merits of requiring Medical Review Officers and employers to report verified positive drug test results for CDL drivers to the State that issued the driver's license. The FMCSA initiates this study on this issue and invites public comments on how the proposed rule will affect prospective regulated parties.

DATES: Please submit comments no later than September 8, 2001.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* Please specify the number you are commenting on before listing your comments. All comments received will be available for examination and copying at the above address between 9 a.m. and 5 p.m., et., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the status of this notice, you may contact Ms. Kaye Kirby, Office of Bus and Truck Standards and Operations, (202) 366–3109; for information about legal issues related to this notice, Mr. Michael Falk, Office of the Chief Counsel, (202) 366–1384, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. 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

You may see all the comments on the Document Management System (DMS) website at: *http://dmses.dot.gov.*

Background

On July 9, 2001, we published a notice announcing the initiation of a study required by Congress in the Motor Carrier Safety Improvement Act of 1999 (Public Law 106–159, 113 Stat. 1748), and seeking comments on the feasibility and merits of requiring Medical Review Officers and employers to report verified positive drug test results for CDL drivers to the State that issued the driver's license (66 FR 35825). Respondents to the notice were requested to address a number of questions focused on the burden imposed by such a reporting requirement on the employers, State, and others. Comments were requested by August 8, 2001.

Petition for Extension of Comment Period

On July 13, 2001, the American Trucking Associations (ATA) requested a 45 day extension for commenting. The ATA seeks to survey and solicit comments from its membership on this issue in an attempt to answer the 11 questions posed by the FMCSA in the July 9, 2001 notice. They also intend to contact the Federal Aviation Administration to investigate the manner in which that agency implemented a similar reporting requirement for drug and alcohol-related information concerning airline pilots. In addition, they plan to contact the numerous States that have explored the feasibility of a similar reporting process.

On July 26, 2001, the Owner-Operator Independent Drivers Association (OOIDA) requested a 45 day extension for commenting. The OOIDA would like the additional time to contact nearly 66,000 of its members who are small business truckers to address and gather information on issues related to safety, privacy, and procedure that are raised by the questions posed by the FMCSA in the notice.

The FMCSA finds good cause to extend the notice comment period closing date for 30 days, after the previous closing date of August 8, 2001, based upon the concerns raised by the petitioners. Because the agency faces a December 9, 2001 Congressional deadline on this issue, the extra 15 days requested by the petitioners cannot be granted. Accordingly, the new closing date is September 8, 2001.

Statutory History and Issues

Section 226 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) requires the Secretary of Transportation (Secretary) to conduct a study of the feasibility and merits of requiring Medical Review Officers or employers to report all verified positive controlled substances test results on any driver subject to controlled substances testing in 49 CFR part 382 to the State where the driver is licensed. In addition to the reporting requirement, this potential provision would require prospective employers to query the State that issued the CDL to determine if the State had any record of a verified positive drug test on such driver before hiring the driver. The MCSIA further required the Secretary to report on the study, together with any recommendations the Secretary determines appropriate, to Congress no later than two years after enactment of the law.

In carrying out this study, Congress directed the Secretary to conduct an assessment to identify methods for safeguarding the confidentiality of verified drug test results. In addition, the Secretary was asked to examine the costs, benefits, and safety impacts of requiring States to maintain records of verified positive drug test results; and whether a process should be established to allow drivers to correct errors in their records and to expunge information from their records after a reasonable period of time.

Comments and suggestions are invited concerning the feasibility and merits of employers and Medical Review Officers reporting positive drug test results to the State that issued the driver's CDL and the burden imposed by such a reporting requirement on the employers, State, and others. Of concern are operational, legal, confidentiality, and financial issues, as well as the type of database, database access, and database management that would be required.

Comments

Comments are requested specifically on the following questions:

(1) What impact would this requirement have on the motor carrier industry, drivers, Medical Review Officers, safety advocates, the States and other interested parties?

(2) What would be the benefits, costs, and safety impacts of requiring States to

maintain records of verified positive drug test results?

(3) How would such a national record-keeping system safeguard the confidentiality of verified drug test results? What systems or methodology could do so?

(4) Should a process be established to allow drivers to correct errors in their records and to expunge information from their records after a reasonable period of time? What would be considered a reasonable period of time? What documentation would be adequate to justify expunging such a record?

(5) What are the potential costs involved in implementing this program for each State?

(6) What are the benefits of having verified positive drug test results housed in database so that each prospective employer would be required before hiring any driver to query the State that issued the commercial driver's license (CDL)? What are the disadvantages?

(7) What type of database should be used? Under what conditions should the information be released? Who should, or should not, have access to this information?

(8) Who should own and/or house the database?

(9) Should the database be centralized or distributed at the State level?

(10) How could we safeguard the confidentiality of verified drug test results?

(11) Are there States that currently have a program in place where verified positive drug test results are submitted to them? If so, what are their experiences and challenges?

Julie Anna Cirillo,

Acting Deputy Administrator.

[FR Doc. 01–21227 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Marine Transportation System National Advisory Council

ACTION: National Advisory Council Public Meeting.

SUMMARY: The Maritime Administration announces that the Marine Transportation System National Advisory Council (MTSNAC) will hold a meeting to discuss ongoing action items, MTS Team endeavors, MTS priorities and visions, and other issues. A public comment period is scheduled for 1 PM to 1:30 PM on Thursday, September 13, 2001. To provide time for as many people to speak as possible, speaking time for each individual will be limited to three minutes. Members of the public who would like to speak are asked to contact Raymond Barberesi by September 7, 2001. Commenters will be placed on the agenda in the order in which notifications are received. If time allows, additional comments will be permitted. Copies of oral comments must be submitted in writing at the meeting. Additional written comments are welcome and must be filed by September 20, 2001. Send comments to the attention of Mr. Raymond Barberesi, Director, Office of Ports and Domestic Shipping, U.S. Maritime Administration, 400 7th Street, SW, Room 7201, Washington, DC 20590.

DATES: The meeting will be held on Wednesday, September 12, 2001, from 1:30 PM to 5 PM and Thursday, September 13, 2001, from 9 AM to 3 PM.

ADDRESSES: The meeting will be held at the Radisson Plaza Hotel Baltimore Inner Harbor, 20 W. Baltimore Street, Baltimore, Maryland 21201.

FOR FURTHER INFORMATION CONTACT: Raymond Barberesi, (202) 366–4357; Maritime Administration, MAR–830, Room 7201, 400 Seventh St., SW, Washington, DC 20590; *Raymond.Barberesi@marad.dot.gov.*

(**Authority**: 5 U.S.C. App 2, Sec. 9(a)(2); 41 CFR 101–6. 1005; DOT Order 1120.3B)

Dated: August 17, 2001.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–21180 Filed 8–21–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34051]

Utah Central Railway Company—Lease and Operation Exemption—Union Pacific Railroad Company

Utah Central Railway Company (UCRC), a Class III rail carrier, has filed a notice of exemption [1] under 49 CFR 1150.41 *et seq.* to lease from Union Pacific Railroad Company (UP) and operate a line of railroad, with appurtenances, within the Ogden, UT area. The trackage encompasses the former Denver, Rio Grande & Western Railroad mainline trackage from Transfer Yard, milepost 781.00 to milepost 778.00, including the passing and stub tracks; the Evona Industrial Lead; the Relico Spur; the Sugar Works Spur; the Dyce Bypass Track up to the point of switch to the Shasta Lead Track; and Tracks 713 and 714, serving Dyce Chemical.

UCRC certifies that its projected revenues as a result of the transaction will not result in its becoming a Class II or Class I rail carrier.

The earliest the transaction could have been consummated was August 14, 2001, the effective date of the exemption, 7 days after the amendment was filed. The parties intended consummation date is 5 days after UP has notified UCRC that UP has received satisfactory evidence of compliance with conditions precedent, including Board approval of the transaction.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34051, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Casey K. McGarvey, 50 South Main, Suite 1250, Salt Lake City, UT 84144.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: August 15, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–21035 Filed 8–21–01; 8:45 am]

BILLING CODE 4915–00–P

[1] The notice of exemption was filed on June 26, 2001, and was amended by a pleading filed July 2, 2001. On August 7, 2001, an amended notice was filed, incorporating the June 26 and July 2 filings. The record was not made complete until the amended notice was filed, thereby causing the official filing date to be August 7.

DEPARTMENT OF THE TREASURY

Financial Management Service

Privacy Act of 1974; System of Records

AGENCY: Financial Management Service, Treasury.

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, Financial Management Service is publishing its inventory of Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB) Circular No. A–130, Financial Management Service (FMS) has completed a review of its Privacy Act systems of records notices to identify minor changes to those notices. This publication incorporates the amendments to FMS .014–Debt Collection Operations, published on Sept. 19, 2000 at 65 FR 56612.

The following system of records has been removed from FMS' inventory of Privacy Act systems: FMS .008–Personnel Security Records (December 14, 2000, at 65 FR 78261).

The systems notices are reprinted in their entirety following the Table of Contents.

Systems Covered by This Notice

This notice covers all systems of records adopted by FMS up to July 2, 2001.

Dated: August 7, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

Financial Management Service (FMS)

Table of Contents

FMS .001—Administrative Records.
FMS .002—Payment Issue Records for Regular Recurring Benefit Payments.
FMS .003—Claims and Inquiry Records on Treasury Checks, and International Claimants.
FMS .005—FMS Personnel Records.
FMS .007—Payroll and Pay Administration.
FMS .010—Records of Accountable Officers' Authority With Treasury.
FMS .012—Pre-complaint Counseling and Complaint Activities.
FMS .013—Gifts to the United States.
FMS .014—Debt Collection Operations System.
FMS .016—Payment Records for Other Than Regular Recurring Benefit Payments.

Treasury/FMS .001

SYSTEM NAME:

Administrative Records—Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Department of the Treasury, Prince George Metro Center II, 3700 East-West Highway, Room 144, Hyattsville, MD 20782. Also, please see Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Financial Management Service personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Motor Vehicle Accident Reports. (2) Parking Permits. (3) Distribution list of individuals requesting various Treasury publications. (4) Treasury Credentials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to:

(1) Disclose to GSA for drivers permits, parking permits, accident reports, and credentials;

(2) Disclose to GPO for servicing public on Treasury publications.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy and microcomputer.

RETRIEVABILITY:

By name and by Treasury publication.

SAFEGUARDS: LOCKED CONTAINERS.

Administrative Procedure—names are not given to anyone except those who control the listing.

RETENTION AND DISPOSAL:

(1) Distribution List—destroy one year after declared obsolete.

(2) Motor Vehicle Accident Reports—six years after closure of the case.

(3) Parking permits and Treasury Credentials—destroy 3 months after return to issuing officer.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Facilities Management Division, Financial Management Service, U.S. Department of the Treasury, Prince George Metro Center II, 3700 East-West Highway, Room 144, Hyattsville, MD 20782.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be sent to the Disclosure Officer, Financial Management Service, U.S. Department of the Treasury, Liberty Center Building, 401 14th St., SW., Washington, DC 20227. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The system manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR part 1, subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Financial Management Service personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Appendix I to FMS .001

MOTOR VEHICLE ACCIDENT REPORTS:

Prince George Metro Center II, 3700 East-West Highway, Room 127, Hyattsville, MD 20782.

Parking Permits:

1. Prince George Metro Center II, 3700 East-West Highway, Room 127, Hyattsville, MD 20782.

2. Liberty Center Building, 401 14th Street, SW., Room 118, Washington, DC 20227.

Distribution List: Prince George Metro Center II, 3700 East-West Highway, Hyattsville, MD 20782.

Treasury Credentials: Prince George Metro Center II, 3700 East-West Highway, Room 158-B, Hyattsville, MD 20782.

Treasury/FMS .002

SYSTEM NAME:

Payment Issue Records for Regular Recurring Benefit Payments—Treasury/Financial Management Service.

SYSTEM LOCATION:

The Financial Management Service, U.S. Department of the Treasury, Washington, DC 20227. Records maintained at Financial Centers in six regions: Austin, TX; Birmingham, AL; Chicago, IL; Kansas City, MO; Philadelphia, PA; and San Francisco, CA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Beneficiaries of Title II of the Social Security Act.

(2) Beneficiaries of Title XVI of the Social Security Act.

(3) Beneficiaries of the Civil Service Retirement System.

(4) Beneficiaries of the Railroad Retirement System.

(5) Beneficiaries of the Department of Veterans Affairs.

(6) Holders of Series H and HH Bonds (interest payment).

CATEGORIES OF RECORDS IN THE SYSTEM:

Payment issue records for regular recurring benefit payments showing name, check number and symbol, or other identification, address, account number, payment amount, and date of issuance for each of the categories of individuals listed above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Executive Order 6166, dated June 10, 1933.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to:

(1) Disclose to banking industry for payment verification;

(2) Disclose to Federal investigative agencies, Departments and agencies for whom payments are made, and payees;

(3) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(4) Disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(5) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings;

(6) Disclose information to foreign governments in accordance with formal or informal international agreements;

(7) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(9) Provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(10) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(11) Disclose information concerning delinquent debtors to Federal creditor agencies, their employees, or their agents for the purpose of facilitating or conducting Federal administrative offset, Federal tax refund offset, Federal salary offset, or for any other authorized debt collection purpose;

(12) Disclose information to any State, Territory or Commonwealth of the United States, or the District of Columbia to assist in the collection of State, Commonwealth, Territory or District of Columbia claims pursuant to a reciprocal agreement between FMS and the State, Commonwealth, Territory or the District of Columbia; and

(13) Disclose to the Defense Manpower Data Center and the United States Postal Service and other Federal agencies through authorized computer matching programs for the purpose of identifying and locating individuals who are delinquent in their repayment of debts owed to the Department or other Federal agencies in order to collect those debts through salary offset and administrative offset, or by the use of other debt collection tools.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm-magnetic tape for categories of individuals 1 through 6.

RETRIEVABILITY:

By account number.

SAFEGUARDS:

Computer password system, card-key entry system, limited to authorized personnel.

RETENTION AND DISPOSAL:

Indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Disbursing Officer, Financial Management Service, 401 14th Street, SW, Washington, DC 20227.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer, Financial Management Service, 401 14th Street, SW, Washington, DC 20227. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The system manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR, part 1, subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Voucher certifications by Departments and agencies for whom payments are made.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/FMS .003

SYSTEM NAME:

Claims and Inquiry Records on Treasury Checks, and International Claimants—Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Department of the Treasury, Prince George Metro Center II, 3700 East-West Highway, Room 727D, Hyattsville, MD 20782.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Payees and holders of Treasury checks, (2) Claimants awarded benefits under the War Claims Act and the International Claims Settlement Act of 1949.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Treasury check claim file: Treasury check, claim of payee with name and address, settlement action taken.

(2) Awards for claims for losses sustained by individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; (1) For Treasury check claims—31 U.S.C. 71 with delegation of authority from Comptroller General of the United States; (2) International claims—50 U.S.C. 2012; 22 U.S.C. 1627, 1641, 1642.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

(1) Information is routinely disclosed to endorsers concerning checks for

which there is liability, Federal agencies, State and local law enforcement agencies, General Accounting Office, Congressional offices and media assistance offices on behalf of payee claimants.

(2) International Claims—Information in files is used by claimants (awardees) and their representatives, Foreign Claims Settlement Commission, and Congressmen. These records and information in the records may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) Disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings;

(4) Disclose information to foreign governments in accordance with formal or informal international agreements;

(5) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(7) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, and

(8) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) Claim file folders, card/paper checks, microfilm, and magnetic media.

(2) Correspondence files.

(3) Claim file folders.

RETRIEVABILITY:

(1) Name of payee and check number and symbol.

(2) Alpha cross-reference to case number.

(3) Name of claimant or alpha reference to claim number.

SAFEGUARDS:

(1) Secured building,

(2) Secured files in secured building.

RETENTION AND DISPOSAL:

(1) Claim files and checks, six years seven months; Microfilm, indefinitely.

(2) Correspondence files—seven years.

(3) Claim file folders—indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Category 1: Director, Financial Processing Division, Prince George Metro Center II, 3700 East-West Highway, Room 727D, Hyattsville, MD 20782. Category 2: Director, Funds Management Division, Prince George Metro Center II, 3700 East-West Highway, Room 620D, Hyattsville, MD 20782.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer, Financial Management Service, 401 14th St., SW., Washington, DC 20227. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The system managers will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to: Disclosure Officer, Financial Management Service, U.S. Department of the Treasury, 401 14th Street, SW., Washington, DC 20227. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR part 1, subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

(1) Individual payees of Treasury checks, endorsers of Treasury checks, investigative agencies, contesting claimants.

(2) Awards certified to Treasury for payment by Foreign Claims Settlement Commission.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/FMS .005

SYSTEM NAME:

FMS Personnel Records—Treasury/ Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Department of the Treasury, 401 14th ST., SW, Washington, DC 20227; Financial Management Service, U.S. Department of the Treasury, Prince George Metro Center II, 3700 East-West Highway, Hyattsville, MD 20782.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Employees of Service (separated employees—in certain cases) and applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Locator Cards.
(2) Incentive Awards Record.
(3) Official Personnel Folder.
(4) Personnel Roster.
(5) Logs of SF–52's,
(6) Correspondence File.
(7) Position Listings.
(8) Position Descriptions with Evaluation Statements.
(9) Personnel Management Evaluation Survey Reports.
(10) Request for Certification File.
(11) Merit Promotion File.
(12) Exit Interview File.
(13) Performance File.
(14) Statistical Reports—retrievable by names: (a) Personnel Status Report, (b) Ad Hoc Retiree Report, (c) Monthly EEO report, (d) Direct Hire Authority Report, (e) Registers Worked File, (f) Statements of Employment and Financial Interest, and (g) Other similar files or registers.
(15) Training Course Nominations.
(16) Evaluation of Training Program.
(17) Tuition Assistance Files.
(18) Senior Executive Service Development File.
(19) Management Development File.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10561, dated September 13, 1954, Federal Personnel Manual, and Title 5 of U.S.C. Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to:

(1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(2) Disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings;

(4) Disclose information to foreign governments in accordance with formal or informal international agreements;

(5) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(7) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, and

(8) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy and magnetic storage.

RETRIEVABILITY:

Alphabetically by name; also in some instances by organization, then Social Security number.

SAFEGUARDS:

Secured building, secured room, and locked cabinets. Non-FMS access is limited to investigators from OPM, etc., members of Fair Employment staff and Union officials.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with General Records Schedules issued by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, Financial Management Service, U.S. Department of the Treasury, Prince George Metro Center II, 3700 East-West Highway, Room 115–F, Hyattsville, MD 20782.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer, Financial Management Service, 401 14th St., SW, Washington, DC 20227. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The system manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR part 1, subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Applicant Personnel Action Forms (SF–50), SF–171 (completed by applicant), Payroll Actions References, Educational Institutions, etc.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/FMS .007

SYSTEM NAME:

Payroll and Pay Administration—Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Department of the Treasury, Prince George Metro Center II, 3700 East-West Highway, Room 133 and 101A, Hyattsville, MD 20782; and Room 120, Liberty Center Building, Washington, DC 20227.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Service and separated employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Official Payroll Folder (a) Levy and Garnishment Records. (b) SF–1192-Savings Bond Authorization. (c) SF–1199A-Allotment of Pay to Saving Account. (d) Copies of SF–50-Notification of Personnel Action. (e) Withholding Tax Exemptions. (f) Copy of Health Benefit Designation. (g) Copy of Life Insurance Forms. (h) Payroll Change Slips. (I) Combined Federal Campaign Designations. (j) Copy of SF–1150. (2) Time and Attendance Reports (a) SF–71 Request for Leave. (b) Court Leave Documents. (c) Request for Advancement of Leave. (3) Payroll Comprehensive Listing (a) Current Payment Information. (b) Record of Leave Earned and Used. (c) All Deductions from Pay. (d) Personnel Information such as Grade, Step, Salary, Title, Date of Birth, Social Security Number, Veterans Preference, Tenure, etc. (4) Payroll Control Registers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5—Pay, Leave and Allowances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure permitted to Federal Agencies and to State and Local Agencies for tax purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy, microfiche, and magnetic media.

RETRIEVABILITY:

By Social Security number.

SAFEGUARDS:

Secured building, secured room and locked cabinets.

RETENTION AND DISPOSAL:

Records are stored, maintained and disposed of in accordance with General Records Schedules issued by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, Financial Management Service, Prince George Metro Center II,

3700 East-West Highway, Room 115–F, Hyattsville, MD 20782.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer, 401 14th St., SW., Washington, DC 20227. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The system manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR part 1, subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

From individual Service employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/FMS .010

SYSTEM NAME:

Records of Accountable Officers' Authority with Treasury—Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Department of the Treasury, Liberty Center Building, 401 14th Street, SW., Washington, DC 20227.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Regional Directors.

(2) Certifying Officers.

(3) Designated Agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained on the above listed accountable officers showing the designation or removal of the officer to act in the specified capacity pursuant to a proper authorization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Executive Order 6166, dated June 10, 1933.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to:

(1) Disclose to Banking institutions, Federal Reserve Banks, and Government agencies for verification of information on authority of accountable officers to determine propriety of actions taken by such individuals;

(2) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(3) Disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(4) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings;

(5) Disclose information to foreign governments in accordance with formal or informal international agreements;

(6) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(7) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(8) Provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; and

(9) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card files; paper files.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Regional Directors' files are locked.

RETENTION AND DISPOSAL:

Hard-copy records are maintained and disposed of in accordance with General Records Schedules issued by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Disbursing Officer, Financial Management Service, U.S. Department of the Treasury, 401 14th Street, SW., Room 343, Washington, DC 20227.

Director, Austin Regional Financial Center, Financial Management Service, Department of the Treasury, 1619 E. Woodward Street, Austin, TX 78741.

Director, Birmingham Regional Financial Center, Financial Management Service, Department of the Treasury, 190 Vulcan Road, Birmingham, AL 35109.

Director, Chicago Regional Financial Center, Financial Management Service, Federal Office Building, 536 S. Clark Street, Chicago, IL 60605.

Director, Kansas City Regional Financial Center, Financial Management Service, Department of the Treasury, 2100 W. 36th Avenue, Kansas City, KS 66103.

Director, Philadelphia Regional Financial Center, Financial Management Service, 1300 Townsend Road, Philadelphia, PA 19154.

Director, San Francisco Regional Financial Center, 390 Main Street, San Francisco, CA 94104.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer, Financial Management Service, 401 14th St., SW., Washington, DC 20227. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The system managers will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR part 1, subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Government Departments and Agencies requiring services of Treasury Department for issuance and payment of Treasury checks.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/FMS .012

SYSTEM NAME:

Pre-complaint Counseling and Complaint Activities—Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Treasury Department, Prince George Metro Center II, 3700 East-West Highway, Room 132, Hyattsville, MD 20782.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees seeking services of EEO Counselors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Monthly pre-complaint activity reports from seven Financial Centers and Headquarters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7154; 42 U.S.C. 200e–16; Executive Order 11478; and 5 CFR part 713.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to keep records on EEO Counseling activities for annual submission to Treasury.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File cabinet.

RETRIEVABILITY:

Filed by station and date of receipt.

SAFEGUARDS:

Staff supervision is maintained during the day. Records are kept locked in the files.

RETENTION AND DISPOSAL:

Reports destroyed at the end of four years.

SYSTEM MANAGER(S) AND ADDRESS:

EEO Officer, Financial Management Service, Prince George Metro Center II, 3700 East-West Highway, Room 132, Hyattsville, MD 20782.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer, 401 14th Street, SW., Washington, DC 20227. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The system manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR part 1, subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Monthly submissions by Financial Centers and Headquarters.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/FMS .013

SYSTEM NAME:

Gifts to the United States-Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Department of the Treasury, Prince George Metro Center II, 3700 East-West Highway, Hyattsville, MD 20782.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Donors of intervivos and testamentary gifts to the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, copies of wills and court proceedings, and other material related to gifts to the United States.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3113.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside of the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Filing cabinets.

RETRIEVABILITY:

Name of donor.

SAFEGUARDS:

Access is limited to persons on official business.

RETENTION AND DISPOSAL:

Records are maintained for 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Financial Information Management, Directorate, Financial Management Service, Prince George Metro Center II, 3700 East-West Highway, Hyattsville, MD 20782.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements:

(1) Identify the record system;

(2) Identify the category and type of records sought; and

(3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Disclosure Officer (See ''Record access procedures'' below).

RECORD ACCESS PROCEDURES:

Disclosure Officer, Financial Management Service, U.S. Department of the Treasury, Liberty Center Building, 401 14th Street, SW., Washington, DC 20227.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Individuals, executors, administrators and other involved persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/FMS .014

SYSTEM NAME:

Debt Collection Operations System—Treasury/Financial Management Service.

SYSTEM LOCATION:

Records are located in the offices of and with the Debt Management Services staff of the Financial Management Service, U.S. Department of the Treasury at the following locations: Liberty Center Building (Headquarters), 401 14th Street, SW., Washington, DC 20227; Prince George's Plaza, 3700 East-West Highway, Hyattsville, MD, 20782; and the Birmingham Debt

Management Operations Center, 190 Vulcan Road, Homewood, Alabama, 35209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who owe debts to: (a) The United States, through one or more of its departments and agencies; and/or (b) States, territories and commonwealths of the United States, and the District of Columbia (hereinafter collectively referred to as ''states'').

CATEGORIES OF RECORDS IN THE SYSTEM:

Debt records containing information about the debtor(s), the type of debt, the governmental entity to which the debt is owed, and the debt collection tools utilized to collect the debt. The records may contain identifying information, such as name(s) and taxpayer identifying number (*i.e.,* social security number or employer identification number); debtor contact information, such as work and home address, and work and home telephone numbers; and name of employer and employer address. Debts include unpaid taxes, loans, assessments, fines, fees, penalties, overpayments, advances, extensions of credit from sales of goods or services, and other amounts of money or property owed to, or collected by, the Federal Government or a state, including past due support which is being enforced by a state. The records also may contain information about: (a) The debt, such as the original amount of the debt, the debt account number, the date the debt originated, the amount of the delinquency or default, the date of delinquency or default, basis for the debt, amounts accrued for interest, penalties, and administrative costs, and payments on the account; (b) Actions taken to collect or resolve the debt, such as copies of demand letters or invoices, documents or information required for the referral of accounts to collection agencies or for litigation, and collectors' notes regarding telephone or other communications related to the collection or resolution of the debt; and (c) The referring or governmental agency that is collecting or owed the debt, such as name, telephone number, and address of the agency contact.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966 (Pub L. 89–508), as amended by the Debt Collection Act of 1982 (Pub L. 97–365, as amended); Deficit Reduction Act of 1984 (Pub L. 98–369, as amended); Debt Collection Improvement Act of 1996 (Pub. L. 104–134, sec. 31001); Taxpayer Relief Act of 1997 (Pub. L. 105–34); Internal Revenue Service Restructuring and Reform Act of 1998 (Pub. L. 105–206); 26 U.S.C. 6402; 26 U.S.C. 6331; 31 U.S.C. Chapter 37 (Claims), Subchapter I (General) and Subchapter II (Claims of the U.S. Government).

PURPOSE(S):

The purpose of this system is to maintain records about individuals who owe debt(s) to the United States, through one or more of its departments and agencies, and/or to states, including past due support enforced by states. The information contained in the records is maintained for the purpose of taking action to facilitate the collection and resolution of the debt(s) using various collection methods, including, but not limited to, requesting repayment of the debt by telephone or in writing, offset, levy, administrative wage garnishment, referral to collection agencies or for litigation, and other collection or resolution methods authorized or required by law. The information also is maintained for the purpose of providing collection information about the debt to the agency collecting the debt, to provide statistical information on debt collection operations, and for the purpose of testing and developing enhancements to the computer systems which contain the records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to disclose information to:

(1) Appropriate Federal, state, local or foreign agencies responsible for investigating or implementing, a statute, rule, regulation, order, or license;

(2) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(3) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) Any Federal agency, state or local agency, U.S. territory or commonwealth, or the District of Columbia, or their agents or contractors, including private collection agencies (consumer and commercial):

a. To facilitate the collection of debts through the use of any combination of various debt collection methods required or authorized by law, including, but not limited to;

(i) Request for repayment by telephone or in writing;

(ii) Negotiation of voluntary repayment or compromise agreements;

(iii) Offset of Federal payments, which may include the disclosure of information contained in the records for the purpose of providing the debtor with appropriate pre-offset notice and to otherwise comply with offset prerequisites, to facilitate voluntary repayment in lieu of offset, and to otherwise effectuate the offset process;

(iv) Referral of debts to private collection agencies, to Treasury-designated debt collection centers, or for litigation;

(v) Administrative and court-ordered wage garnishment;

(vi) Debt sales;

(vii) Publication of names and identities of delinquent debtors in the media or other appropriate places; and

(viii) Any other debt collection method authorized by law;

b. To conduct computerized comparisons to locate Federal payments to be made to debtors;

c. To conduct computerized comparisons to locate employers of, or obtain taxpayer identifying numbers or other information about, an individual for debt collection purposes;

d. To collect a debt owed to the United States through the offset of payments made by states, territories, commonwealths, or the District of Columbia;

e. To account or report on the status of debts for which such entity has a financial or other legitimate need for the information in the performance of official duties;

f. For the purpose of denying Federal financial assistance in the form of a loan or loan guaranty to an individual who owes delinquent debt to the United States or who owes delinquent child support that has been referred to FMS for collection by administrative offset;

g. To develop, enhance and/or test database, matching, communications, or other computerized systems which facilitate debt collection processes; or

h. For any other appropriate debt collection purpose.

(5) The Department of Defense, the U.S. Postal Service, or other Federal agency for the purpose of conducting an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, to identify and locate individuals receiving Federal payments including, but not limited to, salaries, wages, and benefits), which may include the disclosure of information contained in the records for the purpose of requesting voluntary repayment or implementing Federal employee salary offset or other offset procedures;

(6) The Department of Justice for the purpose of litigation to enforce collection of a delinquent debt or to obtain the Department of Justice's concurrence in a decision to compromise, suspend, or terminate collection action on a debt;

(7) Any individual or other entity who receives Federal payments as a joint payee with a debtor for the purpose of providing notice of, and information about, offsets from such Federal payments; and

(8) Any individual or entity:

a. To facilitate the collection of debts through the use of any combination of various debt collection methods required or authorized by law, including, but not limited to:

(i) Administrative and court-ordered wage garnishment;

(ii) Report information to commercial credit bureaus;

(iii) Conduct asset searches;

(iv) Publish names and identities of delinquent debtors in the media or other appropriate places; or

(v) Debt sales;

b. For the purpose of denying Federal financial assistance in the form of a loan or loan guaranty to an individual who owes delinquent debt to the United States or who owes delinquent child support that has been referred to FMS for collection by administrative offset; or

c. For any other appropriate debt collection purpose.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Debt information concerning a government claim against a debtor is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(e), to consumer reporting agencies, as defined by the Fair Credit Reporting Act, 5 U.S.C. 1681(f), to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in computer processible storage media, such as computer hard drives, magnetic disc, tape; in file folders; and on paper lists and forms.

RETRIEVABILITY:

Records are retrieved by various combinations of name, taxpayer identifying number (i.e., social security number or employer identification number), or debt account number.

SAFEGUARDS:

All officials access the system of records on a need-to-know basis only, as authorized by the system manager. Procedural and physical safeguards are utilized, such as accountability, receipt records, and specialized communications security. Access to computerized records is limited, through use of access codes, entry logs, and other internal mechanisms, to those whose official duties require access. Hard-copy records are held in steel cabinets, with access limited by visual controls and/or lock system. During normal working hours, files are attended by responsible officials; files are locked up during non-working hours. The building is patrolled by uniformed security guards.

RETENTION AND DISPOSAL:

Hard-copy records and electronic records shall be retained and disposed of in accordance with National Archives and Records Administration regulations (36 CFR Subchapter B—Records Retention); Treasury directives and FMS comprehensive records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager, Debt Management Services, Financial Management Service, 401 14th Street, SW., Washington, DC 20227.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974, as amended, shall be addressed to the Disclosure Officer, Financial Management Service, 401 14th Street, SW., Washington, DC 20227. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The system manager will advise as to whether FMS maintains the records requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974, as amended, concerning procedures for gaining access or contesting records should write to the Disclosure Officer. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR part 1, subpart C, and appendix G, concerning requirements of this Department with respect to the Privacy Act of 1974, as amended.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Information in this system is provided by the individual on whom the record is maintained, Federal and state agencies to which the debt is owed, Federal employing agencies and other entities that employ the individual, Federal and state agencies issuing payments, collection agencies, locator and asset search companies, credit bureaus, Federal, state or local agencies furnishing identifying information and/or address of debtor information, or from public documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/FMS .016

SYSTEM NAME:

Payment Records for Other Than Regular Recurring Benefit Payments—Treasury/Financial Management Service.

SYSTEM LOCATION:

The Financial Management Service, U.S. Department of the Treasury, Washington, DC 20227. Records maintained at Financial Centers in six regions: Austin, TX; Birmingham, AL; Chicago, IL; Kansas City, MO; Philadelphia, PA; and San Francisco, CA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are the intended recipients or recipients of payments from the United States Government, and for whom vouchers have been certified for payment by departments or agencies and sent to FMS for disbursement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payment records showing name, social security or employer identification number or other agency identification number, address, payment amount, date of issuance, check number and symbol or other payment identification number, routing number of the payee's financial institution and the payee's account number at the financial institution, vendor contract and/or purchase order, and the name and location number of the certifying department or agency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Executive Order 6166, dated June 10, 1933.

PURPOSE:

To facilitate disbursement of Federal monies to individuals by check or electronically, authorized under various programs of the Federal Government.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to:

(1) Disclose to the banking industry for payment verification;

(2) Disclose to Federal agencies, departments and agencies for whom payments are made, and payees;

(3) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(4) Disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(5) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings;

(6) Disclose information to foreign governments in accordance with formal or informal international agreements;

(7) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(9) Provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(10) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(11) Disclose information concerning delinquent debtors to Federal creditor agencies, their employees, or their agents for the purpose of facilitating or conducting Federal administrative offset, Federal tax refund offset, Federal salary offset, or for any other authorized debt collection purpose;

(12) Disclose information to any State, Territory or Commonwealth of the United States, or the District of Columbia to assist in the collection of State, Commonwealth, Territory or District of Columbia claims pursuant to a reciprocal agreement between FMS and the State, Territory, Commonwealth or the District of Columbia; and

(13) Disclose to the Defense Manpower Data Center and the United States Postal Service and other Federal agencies through authorized computer matching programs for the purpose of identifying and locating individuals who are delinquent in their repayment of debts owed to the Department or other Federal agencies in order to collect those debts through salary offset and administrative offset, or by the use of other debt collection tools.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Storage is on magnetic media and hard copy.

RETRIEVABILITY:

Records are retrieved by name, employer identification number (EIN) and social security number.

SAFEGUARDS:

These records are available only to those persons whose official duties require such access. Records are kept in limited access areas during duty hours and in locked cabinets at all other times. Records are password protected and are maintained in a building subject to 24-hour security.

RETENTION AND DISPOSAL:

Records are retained for three years. Records are disposed of in accordance with Treasury Directive 25–02, Records Disposition Management Program.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Disbursing Officer, Financial Management Service, 401 14th Street, SW., Washington, DC 20227.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be sent to the Disclosure Officer at 401 14th Street, SW., Washington, DC 20227. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The system manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR part 1, subpart C concerning requirements of this department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Information is obtained from vouchers, payment tapes and electronic data transmissions via the Electronic Certification System by departments and agencies for whom payments are made.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–21123 Filed 8–21–01; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Cognitive and Psychological Research Coordinated by Statistics of Income on Behalf of All IRS Operations Functions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Cognitive and Psychological Research Coordinated by Statistics of Income on Behalf of All IRS Operations Functions.

DATES: Written comments should be received on or before October 22, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Cognitive and Psychological Research Coordinated by Statistics of

Income on Behalf of All IRS Operations Functions.

OMB Number: 1545–1349.

Abstract: The proposed research will improve the quality of data collection by examining the psychological and cognitive aspects of methods and procedures such as: interviewing processes, forms redesign, survey and tax collection technology and operating procedures (internal and external in nature).

Current Actions: We will be conducting different opinion surveys, focus group sessions, think-aloud interviews, and usability studies regarding cognitive research surrounding forms submission or IRS system/product development.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals and businesses or other for-profit organizations.

Estimated Number of Respondents: 30,000.

Estimated Time Per Respondent: 35 minutes.

Estimated Total Annual Burden Hours: 17,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 16, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–21187 Filed 8–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–268–82]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–268–82 (TD 8696), Definitions Under Subchapter S of the Internal Revenue Code (Section 1.1377–1).

DATES: Written comments should be received on or before October 22, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha Brinson (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Definitions Under Subchapter S of the Internal Revenue Code.

OMB Number: 1545–1462.

Regulation Project Number: PS–268–82.

Abstract: Section 1.1377–1(b)(4) of the regulation provides that an S corporation making a terminating election under Internal Revenue Code section 1377(a)(2) must attach a statement to its timely filed original or amended return required to be filed under Code section 6037(a). The statement must provide information concerning the events that gave rise to the election and declarations of consent from the S corporation shareholders.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations, and individuals.

Estimated Number of Respondents: 4,000.

Estimated Time Per Respondent: 15 mins.

Estimated Total Annual Burden Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

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

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

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 15, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–21188 Filed 8–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–54–94]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–54–94 (TD 8668), Environmental Settlement Funds—Classification (Section 301.7701–4).

DATES: Written comments should be received on or before October 22, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha Brinson (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Environmental Settlement Funds—Classification.

OMB Number: 1545–1465.

Regulation Project Number: PS–54–94.

Abstract: This regulation provides guidance to taxpayers on the proper classification of trusts formed to collect and disburse amounts for environmental remediation of an existing waste site to discharge taxpayers' liability or potential liability under applicable environmental laws. Section 301.7701–4(e)(3) of the regulation provides that the trustee of an environmental remediation trust must furnish to each grantor a statement that shows all items of income, deduction, and credit of the trust for the taxable year attributable to the portion of the trust treated as owned by the grantor. The statement must provide the grantor with the information necessary to take the items into account in computing the grantor's taxable income.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 2,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 15, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–21189 Filed 8–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease Development of Vacant Property at the Department of Veterans Affairs Medical Center, Albuquerque, NM

AGENCY: Department of Veterans Affairs.

ACTION: Notice of designation.

SUMMARY: The Secretary of the Department of Veterans Affairs (VA) is designating the Veterans Affairs Medical Center in Albuquerque, NM, for an Enhanced-Use leasing development. The Department intends to enter into a long-term lease (up to 75 years) of real property with a competitively selected lessee/developer who will finance, design, develop, maintain and manage an Enhanced-Use leasing project, all at no cost to VA.

FOR FURTHER INFORMATION CONTACT: Renee Badey, Office of Asset Enterprise Management (004B), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 565–4307.

SUPPLEMENTARY INFORMATION: 38 U.S.C. 8161 *et seq.,* specifically provides that the Secretary may enter into an Enhanced-Use lease, if he determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department; the lease will not be inconsistent with and will not adversely affect the mission of the Department; and the lease will enhance the property or result in improved services to veterans. This project meets these requirements.

Approved: August 13, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 01–21134 Filed 8–21–01; 8:45 am]

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Wednesday,
August 22, 2001

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7039–4]

RIN 2060–AG27

National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing boat manufacturing facilities. The processes regulated include fiberglass resin and gel coat operations, carpet and fabric adhesive operations, and aluminum recreational boat painting operations. The EPA has identified boat manufacturing as a major source of hazardous air pollutants (HAP), such as styrene, methyl methacrylate (MMA), methylene chloride (dichloromethane), toluene, xylene, n-hexane, methyl ethyl ketone (MEK), methyl isobutyl ketone (MIBK), and methyl chloroform (1,1,1-trichloroethane). The NESHAP will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). We estimate the final NESHAP will reduce nationwide emissions of HAP from these facilities by 3,450 tons per year (tpy) (approximately 35 percent from the 1997 level of emissions).

EFFECTIVE DATE: August 22, 2001.

ADDRESSES: *Docket.* Docket No. A–95–44 contains the information considered by EPA in developing the NESHAP. This docket is located at the U.S. EPA, Air and Radiation Docket and Information Center (Mail Code 6102), 401 M Street, SW, Room M–1500, Waterside Mall, Washington, DC 20460. The docket may be inspected from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For further information concerning applicability and rule determinations, contact the appropriate State or local agency representative. If no State or local representative is available, contact the EPA Regional Office staff listed in § 63.13. For information concerning the analyses performed in developing the NESHAP, contact Mr. Mark Morris, Organic Chemicals Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5416, morris.mark@epa.gov.

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Public Comments. The NESHAP for boat manufacturing were proposed on July 14, 2000 (65 FR 43842) and 27 comment letters were received on the proposal. The comment letters are available in Docket No. A–95–44, along with a summary of the comment letters and EPA's responses to the comments. In response to the public comments, EPA adjusted the final NESHAP where appropriate.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's final NESHAP will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the NESHAP will be posted on the TTN's policy and guidance page for newly proposed or final rules at http://www.epa.gov/ttn/oarpg/t3pfpr.html. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	NAICS code	SIC code	Examples of regulated entities
Industrial	336612	3732	Boat manufacturing facilities that perform fiberglass production operations or aluminum coating operations.
	.....	3731	Shipbuilding and repair facilities that perform fiberglass production operations.
Federal Government	336612	3731 3732	Federally owned facilities (e.g., Navy shipyards) that perform fiberglass production operations.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Not all facilities classified under the NAICS or SIC codes are affected. Other types of entities not listed could be affected. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.5683 of the final NESHAP. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review: The NESHAP for boat manufacturing facilities were proposed on July 14, 2000 (65 FR 43842). This action announces EPA's final decisions on the NESHAP. Under section 307(b)(1) of the CAA, judicial review of the final NESHAP is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by October 22, 2001. Only those objections to the NESHAP which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's final NESHAP may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Outline. The information presented in this preamble is organized as follows:

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A. What is the purpose of the NESHAP?
B. What is the statutory authority for NESHAP?
C. What processes and operations constitute boat manufacturing?
II. Summary of the Final NESHAP

A. What sources and operations are subject to the NESHAP?
B. What pollutants are regulated?
C. What do the final NESHAP require?
D. What is the MACT model point value and how is it used in the final NESHAP?
E. When must I comply?
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H. National Technology Transfer and Advancement Act
I. Congressional Review Act
J. Executive Order 13211 (Energy Effects)

I. Introduction

A. What Is the Purpose of the NESHAP?

The purpose of the final NESHAP is to protect the public health by reducing emissions of HAP from boat manufacturing facilities.

B. What Is the Statutory Authority for NESHAP?

Section 112 of the CAA requires that we promulgate standards for the control of HAP from both new and existing major sources. A major source of HAP is defined as any stationary source or group of stationary sources within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tpy or more of any single HAP or 25 tpy or more of multiple HAP.

The CAA requires the standards to reflect the maximum degree of reduction in emissions of HAP that is achievable taking into consideration the cost of achieving the emissions reductions, any non-air-quality health and environmental impacts, and energy requirements. This level of control is commonly referred to as the MACT.

We based the final NESHAP for boat manufacturing for new and existing sources on the MACT floor control level. The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that all major HAP emission sources achieve the level of control already achieved by the better-controlled and lower-emitting sources in each category. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (or the best-performing 5 sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost, non-air-quality health and environmental impacts, and energy requirements.

C. What Processes and Operations Constitute Boat Manufacturing?

The final NESHAP regulate fiberglass boat and aluminum recreational boat manufacturing operations. The emissions from these boat manufacturing operations and processes are fugitive in nature. Fugitive emissions result from HAP evaporating from the resins, gel coats, solvents, adhesives, and surface coatings used in manufacturing processes. The following paragraphs provide a brief description of the operations found at boat manufacturing facilities.

Fiberglass boat manufacturing operations. Fiberglass boats are built from glass fiber reinforcements laid in a mold and saturated with a polyester or vinylester plastic resin. The resin hardens to form a rigid plastic part reinforced with the fiberglass. The resin is mixed with a catalyst as it is applied that causes a cross-linking reaction between the resin molecules. The cross-linking reaction causes the resin to harden from a liquid to a solid.

Fiberglass manufacturing processes are generally considered either ''open molding'' or ''closed molding.'' In open molding, fiberglass boat parts are built ''from the outside in'' according to three basic process steps:

(1) The mold is sprayed with a layer of gel coat, which is a pigmented polyester resin that hardens and becomes the smooth outside surface of the part.

(2) The inside of the hardened gel coat layer is coated with a ''skin coat'' of chopped glass fibers and polyester or vinylester resin.

(3) Additional layers of fiberglass cloth or chopped glass fibers saturated with resin are added until the part is the final thickness.

The same basic process is used to build or repair molds with tooling gel coat and tooling resin.

In closed molding, the resin is applied to fabric placed between the halves of a two-piece mold. Three basic types of closed molding used in boat manufacturing are resin infusion molding, resin transfer molding, and compression molding with sheet molding compound.

The polyester and vinylester resins that are used in fiberglass boat manufacturing contain styrene as a solvent and a cross-linking agent. Gel coats also contain MMA as a solvent, and styrene. Styrene and MMA are HAP, and a fraction evaporates during resin and gel coat application and curing. Resins and gel coats containing styrene and MMA are also used to make the molds used in producing fiberglass parts.

Mixing is done to stir the resin or gel coat and promoters, fillers, or other additives before being applied to the parts. Some HAP from the resin and gel coat are emitted during the mixing process.

Resin and gel coat application equipment requires solvent cleaning to remove uncured resin or gel coat when not in use. The resin or gel coat will catalyze in the hoses or gun if not flushed with a solvent after each use.

Fabric and carpet adhesive operations. The interiors of many types of fiberglass boats and aluminum recreational boats are covered with carpeting or fabric to improve appearance, provide traction, or deaden sound. The material is bonded to the interior with contact adhesives. These adhesives often contain HAP solvents, such as methylene chloride, toluene, xylenes, and methyl chloroform (1,1,1-trichloroethane). The solvents evaporate as the adhesives dry.

Aluminum recreational boat surface coatings. Aluminum recreational boat hull topsides and decks are painted with coatings applied with spray guns. These coatings may be high-gloss polyurethane coatings or low-gloss single-part coatings. These surface coatings often contain HAP solvents, such as toluene, xylenes, and isocyanates.

The HAP-containing solvents are also used to clean surfaces before finishing (wipedown solvents) and for cleaning paint and coating spray guns.

II. Summary of the Final NESHAP

This preamble section discusses the final NESHAP as they apply to ''you,'' the owner or operator of a new or existing boat manufacturing facility.

A. What Sources and Operations Are Subject to the NESHAP?

The final NESHAP will regulate organic HAP from major sources that manufacture aluminum recreational boats (that is, noncommercial and nonmilitary aluminum boats) or all types of fiberglass boats. Coating operations on vessels used for commercial and military purposes are covered by the shipbuilding and repair NESHAP (40 CFR part 63, subpart II).

The final NESHAP apply to fiberglass boat manufacturers making all sizes and types of fiberglass boats using the operations listed below:

- All open molding operations, including pigmented gel coat, clear gel coat, production resin, tooling resin, and tooling gel coat.
- All closed molding resin operations.
- All resin and gel coat application equipment cleaning.
- All resin and gel coat mixing operations.
- All carpet and fabric adhesive operations.

The final NESHAP apply to aluminum recreational boat manufacturing facilities performing the operations listed below:

- All aluminum recreational boat surface coating and associated spray gun cleaning and wipedown solvent operations.
- All carpet and fabric adhesive operations.

B. What Pollutants Are Regulated?

The final NESHAP regulate the total organic HAP content in the materials used in each regulated operation. The final NESHAP do not set limits for individual species of HAP. The HAP emitted by boat manufacturing facilities typically include styrene, MMA, toluene, xylenes, methyl chloroform (1,1,1-trichloroethane), MEK, n-hexane, and MIBK. However, the total organic HAP content limit includes all organic HAP listed in section 112(b) of the CAA.

C. What do the Final NESHAP Require?

The final NESHAP have various formats for the different operations being regulated. For open molding resin and gel coat operations, you must comply with a HAP emission limit that is calculated for your facility using MACT model point value equations, which are described in section II.D.

You can demonstrate compliance with the HAP emission limit for your facility either by (1) averaging emissions with the MACT model point value equations, (2) complying with equivalent material HAP content limits for each type of open molding operation, or (3) using an add-on control device. The HAP emissions limit and equivalent HAP content limits are the same for new and existing sources. You may use averaging for all of your open molding operations or only for some of them. For those operations not included in the emissions average, you must comply with one of the alternative provisions.

For resin operations, different HAP content limits apply to atomized and nonatomized resin application methods. The HAP content limits for open molding are presented in Table 2 to subpart VVVV. If you use an add-on control device to meet the emissions limit, the emissions limit is calculated using the MACT model point value equations and is in units of kilograms (kg) of organic HAP per megagram of resin or gel coat consumed.

As stated above, you may use a combination of compliance options for the different resin and gel coat operations within your facility. For example, a hull production line may use several resins and gel coats. You may choose to use a laminating resin that complies with the appropriate HAP content limit, but decide to use the averaging approach for the skin coat resin and the production gel coats. In another example, you could include in the average all production resins and pigmented gel coats at your facility, but decide not to include clear gel coat, tooling resin, and tooling gel coat. You could also use averaging to use a mix of atomized and nonatomized resin application methods but at different HAP contents from those in Table 2 to subpart VVVV.

Other operations regulated by the final NESHAP will be subject to work practice requirements or HAP content limits. Resin and gel coat mixing containers with a capacity of 208 liters (55 gallons) or more must be covered. Routine resin and gel coat application equipment cleaning operations must use solvents containing no more than 5 percent organic HAP, but solvents used to remove cured resin or gel coat from equipment are exempt. The containers used to hold the exempt solvent and to clean equipment with cured resin and gel coat must be covered. Carpet and fabric adhesive operations must use adhesives containing no more than 5 percent organic HAP.

Aluminum recreational boat wipedown solvents and surface coatings are subject to HAP content limits. Aluminum recreational boat spray gun cleaning operations are subject to a work practice requirement.

Compliance with the emissions limits in the final NESHAP is based on a 12-month rolling average except when an add-on control device is used. At the end of every month, you determine compliance for each operation based on the HAP content and material consumption data collected over the past 12 months. When an add-on control device is used, compliance is determined through emissions testing and subsequent monitoring.

D. What Is the MACT Model Point Value and How Is it Used in the Final NESHAP?

The MACT model point value is a number calculated for each open molding operation and is a surrogate for emissions. The MACT model point value is a way to rank the relative performance of different resin and gel coat emissions reduction techniques. This approach allows you to create control strategies using different resin and gel coat emissions reduction techniques. The final NESHAP provide equations to calculate MACT model point values based on HAP content and application method for each material

that you use. These MACT model point values are then averaged and compared to limits in the final NESHAP to determine if your open molding operations are in compliance.

The MACT model point values have units of kg of HAP per megagram of resin or gel coat applied. It is important to note that the MACT model point values are surrogates for emissions, and the MACT model point value equations are used only for determining compliance with the emission limits for open molding operations. The MACT model point value equations should not be used in other environmental programs for estimating emissions in place of true emission factor equations or site-specific data.

The MACT model point value equations account only for HAP content and application method. Other factors (including curing time, part thickness, and operator technique) can have significant effects on emissions, but these factors are not accounted for in the MACT model point value equations. Determining the HAP content of materials and the method of application is relatively easy, but it is difficult to determine the other factors. Also, part thickness and curing time can be specific to the part being manufactured, so limiting these factors would impede production. Therefore, factors other than HAP content and application method are not included in the MACT model point value equations.

E. When Must I Comply?

Existing boat manufacturing facilities must comply within 3 years of August 22, 2001. New sources that commence construction after July 14, 2000 must comply by August 22, 2001 or upon startup, whichever is later. Existing and new area sources that become major sources after August 22, 2001 must comply within 1 year after becoming a major source or within 3 years of August 22, 2001, whichever is later.

The CAA instructs EPA to establish a compliance date or dates for existing sources that will provide for compliance ''as expeditiously as practicable, but in no event later than 3 years after the effective date.''

Existing sources using pollution prevention approaches for compliance will need to make changes in application equipment and raw materials. We believe these sources need the full 3–year period provided by the CAA to evaluate different resins, gel coats, carpet and fabric adhesives, or aluminum recreational boat surface coatings and the effects of these changes on production processes and product performance. In addition, we believe that providing the maximum amount of allowable time will encourage more sources to use compliant materials rather than emissions averaging, thereby reducing the amount of records and paperwork needed to demonstrate initial and continuous compliance.

If an existing source chooses to use an add-on control device to comply, the full 3 years provided by the CAA is necessary to allow sufficient time to design, purchase, install, and work out operational problems that occur in trying to start up a new control device.

F. How Do I Demonstrate Compliance?

Unless you are using an add-on control device, you must measure and record the HAP content of all the materials regulated by the final NESHAP. You may determine HAP content using test methods specified in the NESHAP, or you may use documentation provided by the material manufacturer, such as a material safety data sheet (MSDS), to show compliance. Although you may use either the test methods specified in the NESHAP or the manufacturer's documentation to show compliance, we will use the test method results to determine compliance if they differ from the manufacturer's documentation.

Compliance with the HAP content limits is based on the weighted-average HAP content for each material on a 12-month rolling-average basis. Compliance is determined at the end of every month (12 times per year) based on the past 12 months of data. To determine weighted-average HAP content, you will also need to monitor and record the amount of each regulated material used per month, as well as HAP content. On the compliance date, new and existing sources must begin collecting the data needed to demonstrate compliance.

If all of the material in a particular operation meets the applicable HAP content limit, then you will not need to record the amount of material used. Likewise, you will not need to perform and record any calculations to determine weighted-average HAP content.

For open molding resin and gel coat operations, how you show compliance will depend on which compliance option you choose. For example, if you choose to average among several open molding resin and gel coat operations, you will have greater operating flexibility, but you will also need to do more recordkeeping and calculations to show compliance than if you comply with each individual HAP content limit. Also, you must complete an implementation plan for the open molding operations at your facility that are included in an averaging option. The implementation plan must describe the resin and gel coat materials you plan to use, their HAP contents, and how you will apply those materials so that you are in compliance. The plan must also include calculations showing that your choice of materials and application methods will achieve compliance.

You must keep records of the HAP content of all materials that are subject to HAP content limits. You must also keep records of the amount of material used and any calculations you perform to determine compliance using weighted-average HAP contents or the averaging option for open molding operations. Every month, you must inspect the covers required by the work practice standards for resin and gel coat mixing containers and aluminum recreational boat coating spray gun cleaners. You must also keep records of the results of these inspections and any repairs made to the covers. All records must be kept for 5 years (at least the last 2 years of records must be kept onsite). After the initial compliance demonstration, all sources must complete semiannual compliance reports.

Today's final NESHAP contain the specific monitoring, recordkeeping, and reporting requirements for each regulated operation.

G. How Do I Demonstrate Compliance if I Use an Enclosure and an Add-On Control Device?

If you use an enclosure (such as a spray booth) and add-on control, you must use EPA Method 204 to prove that the enclosure is a total enclosure. If the enclosure is not a total enclosure, you must use a temporary enclosure to measure the fugitive emissions from the enclosure and the control device. Stack testing is used to determine compliance with the emissions limit. You must use either EPA Method 25A to measure emissions as total hydrocarbons (as a surrogate for total HAP) or EPA Method 18 for specific HAP. New and existing sources that comply using add-on control devices must conduct the required performance testing no later than 180 days after the compliance date.

During and after the initial performance test, you must monitor and record certain control device parameters to ensure that the control device continues to be operated as it was during the test. For example, for thermal oxidizers you must monitor and record combustion temperature and maintain the temperature above an allowable minimum value. For control devices other than thermal oxidizers, you must

identify parameters that demonstrate proper control device operation and have these parameters approved by the EPA. Monitored operating parameters must be kept within the allowable ranges to demonstrate compliance with the control device operating requirements.

III. Summary of Environmental, Energy, and Economic Impacts

A. What Facilities Are Affected by the NESHAP?

There are approximately 119 existing facilities manufacturing fiberglass boats or aluminum recreational boats that are major sources and will be subject to the final NESHAP. The rate of growth for the boat manufacturing industry is estimated to be five new facilities per year for the next 5 years.

B. What Are the Air Quality Impacts?

The 1997 baseline emissions from the boat manufacturing industry are estimated at 9,920 tpy. The final NESHAP will reduce HAP from existing sources by 3,450 tpy from the baseline level, a reduction of 35 percent.

The final NESHAP will not result in any increase in other air pollution emissions. While combustion devices can result in increased sulfur dioxide and nitrogen oxide emissions, we do not expect anyone to comply by installing new combustion devices during the next 5 years.

C. What Are the Water Quality Impacts?

We estimate that the final NESHAP will have no adverse water quality impacts. We do not expect anyone to comply by using add-on control devices or process modifications that will generate wastewater.

D. What Are the Solid and Hazardous Waste Impacts?

We estimate that the final NESHAP will decrease the amount of solid waste generated by the boat manufacturing industry by approximately 400 tpy. The decrease in solid waste is directly related to switching to nonatomized resin application equipment (e.g., flowcoaters and resin rollers). Switching to flowcoaters decreases overspray because of the greater transfer efficiency of resin from flowcoaters to the part being manufactured. A decrease in overspray consequently reduces the amount of waste from disposable floor coverings, cured resin waste, and personal protective equipment (PPE) for workers. Disposable floor coverings are replaced on a periodic basis to prevent resin buildup on the floor. We estimate that solid waste generation of floor coverings will decrease by approximately 350 tpy, and that cured resin solid waste will decrease by approximately 50 tpy.

Decreased overspray from flowcoaters will result in a decreased usage of PPE, which also reduces the amount of solid waste. Workers who use flowcoaters typically wear less PPE than when using spray guns because of the reduced presence of resin aerosols and lower styrene levels in the workplace. Because we did not have information on the many different types of PPE currently used, we did not estimate this decrease in solid waste.

Some facilities that switch from spray guns to flowcoaters may have a small increase of hazardous waste from the used flowcoater cleaning solvents. However, most facilities will not see an increase, and the overall impact on the industry will be small relative to the solid waste reductions. Nearly all flowcoaters require resin and catalyst to be mixed inside the gun (internal-mix) and must be flushed when work is stopped for more than a few minutes. External-mix spray guns do not need to be flushed because resin is mixed with catalyst outside the gun. Facilities that switch from external-mix spray guns to flowcoaters will use more solvent. Solvent usage should not change at facilities switching from internal-mix spray guns to flowcoaters.

The most common flushing solvents are acetone and water-based emulsifiers. Only a couple of ounces of solvent are typically needed to flush the mixing chamber and nozzle of flowcoaters and internal- mix spray guns. We have observed during site visits that this small quantity of solvent is usually sprayed into the air or onto the floor coverings and allowed to evaporate.

We do not have adequate data to predict the potential solvent waste impact from switching to flowcoaters. The magnitude of the impact depends on the type of gun currently used (internal-or external-mix), the frequency of flushing, and the type of solvent used. However, because of the small amount of solvent used, and since most is allowed to evaporate, we believe the overall solvent waste increase will be small compared to the solid waste reductions.

E. What Are the Energy Impacts?

Compliance with the NESHAP is not expected to cause any increase in energy consumption at new or existing facilities. No new or existing facilities are expected to install add-on control devices to comply with the final NESHAP in the first 5 years after promulgation. One facility currently uses a thermal oxidizer to control some of their styrene and MMA emissions from fiberglass boat manufacturing operations.

F. What Are the Cost Impacts?

We estimate that nationwide annual compliance costs for the existing facilities will be $14 million. This estimate includes annualized capital costs and increased material costs for purchasing more expensive, lower-HAP materials. Annual costs also include monitoring, recordkeeping, and reporting costs. The estimated annual cost of reduced HAP is $4,060/ton.

The capital costs will be for the purchase of new resin application equipment, resin mixer covers, and adhesive application equipment. The estimated cost of new resin application equipment (flowcoaters) is $6,000 per unit (includes flowcoater, hoses, and resin and catalyst pumps). The estimated cost of new adhesive application equipment is also approximately $6,000 per unit. The resin and gel coat mixer covers will be approximately $180 per year per container.

No capital costs are predicted for mold construction or aluminum recreational boat surface coating operations.

G. What Are the Economic Impacts?

The EPA prepared an economic impact analysis to evaluate the primary and secondary impacts of the proposed and final NESHAP on the boat manufacturing market, consumers, and society. Because the characteristics of boats vary greatly throughout the industry, we evaluated the market by assessing the impacts on six separate market segments of the industry, including: outboard boats, inboard runabouts/sterndrive, inboard cruisers/ yachts, jet boats/personal watercraft, sailboats, and canoes. The total annualized social cost (in 1994 dollars) of the final NESHAP on the industry is $13.0 million, which is 0.2 percent of total baseline revenue. Generally, the analysis indicates a minimal change in market prices and quantity of boats sold. Imports will increase negligibly, with a corresponding decrease in exports. The analysis also suggests a loss (at the maximum) of 48 employees out of the 51,500 employees in the industry. The impacts on specific market segments are summarized in the table below.

TABLE 2.—ECONOMIC IMPACT OF FINAL NESHAP ON BOAT MARKET SEGMENTS

Boat market segment	Change in price	Change in market output
Outboard Boats	0.1%	−0.3%
Inboard Runabouts/Sterndrive	0.1%	−0.1%
Inboard Cruisers/Yachts	0.0%	−0.0%
Jet Boats/Personal Watercraft	0.0%	−0.0%
Sailboats	0.1%	−0.2%
Canoes	0.1%	−0.1%

The analysis also predicts the number of facilities that will close as a result of the cost of complying with the final NESHAP. The EPA used market level information on total predicted change in quantity to infer how many plants would close if the quantity decrease was borne entirely by one (or more) facility. For example, if the market analysis predicts that 1,000 fewer boats are produced and the average facility produces 500 boats, then the impact is equivalent to two facility closures. Using this approach, the predicted reduction in quantity did not equal even one facility closure in any of the six market segments. While this does not mean that no facilities will close as a result of the final NESHAP, it does indicate that the final NESHAP has minimal total impacts, and that any facility closure will likely be the result of poor baseline cost conditions rather than a direct result of the compliance burden.

IV. Summary of Changes Since Proposal

In response to comments received on the proposed NESHAP and after further analysis, the following changes have been made.

A. Operations Not Covered by the NESHAP

The exemptions in the applicability section of the final NESHAP (§ 63.5683(d)) have been revised to clarify that the NESHAP do not apply to adhesives that are used to bond aluminum parts or other parts that are not fiberglass. This exemption does not apply to carpet and fabric adhesives, which are regulated by the NESHAP. We are also exempting research and development activities and activities in analytical laboratories. A definition of research and development activity has been added to § 63.5779 of the final NESHAP.

B. Determining Whether a Facility Is a Major Source or Area Source

Section 63.5686(b) contains material consumption restrictions that allow a source to limit their potential to emit HAP to much less than the major source thresholds without otherwise obtaining a federally enforceable operating permit. We have added a third material consumption restriction that boat manufacturers may use to demonstrate they are not a major source. In the new method, a fiberglass or aluminum recreational boat manufacturing facility is an area source and exempt from the standards if the materials consumed per year at the facility contain less than 5 tons of a single HAP and less than 12.5 tons of a combination of HAP. The two methods included in the NESHAP at proposal have been retained in the final NESHAP. The usage limits ensure that a facility's potential and actual emissions of HAP are below the major source thresholds of 10 tons of a single HAP and 25 tons of a combination of HAP.

The final NESHAP contain additional modifications to these provisions to ensure that the usage limits will keep actual emissions from most facilities substantially below the major thresholds. These modifications include a requirement that at least 90 percent of annual HAP emissions from the facility must come from the fiberglass boat manufacturing operations or the aluminum recreational boat manufacturing operations. If the facility has sources of HAP emissions other than these materials, the owner or operator must keep any records necessary to demonstrate that the facility meets the 90 percent criterion.

The final NESHAP also require owners and operators to maintain records to demonstrate that they do not exceed the annual material or HAP usage rates, based on a 12-month rolling-average basis. These records include monthly usage records for the following: all resins and gel coats used in fiberglass boat manufacturing operations; carpet and fabric adhesives; surface wipedown solvents, application gun cleaning solvents, and paints and coatings used in aluminum recreational boat manufacturing operations; documentation of HAP content (if needed); and any other records necessary to document emissions from source categories other than boat manufacturing.

A facility may exceed the usage limits and still remain an area source exempt from the standards if, before exceeding the limit, the facility obtains other limits (such as a federally enforceable State operating limit on their potential to emit) that keep its potential to emit HAP below the major source thresholds. If a facility exceeds the usage limits and does not have some other limit on its potential to emit, the facility becomes a major source and thereafter must comply with the standards on the applicable compliance date in the NESHAP. These provisions prevent facilities from alternating between area-source and major-source status while evading major source requirements. Also, these provisions make it possible from a legal standpoint to consider the usage cutoff levels as limiting a source's potential to emit HAP.

C. Open Molding Resin and Gel Coat Operations

The standards for open molding operations in § 63.5698 have been revised to include exemptions for several specialty materials. Production resins (including skin coat resins) used to build military vessels that must meet military specifications and those used on vessels built to U.S. Coast Guard specifications for lifesaving equipment and small passenger vessels will be exempt from the production resin HAP content limits. Pure 100 percent vinylester resins that are used for skin coats will also be exempt from the production resin HAP content limits; the exempt resin cannot exceed 5 percent of total production resin usage. However, these specialty production resins and 100 percent vinylester skin coat resins must be applied with nonatomized (non-spray) application equipment. Gel coat materials that are used for part and mold repair and touch up will be exempt from the open molding standards. The gel coat materials included in this exemption must not exceed 1 percent of the total gel coat used at that facility on a 12-month rolling-average basis.

The final NESHAP contain a new section (§ 63.5714) which specifies procedures for calculating compliance for filled tooling and production resins based on the as-applied MACT model point value for the filled resin.

D. Standards for Resin and Gel Coat Mixing Operations

Section 63.5731 has been revised to clarify that the standards for resin and gel coat mixing operations apply to on-site mixing of putties and polyputties.

E. Standards for Resin and Gel Coat Application Equipment Cleaning Operations

Section 63.5734 has been revised such that all solvents (both virgin and recycled) that are used for routine resin and gel coat application equipment cleaning are subject to the same 5 percent organic HAP content limit. Solvents used for removing cured resin or gel coat from application equipment are not subject to the 5 percent organic HAP content limit.

Section 63.5737 has been revised to state that if a cleaning solvent is recycled (either on-site or off-site), a boat manufacturer may use a certification or measurement of the HAP content of the material as originally purchased from the material supplier for demonstrating compliance. The requirement in § 63.5737(b) for operators to record the amount of recycled solvent they purchase has been deleted.

The requirements for cured resin and gel coat solvent cleaning operations in § 63.5734(b) have been revised so they are the same as the requirements in § 63.462 of 40 CFR part 63, subpart T (national emission standards for halogenated solvent cleaning), for containers holding more than 2 gallons of halogenated solvent. In addition, the final NESHAP state that solvent containers used for cleaning cured resin and gel coat from equipment are exempt from subpart T.

F. Standards for Carpet and Fabric Adhesive Operations

The HAP content limit for carpet and fabric adhesives in § 63.5740 has been changed such that all carpet and fabric adhesives must contain no more than 5 percent organic HAP.

G. Standards for Aluminum Recreational Boat Surface Coating Operations

The format of the emission limit for aluminum recreational boat wipedown solvents in § 63.5743(a) has been revised, and the emission limit has been recalculated to conform with the new format. The recalculated emission limit for aluminum wipedown solvents is 0.33 kg organic HAP per liter of total coating solids (2.75 pounds per gallon). Total coating solids is the combined solids from primers, clear coats, and top coats.

Boat manufacturers will also have the option of complying with a combined emission limit for aluminum wipedown operations and aluminum coating operations. The combined emission limit is 1.55 kg organic HAP per liter of total coating solids (12.9 pounds per gallon), which is the sum of the individual limits for aluminum wipedown operations (0.33 kg organic HAP per liter coating solids (2.75 pounds per gallon)) and aluminum coating operations (1.22 kg organic HAP per liter coating solids (10.2 pounds per gallon)). If a boat manufacturer complies with the combined emission limit, they can offset higher HAP from one operation with lower HAP from the other operation.

The work practices for aluminum coating spray gun cleaning operations in § 63.5743 have been revised so that spray gun cleaning operations that use recycled non-HAP solvents (which may contain trace amounts of HAP) are not subject to the spray gun cleaning work practice requirements. Recycled cleaning solvents that contain trace amounts of HAP (5 percent or less by weight) are considered to be non-HAP. A provision has been added to § 63.5743 to specifically allow for the use of alternative spray gun cleaning work practices approved according to the procedures in § 63.6(g). In § 63.5755(b)(1), the requirement that enclosed spray gun cleaners have covers that ''close properly'' has been revised to state that the covers ''must have no visible gaps.''

H. Methods for Determining Hazardous Air Pollutant Content

Section 63.5758(a) has been revised to state that only organic HAP are included in determining HAP content. Inorganic HAP are added as pigments to gel coats and surface coatings and are not emitted from the operations regulated by these NESHAP and, therefore, are not included in determining HAP content. This section has also been revised to allow the use of ASTM D1259–85 (Standard Test Method for Nonvolatile Content of Resins), and EPA Method 24 for measuring volatile organic matter content as a surrogate for demonstrating the HAP content of coatings. If volatile organic matter is used as a surrogate for HAP content, then the boat manufacturer must assume that all volatile organic matter is HAP.

Section 63.5758 has also been revised to recognize the fact that some material manufacturers and suppliers report on their MSDS a manufacturing target value for HAP constituents, such as styrene in resin and gel coat. If the organic HAP content is provided as a single value, you may assume the value is a manufacturing target value and actual organic HAP content may vary from the target value. If a separate measurement of the total organic HAP content using the methods specified in the NESHAP is less than 2 percentage points higher than the value for total organic HAP content provided by the material supplier or manufacturer, then you may use the provided value to demonstrate compliance. If the measured total organic HAP content exceeds the provided value by 2 percentage points or more, then you must use the measured organic HAP content to determine compliance. This allowance does not apply if the HAP content is reported on an MSDS as a range. In that case, the measured HAP content cannot exceed the upper limit of the reported HAP content range.

Section 63.5758 has been revised to provide guidance on determining the HAP content of solvent blends when the MSDS has reported a solvent blend but not the HAP content of the solvent blend. The guidance includes a table of values for the HAP content of commonly used solvent blends.

Section 63.5758 has been revised to clarify how total HAP is calculated. In determining total HAP, you must include HAP that are present at concentrations equal to or greater than 1.0 percent, unless the HAP is an OSHA-defined carcinogen, in which case you must include the HAP in the total if it is present at a concentration equal to or greater than 0.1 percent. For example, if a material contains four species of noncarcinogenic HAP that are each present at 0.9 percent by weight, none of these four species needs to be included in the total HAP calculation.

I. Notifications, Reports, and Records

We have revised the emission limitations in §§ 63.5698(b) and 63.5743(a) and (b) so that compliance is demonstrated on a 12-month rolling-average basis, rather than a 3-month rolling-average basis for sources not using an add-on control device. For new and existing sources that do not use an add-on control device, the initial 12-month compliance period will begin on the compliance date.

For sources using an add-on control device, compliance is based on a performance test and continuous monitoring of the control device.

J. Definitions

We have revised the definition of hazardous air pollutant (HAP) in § 63.5779 so it has the same wording as the definition of HAP in § 63.2. We have added a definition of research and development activities which will be exempt from the NESHAP. We have also revised the definition of aluminum boat to better distinguish aluminum recreational boats from ships which are subject to the ship building and repair surface coating NESHAP (40 CFR part 63, subpart II). The revised definition states that aluminum recreational boats are intended by the manufacturer to be used primarily for pleasure and are built indoors in a production line manufacturing plant, rather than outdoors in a dry dock, graving dock, or on a marine railway.

The definitions of resins and gel coats have been revised to address pigmented resins and to clarify that pigmented resins are subject to the emission limitations for laminating resins. The definition of resin has been revised to indicate that resins include pigmented resins that are used to encapsulate and bind together reinforcement fibers. The definition of gel coat has been revised to indicate that a gel coat layer does not contain any reinforcing fibers, and gel coats are applied directly to mold surfaces or to a finished laminate.

V. Summary of Responses to Major Comments

This section presents a summary of significant public comments and responses. A summary of all the public comments that were received and EPA's responses to those comments can be found in Docket No. A–95–44.

A. Open Molding Operations

Comment: Several commenters requested exemptions or higher HAP content limits for several different specialty applications of resin and gel coat used in open molding operations.

One commenter requested an exemption that would allow them to comply with the production resin HAP content limit of 35 percent, but use atomizing equipment (rather than nonatomizing equipment) to apply up to 5 percent of total annual resin usage. Under the proposed NESHAP, a boat manufacturer must meet a production resin HAP content limit of 28 percent when using atomizing equipment, or comply by emission averaging if using a mix of atomizing and nonatomizing equipment.

A second commenter requested either a higher HAP content limit or an exemption for high-strength or heat-resistant resins. The commenter defined high-strength resins as those having a tensile strength greater than 10,000 pounds per square inch (psi) in clear cast form as measured by ASTM D638, and defined heat-resistant resins as those having a heat deflection temperature greater than 212 °F (100 °C) in clear cast form as measured by ASTM D648.

A third commenter requested that EPA either create a separate standard for, or include an exemption for, the use of backup gel coat. According to the commenter, backup gel coat is a black gel coat that is applied behind the white exterior gel coat to provide a dark background, against which air trapped in the wet laminate can be more easily detected and removed before the laminate hardens. The commenter reported they use a backup gel coat containing 44 percent HAP.

Response: The EPA recognizes that many boat manufacturers have situations in which they must use higher HAP materials for specialized purposes. In developing the NESHAP, we wanted to provide flexibility to deviate from the HAP content limits in these specialized situations. At the same time, it is impossible in the NESHAP to specifically accommodate all the situations in which a higher HAP material is needed. Attempting to do so could also limit flexibility if a particular situation requiring an exemption was overlooked and not accounted for in the NESHAP. Therefore, one of our objectives was to provide flexibility to use some higher HAP materials by adopting the averaging provisions and using weighted-average HAP contents in setting the MACT for each operation.

The averaging provisions allow each manufacturer to select a mix of resin and gel coat products that is best for their operation and to use higher HAP products based on their unique needs, as long as the emission limits are met. The plant-wide weighted-average HAP content used in determining MACT also accounts for the variation in HAP content among products used by a single manufacturer.

Because of the flexibility provided by the averaging options, the final NESHAP do not contain any of the three exemptions or higher HAP content limits requested by the commenters. Boat manufacturers that wish to apply some resin with atomizing equipment may use emissions averaging, rather than comply with the HAP content limit for atomized resin application operations.

The final standards do not exempt high-strength or heat-resistant resins from the HAP content limits. At least one vinylester resin being used by boat manufacturers meets both of the performance criteria suggested by the commenter and has an organic HAP content of 35 percent. (See Docket A–95–44). The resin has a tensile strength of 10,560 psi, and a heat deflection temperature of 228.6 °F. Therefore, boat manufacturers can still comply with the HAP content limits when using resins that must meet high-strength or heat-resistant specifications. Boat manufacturers that wish to continue to use their current materials may also average these resins with other open molding operations.

We do not believe an exemption or separate HAP content limit is needed for backup gel coats. According to the EPA database and observations made during site visits to various boat manufacturers, the majority of boat manufacturers do not use these backup gel coats. Those boat manufacturers that choose to use backup gel coats have the option of averaging these gel coats with other gel coats or resin application operations to demonstrate compliance.

Comment: Two commenters asked EPA to exempt or establish a HAP limit of 48 percent for production resin meeting military specifications, U.S. Coast Guard specifications for lifesaving equipment and small passenger vessels, Lloyd's Register (LR) certification criteria, American Bureau of Shipping (ABS) certification criteria, or other third party material performance specifications.

Response: The EPA database from which the NESHAP were developed represents almost exclusively recreational boat manufacturers. We have no data on resins used on boats built to military specifications or U.S. Coast Guard requirements. Therefore, production resins (including skin coat resins) are exempt from the production resin HAP content limits when those resins must meet military specifications or must be approved by the U.S. Coast Guard for use in life saving equipment and small passenger vessels. However, the final NESHAP do require that these resins be applied with nonatomized (non-spray) application equipment since nonatomized resin application does not affect resin performance.

Resins used on boats that are certified as meeting LR, ABS, or other third party standards will not be exempt from the HAP content limits for production resins. We have data indicating that laminates made with resins containing 35 percent styrene can meet both LR and ABS performance specifications. (*See* Docket A–95–44.)

Comment: Several commenters asked EPA to exempt 100 percent vinylester

skin coat resins from the HAP content limits, or establish a higher HAP content limit for skin coat resins. The commenters stated that skin coat resin, which is applied between the gel coat layer and the laminations on the bottom of the boat, is typically less than 5 percent of total production resin used. The commenters stated that low-HAP resins, including blended polyester-vinylester resins, do not offer the osmotic blister resistance of 100 percent vinylester skin coat resins with HAP contents of about 46 percent.

One commenter provided data to EPA comparing the blister resistance of pure vinylester resins to several blended polyester-vinylester resins in accelerated testing conditions. None of the blended resins had the same performance as the pure vinylester resins. According to the commenters, the pure vinylester resins are more expensive than the blended resins and are used only on larger boats that are intended to remain in the water continuously and that are removed only for periodic maintenance.

The commenters also concluded that using low-HAP skin coats could cause increased osmotic blistering to occur. Repairing osmotic blisters requires peeling or grinding the damaged gel coat and resin layers from the boat bottom and applying new resin and gel coat. These repairs result in additional styrene emissions and solid waste, thus offsetting the emission reduction benefits of low-HAP skin coats.

Response: We evaluated the test data submitted and agree with the conclusions of the commenters. The final rule exempts 100 percent vinylester resin used for skin coats from the production resin HAP content requirements. The resins eligible for the exemption will be limited to a maximum of 5 percent of the total resin used at each facility using the exemption. A facility using the exemption will need to maintain records of the amount of resin included in the exemption. This 5 percent cap is consistent with the amount of 100 percent vinylester resin used at the commenters' facilities.

This exemption for 100 percent vinylester skin coat resins is consistent with the results of the MACT analysis. The EPA database includes at least 13 boat manufacturers that are using skin coat resins with an organic HAP content of 35 percent or less. However, these are blended polyester-vinylester resins and are not pure vinylester resins. In addition, these blended resins are not used on boats in the size range on which the 100 percent vinylester resins are used. There are no facilities using a 100 percent vinylester resin with an organic HAP content of 35 percent.

B. Filled Tooling Resins

Comment: Several commenters requested that the HAP content of filled tooling resin be determined ''as applied'' rather than before the filler is added. Alternatively, the commenters suggested setting a separate MACT standard for filled tooling resins or exempting filled tooling resins from any HAP content limits. In the proposed NESHAP, the tooling resin HAP content limits were based on unfilled tooling resins. This approach would require operators to determine the HAP content of the tooling resin before the filler is added. According to the commenters, tooling resins to which filler will be added must have a higher HAP content to maintain a workable viscosity after the filler is added, but the HAP content is lowered substantially by the filler.

Response: The MACT floor for tooling resins was based on the use of a low-HAP, unfilled resin. Recently, more boat manufacturers have begun using filled tooling resins. We agree with the commenters that compliance for filled resins (both tooling and production) should be determined on an as-applied basis, rather than based on the HAP content of the neat (unfilled) resin before filler is added. However, because the emissions from filled and unfilled resins are different, compliance cannot be based on the HAP content of a filled resin. In a filled resin system, the percent of available styrene emitted is nearly the same as in the neat unfilled resin before the filler is added. In other words, if a filled resin and unfilled resin have the same HAP content on an as-applied basis, then the filled resin system will have higher HAP emissions than the unfilled resin because the filled resin has a higher styrene-to-resin polymer ratio. Therefore, filled resins must be compared to the MACT standard based on the MACT model point value (kilogram of HAP per megagram of filled resin applied (kg/Mg)). This approach accounts for differences in both HAP content and the amount of filler added.

A facility using a filled resin would calculate the MACT model point value for that resin based on the HAP content of the unfilled (neat) resin. The calculated MACT model point value would then be multiplied by the weight fraction of resin in the filled resin system to calculate the kg of HAP per Mg of filled resin applied. The final NESHAP contain procedures for calculating compliance for filled resins on an as-applied basis.

C. Standards for Closed Molding Resin Operations

Comment: Several commenters encouraged EPA to allow averaging between open and closed molding operations in cases where closed molding replaced an existing open molding operation. The commenters also encouraged EPA to allow a facility to average open and closed molding at new sources, and at existing sources where the closed molding was part of an expansion that did not replace open molding capacity. The commenters argued that allowing more averaging would encourage the development of closed molding technology that would further reduce HAP emissions.

Response: In the preamble to the proposed NESHAP, we solicited comments on the feasibility of allowing emissions averaging between open and closed molding operations in cases where the closed molding was considered a replacement for existing open molding operations. We received no comments that supported the legal feasibility of such averaging. We have decided that in the final NESHAP, closed molding operations will not be included in any averaging compliance options for either new or existing sources.

For the proposed NESHAP, we considered two options in determining MACT for open and closed molding operations. First, we considered determining MACT for all molding operations combined, including both open and closed molding. Although open and closed molding are different production processes, in this option we considered closed molding to be simply a very good emission control technique for open molding. Under this option, MACT limits would be set based on using a mix of open and closed molding. To comply, a facility could offset excess emissions from its open molding operations by using emission ''credits'' generated by using a greater fraction of closed molding operations than required by the standard. However, determining MACT by this method would result in a standard for existing sources that would be difficult, if not impossible, to achieve by sources that use only open molding. Also, MACT for new sources would be nearly 100 percent closed molding, which may not be achievable by most new sources. For these reasons, we did not determine MACT on a combined basis in the proposed NESHAP.

The second option we considered for determining MACT (and the one we proposed) was to treat open and closed molding as separate processes with

separate standards. Industry agreed with this position. We considered allowing emissions averaging under this option, but decided that averaging would provide little, if any, advantage. We have insufficient data for establishing MACT model point values for the different closed molding technologies. These MACT model point values would be needed to compute emission reductions for ''over controlling'' the closed molding operations. Even if such point values were established, it is unlikely that a source could achieve substantial reductions beyond the closed molding standard since closed molding operations emit so little.

We concluded, therefore, that emissions averaging at new and existing sources as requested by the commenters is not feasible. One method of allowing averaging would provide very little benefit and the other method would create an unreasonably stringent standard for sources that choose not to comply by emissions averaging.

Although we are not allowing emissions averaging between open and closed molding, we do encourage the use of closed molding because of its low-emitting nature. Even in the absence of averaging, we believe that there can be other benefits of using closed molding, such as minimized worker exposure, less recordkeeping and reporting, and the operational flexibility to use materials with any HAP content desired.

D. Standards for Aluminum Recreational Boat Surface Coating Operations

Comment: Two commenters requested that the MACT floor for aluminum recreational boat wipedown solvents be recalculated using the total volume of coating solids (primers, clear coats, and top coats) as a surrogate for the surface area to be cleaned. The commenters argued that the format of the NESHAP for aluminum recreational boat wipedown solvents is inappropriate because it uses the solids volume from the first coat (aluminum primers and clear coats applied to bare aluminum) as a surrogate for the surface area of the boat being cleaned prior to coating. According to the commenters, the use of the first coat solids volume is significantly more variable and biases the standard in favor of higher-solids primers. Therefore, the limit may not be achievable by facilities using lower-solids primers. According to the commenters, using the total volume of coating solids as a surrogate for surface area to be cleaned is more appropriate since the dry film thickness of the complete system is generally more uniform than that of primers and clear coats.

The commenters also asked EPA to allow facilities to average emissions between aluminum recreational boat surface preparation and coating operations by adopting a single HAP content limit for the combined operations. The commenters argued that this flexibility would help manufacturers meet the aluminum wipedown solvent and coating operation standards. They also noted that surface preparation, primers, and topcoats are often parts of a single coating system. The commenters estimated that the MACT floor based on combined emissions calculated at each facility would be equal to 1.87 kg HAP per liter of coating solids.

Response: We agree with the commenters that the total volume solids of primers, clear coats, and top coats is a better surrogate for total surface area than the volume solids of primer and clear coats applied to bare aluminum. We originally used primers and clear coats as a surrogate to reduce bias introduced by facilities that use more than a single color and apply multiple layers in the top coats. However, as noted by the commenters, the bias introduced by multiple top coat layers is less than the bias introduced by variability in the solids content of primers and clear coats.

To develop the combined emission limit, we have calculated the mass of HAP from aluminum wipedown solvents consumed per volume of total coating solids for the aluminum recreational boat manufacturing facilities in the EPA database. Based on this format, the MACT floor facility has a weighted-average HAP consumption rate of 0.33 kg organic HAP per liter of coating solids, including primers, clear coats, and topcoats.

We agree that allowing averaging or complying with a single HAP emission limit for these combined operations will provide greater flexibility and simplify compliance for boat manufacturers. In the final NESHAP, boat manufacturers may comply with either a single limit for combined operations or individual limits for wipedown solvents and coatings.

The combined HAP content limit for wipedown solvents and surface coating operations was derived as the sum of the separate limits for wipedown solvents and aluminum coatings. The limit for wipedown solvents is 0.33 kg organic HAP per liter coating solids and for aluminum coatings is 1.22 kg organic HAP per liter of coating solids. The combined limit is 1.55 kg organic HAP per liter of coating solids. This combined limit is more stringent than the limit estimated by the commenters (1.87 kg organic HAP per liter coating solids) because we performed separate MACT analyses for wipedown solvents and aluminum coatings. We performed separate analyses, rather than a MACT analysis for the combined emissions at each facility, because we disagree that the wipedown solvent is part of a coating system. We reviewed the data on coatings and aluminum wipedown solvents and noted that different boat manufacturers using the same coating system from the same supplier often used different aluminum wipedown solvents.

E. Methods for Determining Hazardous Air Pollutant Content

Comment: Several commenters asked EPA to clarify that compliance with the HAP content limits for gel coat is based only on organic HAP content and should not include inorganic HAP included as metal pigments because these metal pigments are not emitted during application or curing.

Response: We did not consider metal pigments in determining the HAP content limits for gel coats, and we agree that they are not emitted from the gel coat operations. Therefore, § 63.5758 of the final rule clarifies that HAP content includes organic HAP only and does not include inorganic HAP.

Comment: One commenter asked EPA to allow the use of less expensive methods ASTM D1644–88 (Standard Test Method for Nonvolatile Content of Varnishes) and ASTM D1259–85 (Standard Test Method for Nonvolatile Content of Resins), in addition to EPA Method 311, to demonstrate compliance with HAP content limits. The ASTM methods do not directly measure the HAP content and instead measure volatile organic matter.

Response: We agree that facility owners and operators should be allowed to demonstrate compliance with the HAP content limits using the ASTM D1259–85, but we do not see the utility of ASTM D1644–88. We are not regulating varnishes, and we are allowing in the final NESHAP the use of ASTM D1259–85 for resins and gelcoats and EPA Method 24 for coatings, which are weight-loss methods similar to ASTM D1644–88. We are allowing the use of ASTM D1259–85 because it tends to overestimate HAP content, compared to EPA Method 311, since it measures all volatile species and not just HAP. Likewise, the final NESHAP also allow the use of EPA Method 24 to measure volatile organic compound content as a surrogate for HAP.

Comment: One commenter asked that EPA ensure that the MACT standards reflect the high end of the HAP content ranges reported in the MSDS collected by EPA through the industry survey. In addition, if an MSDS offered a single HAP content value, the commenter asked EPA to ensure that the manufacturer did not allow the value to fluctuate above the value reported in the MSDS. For example, an MSDS provided by the commenters for a production gel coat reports the combined styrene and MMA content is 36.4 percent, but notes that these values are target formula values and ''actual batch concentrations will vary within limits consistent with separately established product specifications.''

Response: In selecting the HAP content limits for all operations regulated by the proposed NESHAP, we always used the upper limit of the range for reported HAP content values. Therefore, we are confident that the proposed HAP content limits are achievable.

However, we agree that some material manufacturers and suppliers report on their MSDS the ''target'' value for a constituent and actual values may vary from the target value by plus or minus 2 percentage points. Since the standards are based on these same data, the standards should account for this variation between actual and reported values. Therefore, § 63.5758 of the final NESHAP includes a provision that if a HAP content measured using the methods specified in the NESHAP is within 2 percentage points of the reported target value, you may use the reported value for demonstrating compliance. Otherwise, you must use the measured value to demonstrate compliance.

F. Notifications, Reports, and Records

Comment: Several commenters asked EPA to allow compliance with the standards to be demonstrated based on a 12-month rolling average instead of a 3-month rolling average. They argued that this is consistent with the typical recordkeeping and reporting obligations in most title V permits. In addition, many facilities experience seasonal variations in production and mold construction that may require them to use higher HAP materials for several months at a time. A 3-month averaging period would not allow them to offset these higher emissions with lower emissions during the rest of the year.

Response: We agree with the commenters, and the final NESHAP allow compliance to be demonstrated on a 12-month rolling average basis, rather than a 3-month rolling average basis for sources that are not using an add-on control device. For sources using an add-on control device, compliance is based on continuous parameter monitoring.

G. Pollution Prevention

Comment: One commenter asked EPA to include provisions by which a facility already subject to the rule could become exempt by employing pollution prevention measures that are at least equivalent to MACT and that make the source physically incapable of being a major source. According to the commenter, EPA policy is that a source that is a major source on the compliance date for a rule is always subject to a rule, even if it adopts process changes or pollution prevention strategies that make it physically impossible to emit at greater than the major source threshold. According to the commenter, EPA's ''once in, always in'' policy discourages facilities from adopting pollution prevention strategies that could achieve significant emission reductions.

Response: The EPA, through discussion with State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials, has reached a tentative solution that will require changes in the NESHAP General Provisions (40 CFR part 63, subpart A) or individual MACT rules, rather than a change in the EPA policy on ''Once-In-Always-In.'' (See the May 16, 1995 memorandum on ''Potential to Emit'' from John Seitz to the EPA Regional Administrators, available on the World Wide Web at http://www.epa.gov/ttn/oarpg.) We have been working to develop regulatory options that would allow qualifying sources to satisfy the MACT requirements through innovative, streamlined approaches, if, after a source achieves compliance with an applicable MACT rule, they achieve HAP emission reductions equivalent to or better than MACT levels of control through pollution prevention measures. The regulatory options under consideration for the final solution will include components that meet the legal requirements of the CAA and still resolve the issues regarding pollution prevention. Once we reach a final solution, we plan to develop rule language to propose to amend either the NESHAP General Provisions or existing MACT rules. We project proposing these amendments later in 2001.

VI. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a final regulatory action is ''significant'' and therefore subject to Office of Management and Budget (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:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that today's final rule is not a ''significant regulatory action'' because it will not have an annual effect on the economy of $100 million or more and is therefore not subject to OMB review.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the rule. The EPA

also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the rule.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from its federalism official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

Today's final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. No boat manufacturing facilities subject to the final rule are owned by State or local governments. Therefore, State and local governments will not have any direct compliance costs resulting from this final rule. Furthermore, EPA is directed to develop the final rule by section 112 of the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this final rule.

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. Today's final rule is not subject to Executive Order 13045 because it establishes an environmental standard based on technology, not health or safety risk. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, today's final rule has been determined not to be ''economically significant'' as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA must generally prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more by State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The total cost to the private sector is approximately $14 million per year. This final rule contains no mandates affecting State, local, or Tribal governments. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

We have determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them.

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

The RFA generally requires us to give special consideration to the effect of Federal regulations on small entities and to consider regulatory options that might mitigate any such impacts. We must prepare a regulatory flexibility analysis unless we determine that the rule will not have a ''significant economic impact on a substantial number of small entities.'' Small entities

include small businesses, small organizations, and small governmental jurisdictions.

For the purposes of assessing the impacts of today's final rule on small entities, a small entity is defined as: (1) A small business whose parent company has fewer than 500 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''

We have determined that 66 out of the 2,307 small firms in the industry (2.9 percent) may be affected by this final rule. In a screening of impacts on these small firms, we found that 47 firms have costs that comprise less than 1 percent of firm revenues, and 19 firms have estimated compliance costs that exceed 1 percent of their revenues. Based on available data of industry profit margins, the average return on sales for the industry is 3.4 percent. Of the 19 firms with costs greater than 1 percent of revenues, only one firm is estimated to experience costs exceeding 3 percent of revenues. Thus, reviewing the range of costs to be borne by small businesses in light of the 3.4 percent profit margins typical of this industry, the Agency has determined the costs are typically small and, overall, do not constitute a significant impact on a substantial number of small businesses. In addition, this final rule is likely to also increase profits at the 2,241 small firms that are not affected by the final rule due to the very slight increase in market prices. The economic impacts are summarized in section III.G. of this document and in the economic impact analysis contained in Docket No. A–95–44.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA has tried to reduce the impact of this final rule on small entities. We have met with ten of these small firms and their trade association. They have been fully involved in this rulemaking, and their concerns have been considered in the development of this final rule. In developing these final standards, we have provided the maximum degree of flexibility to minimize impacts on small businesses by providing several different compliance options, several of which require a minimum amount of recordkeeping and reporting. Also, these final standards, which are based on MACT floor level control technology, reflect the minimum level of control allowed under the CAA. Small businesses that are subject to the final rule will not be systematically impacted more than larger operations.

Pursuant to the provisions of 5 U.S.C. 605(b), we have determined that this final rule will not have a significant economic impact on a substantial number of small entities.

G. Paperwork Reduction Act

The information collection requirements in today's final rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An ICR document has been prepared by EPA (ICR No. 1966.02) and a copy may be obtained from Sandy Farmer by mail at the U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue NW, Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The final rule contains monitoring, reporting, and recordkeeping requirements. The required notices and reports are the minimum needed by us to determine who is subject to the NESHAP and whether you are in compliance. The final recordkeeping requirements are the minimum necessary to determine initial and ongoing compliance. Based on reported information, we would decide which boat manufacturers and what records or processes should be inspected. The recordkeeping and reporting requirements are consistent with the general provisions of 40 CFR part 63.

These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to us for which a claim of confidentiality is made will be safeguarded according to our policies in 40 CFR part 2, subpart B.

The EPA expects the final rule to affect a total of 134 boat manufacturing facilities over the first 3 years. The EPA assumes that five new boat manufacturing facilities will become subject to the final rule during each of the first 3 years. The EPA expects 119 existing facilities to be affected by the final rule, and these existing facilities will begin complying in the third year.

The estimated average annual burden for the first 3 years after promulgation of the final rule for industry and the implementing agency is outlined below. You can find the details of this information collection in the ''Standard Form 83 Supporting Statement for ICR No. 1966.02,'' in Docket No. A–95–44.

Affected entity	Total hours	Labor costs	Capital costs	Operating and maintenance costs	Total costs
Industry	10,343	635,526	0	895	636,421
Implementing agency	2,456	141,073	0	0	141,073

The EPA estimates that there are no capital or startup costs for these new facilities because they are expected to comply by limiting the HAP content of materials. The implementing agency would not incur any capital or startup costs.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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. Control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. When the OMB approves the information collection requirements of the final rule, the EPA will amend the table in 40 CFR part 9 of currently approved ICR control

numbers issued by OMB for various regulations.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104–113; 15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. The EPA cites the following standards in this rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 18, 24, 25A, 204, and 311. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, and 311. The search and review results have been documented and are placed in the docket (Docket No. A–95–44) for this rule.

Two voluntary consensus standards are cited in this rule for determining the volume solids content of coatings. These two standards are ASTM D2697–86 (Reapproved 1998), ''Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings'' and ASTM D6093–97, ''Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer.'' These standards fill a void in EPA Method 24 which directs that volume solids content be calculated from the coating manufacturer's formulation. Today's rule does allow for the use of volume solids content values calculated from the coating manufacturer's formulation; however, test results will take precedence if they do not agree with calculated values.

We are also citing the voluntary consensus standard ASTM D1259–85, ''Standard Test Method for Nonvolatile Content of Resins,'' as an acceptable method to measure the volatile matter content of resins and gel coats for open molding operations, to be used as a substitute for organic HAP content.

Six voluntary consensus standards: ASTM D1475–90, ASTM D2369–95, ASTM D3792–91, ASTM D4017–96a, ASTM D4457–85 (Reapproved 91), and ASTM D5403–93 are already incorporated by reference in EPA Method 24. Five voluntary consensus standards: ASTM D1979–91, ASTM D3432–89, ASTM D4747–87, ASTM D4827–93, and ASTM PS9–94 are incorporated by reference in EPA Method 311. In addition, we are separately specifying the use of ASTM D1475–90, ''Standard Test Method for Density of Liquid Coatings, Inks, and Related Products,'' for measuring the average density of volatile matter in the coating.

The voluntary consensus standard ASTM D6420–99, ''Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (GC/MS),'' is appropriate in the cases described below for inclusion in this rule in addition to EPA Method 18 codified at 40 CFR part 60, appendix A.

Similar to EPA's performance-based Method 18, ASTM D6420–99 is also a performance-based method for measurement of gaseous organic compounds. However, ASTM D6420–99 was written to support the specific use of highly portable and automated GC/MS. While offering advantages over the traditional Method 18, the ASTM method does allow some less stringent criteria for accepting GC/MS results than required by Method 18. Therefore, ASTM D6420–99 is a suitable alternative to Method 18 only where: (1) the target compound(s) are those listed in Section 1.1 of ASTM D6420–99, and (2) the target concentration is between 150 parts per billion by volume and 100 parts per million by volume.

For target compound(s) not listed in Table 1.1 of ASTM D6420–99, but potentially detected by mass spectrometry, the rule specifies that the additional system continuing calibration check after each run, as detailed in Section 10.5.3 of the ASTM method, must be followed, met, documented, and submitted with the data report even if there is no moisture condenser used or the compound is not considered water soluble. For target compound(s) not listed in Table 1.1 of ASTM D6420–99, and not amenable to detection by mass spectrometry, ASTM D6420–99 does not apply.

In addition to the voluntary consensus standards EPA will use in this rule, the search for emissions measurement procedures identified 12 other voluntary consensus standards. The EPA determined that nine of these 12 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in this rule were impractical alternatives to EPA test methods for the purposes of this rule. Therefore, the EPA does not intend to adopt these standards.

Three of the 12 voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of this rule because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, ''Flow Measurement by Velocity Traverse,'' for EPA Method 2 (and possibly 1); ASME/BSR MFC 12M, ''Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters,'' for EPA Method 2; and ISO/PWI 17895, ''Paints and Varnishes-Determination of the Volatile Organic Compound Content of Water-based Emulsion Paints,'' for EPA Method 24.

Sections 63.5719 and 63.5758 to subpart VVVV list the EPA testing methods included in the rule. Under § 63.8, a source may apply to EPA for permission to use alternative monitoring in place of any of the EPA testing methods.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the SBREFA, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this final rule and other required information to the U.S. Senate, the U.S. House or Representatives, and the Comptroller General of the United States, prior to publication of the final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2), and therefore, will be effective on August 22, 2001.

J. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous air pollutants, Incorporation by reference, Reporting and recordkeeping

requirements, Volatile organic compounds.

Dated: August 14, 2001.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

2. Part 63 is amended by adding subpart VVVV to read as follows:

Subpart VVVV—National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing

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What the Subpart Covers

§ 63.5680 What is the purpose of this subpart?

(a) This subpart establishes national emission standards for hazardous air pollutants (HAP) for new and existing boat manufacturing facilities with resin and gel coat operations, carpet and fabric adhesive operations, or aluminum recreational boat surface coating operations. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission standards.

§ 63.5683 Does this subpart apply to me?

(a) This subpart applies to you if you meet both of the criteria listed in paragraphs (a)(1) and (2) of this section.

(1) You are the owner or operator of a boat manufacturing facility that builds fiberglass boats or aluminum recreational boats.

(2) Your boat manufacturing facility is a major source of HAP either in and of itself, or because it is collocated with other sources of HAP, such that all sources combined constitute a major source.

(b) A boat manufacturing facility is a facility that manufactures hulls or decks of boats from fiberglass or aluminum, or assembles boats from premanufactured hulls and decks, or builds molds to make fiberglass hulls or decks. A facility that manufactures only parts of boats (such as hatches, seats, or lockers) or boat trailers is not considered a boat manufacturing facility for the purpose of this subpart.

(c) A major source is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or can potentially emit, considering controls, in the aggregate, 9.1 megagrams (10 tons) or more per year of a single HAP or 22.7 megagrams (25 tons) or more per year of a combination of HAP.

(d) This subpart does not apply to aluminum coating operations on aluminum boats intended for commercial or military (nonrecreational) use, antifoulant coatings, assembly adhesives, fiberglass hull and deck coatings, research and development activities, mold sealing and release agents, mold stripping and cleaning solvents, and wood coatings as defined in § 63.5779. This subpart does not apply to materials contained in handheld aerosol cans.

§ 63.5686 How do I demonstrate that my facility is not a major source?

You can demonstrate that your facility is not a major source by using the procedures in either paragraph (a) or (b) of this section.

(a) *Emission option.* You must demonstrate that your facility does not emit, and does not have the potential to emit as defined in § 63.2, considering federally enforceable permit limits, 9.1 megagrams (10 tons) or more per year of a single HAP or 22.7 megagrams (25 tons) or more per year of a combination of HAP. To calculate your facility's potential to emit, you must include emissions from the boat manufacturing facility and all other sources that are collocated and under common ownership or control with the boat manufacturing facility.

(b) *Material consumption option.* This option can be used if you manufacture either fiberglass boats or aluminum recreational boats at your facility. You must meet the criteria in paragraph (b)(1), (2), or (3) of this section and comply with the requirements in paragraph (c) of this section. If you initially rely on the limits and criteria specified in paragraph (b)(1), (2), or (3) of this section to become an area source, but then exceed the relevant limit (without first obtaining and complying with other limits that keep your potential to emit HAP below major source levels), your facility will then become a major source, and you must comply with all applicable provisions of this subpart beginning on the compliance date specified in § 63.5695. Nothing in this paragraph is intended to preclude you from limiting your facility's potential to emit through other federally enforceable mechanisms available through your permitting authority.

(1) If your facility is primarily a fiberglass boat manufacturing facility, you must demonstrate that you consume less than 45.4 megagrams per rolling 12-month period of all combined polyester- and vinylester-based resins and gel coats (including tooling and production resins and gel coats, and clear gel coats), and you must demonstrate that at least 90 percent of total annual HAP emissions at the facility (including emissions from aluminum recreational boat manufacturing or other source categories) originate from the fiberglass boat manufacturing materials.

(2) If your facility is primarily an aluminum recreational boat manufacturing facility, you must demonstrate that it consumes less than 18.2 megagrams per rolling 12-month period of all combined surface coatings, aluminum wipedown solvents, application gun cleaning solvents, and carpet and fabric adhesives; and you must demonstrate that at least 90 percent of total annual HAP emissions at the facility (including emissions from fiberglass boat manufacturing or other source categories) originate from the aluminum recreational boat manufacturing materials.

(3) If your facility is a fiberglass boat or an aluminum recreational boat manufacturing facility, you must demonstrate that the boat manufacturing materials consumed per rolling 12-month period contain a total of less than 4.6 megagrams of any single HAP and less than 11.4 megagrams of all combined HAP, and you must demonstrate that at least 90 percent of total annual HAP emissions at the facility (including emissions from other source categories) originate from these boat manufacturing materials.

(c) If you use the material consumption option described in paragraph (b) of this section to demonstrate that you are not a major source, you must comply with the requirements of paragraphs (c)(1) through (3) of this section.

(1) If your facility has HAP emissions that do not originate from boat manufacturing operations or materials described in paragraph (b), then you must keep any records necessary to demonstrate that the 90 percent criterion is met.

(2) A rolling 12-month period includes the previous 12 months of operation. You must maintain records of the total amount of materials described in paragraph (b) of this section used each month, and, if necessary, the HAP content of each material and the calculation of the total HAP consumed each month. Because records are needed for a 12-month period, you must keep records beginning no later than 12 months before the compliance date specified in § 63.5695. Records must be kept for 5 years after they are created.

(3) In determining whether the 90 percent criterion included in paragraph (b) of this section is met, you do not need to include materials used in routine janitorial, building, or facility grounds maintenance; personal uses by employees or other persons; or products used for maintaining motor vehicles operated by the facility.

§ 63.5689 What parts of my facility are covered by this subpart?

The affected source (the portion of your boat manufacturing facility covered by this subpart) is the combination of all of the boat manufacturing operations listed in paragraphs (a) through (f) of this section.

(a) Open molding resin and gel coat operations (including pigmented gel coat, clear gel coat, production resin, tooling gel coat, and tooling resin).

(b) Closed molding resin operations.

(c) Resin and gel coat mixing operations.

(d) Resin and gel coat application equipment cleaning operations.

(e) Carpet and fabric adhesive operations.

(f) Aluminum hull and deck coating operations, including solvent wipedown operations and paint spray gun cleaning operations, on aluminum recreational boats.

§ 63.5692 How do I know if my boat manufacturing facility is a new source or an existing source?

(a) A boat manufacturing facility is a new source if it meets the criteria in paragraphs (a)(1) through (3) of this section.

(1) You commence construction of the affected source after July 14, 2000.

(2) It is a major source.

(3) It is a completely new boat manufacturing affected source where no other boat manufacturing affected source existed prior to the construction of the new source.

(b) For the purposes of this subpart, an existing source is any source that is not a new source.

§ 63.5695 When must I comply with this subpart?

You must comply with the standards in this subpart by the compliance dates specified in Table 1 to this subpart.

Standards for Open Molding Resin and Gel Coat Operations

§ 63.5698 What emission limit must I meet for open molding resin and gel coat operations?

(a) You must limit organic HAP emissions from the five open molding operations listed in paragraphs (a)(1) through (5) of this section to the emission limit specified in paragraph (b) of this section. Operations listed in paragraph (d) are exempt from this limit.

(1) Production resin.

(2) Pigmented gel coat.
(3) Clear gel coat.
(4) Tooling resin.
(5) Tooling gel coat.

(b) You must limit organic HAP emissions from open molding operations to the limit specified by equation 1 of this section, based on a 12-month rolling average.

$$\text{HAP Limit} = \left[46(M_R) + 159(M_{PG}) + 291(M_{CG}) + 54(M_{TR}) + 214(M_{TG})\right] \quad \text{(Eq. 1)}$$

Where:

HAP Limit= total allowable organic HAP that can be emitted from the open molding operations, kilograms.

M_R = mass of production resin used in the past 12 months, excluding any materials exempt under paragraph (d) of this section, megagrams.

M_{PG} = mass of pigmented gel coat used in the past 12 months, excluding any materials exempt under paragraph (d) of this section, megagrams.

M_{CG} = mass of clear gel coat used in the past 12 months, excluding any materials exempt under paragraph (d) of this section, megagrams.

M_{TR} = mass of tooling resin used in the past 12 months, excluding any materials exempt under paragraph (d) of this section, megagrams.

M_{TG} = mass of tooling gel coat used in the past 12 months, excluding any materials exempt under paragraph (d) of this section, megagrams.

(c) The open molding emission limit is the same for both new and existing sources.

(d) The materials specified in paragraphs (d)(1) through (3) of this section are exempt from the open molding emission limit specified in paragraph (b) of this section.

(1) Production resins (including skin coat resins) that must meet specifications for use in military vessels or must be approved by the U.S. Coast Guard for use in the construction of lifeboats, rescue boats, and other life-saving appliances approved under 46 CFR subchapter Q or the construction of small passenger vessels regulated by 46 CFR subchapter T. Production resins for which this exemption is used must be applied with nonatomizing (non-spray) resin application equipment. You must keep a record of the resins for which you are using this exemption.

(2) Pigmented, clear, and tooling gel coat used for part or mold repair and touch up. The total gel coat materials included in this exemption must not exceed 1 percent by weight of all gel coat used at your facility on a 12-month rolling-average basis. You must keep a record of the amount of gel coats used per month for which you are using this exemption and copies of calculations showing that the exempt amount does not exceed 1 percent of all gel coat used.

(3) Pure, 100 percent vinylester resin used for skin coats. This exemption does not apply to blends of vinylester and polyester resins used for skin coats. The total resin materials included in the exemption cannot exceed 5 percent by weight of all resin used at your facility on a 12-month rolling-average basis. You must keep a record of the amount of 100 percent vinylester skin coat resin used per month that is eligible for this exemption and copies of calculations showing that the exempt amount does not exceed 5 percent of all resin used.

§ 63.5701 What are my options for complying with the open molding emission limit?

You must use one or more of the options listed in paragraphs (a) through (c) of this section to meet the emission limit in § 63.5698 for the resins and gel coats used in open molding operations at your facility.

(a) *Maximum achievable control technology (MACT) model point value averaging (emissions averaging) option.*

(1) Demonstrate that emissions from the open molding resin and gel coat operations that you average meet the emission limit in § 63.5698 using the procedures described in § 63.5710. Compliance with this option is based on a 12-month rolling average.

(2) Those operations and materials not included in the emissions average must comply with either paragraph (b) or (c) of this section.

(b) *Compliant materials option.* Demonstrate compliance by using resins and gel coats that meet the organic HAP content requirements in Table 2 to this subpart. Compliance with this option is based on a 12-month rolling average.

(c) *Add-on control option.* Use an enclosure and add-on control device, and demonstrate that the resulting emissions meet the emission limit in § 63.5698. Compliance with this option is based on control device performance testing and control device monitoring.

§ 63.5704 What are the general requirements for complying with the open molding emission limit?

(a) *Emissions averaging option.* For those open molding operations and materials complying using the emissions averaging option, you must demonstrate compliance by performing the steps in paragraphs (a)(1) through (5) of this section.

(1) Use the methods specified in § 63.5758 to determine the organic HAP content of resins and gel coats.

(2) Complete the calculations described in § 63.5710 to show that the organic HAP emissions do not exceed the limit specified in § 63.5698.

(3) Keep records as specified in paragraphs (a)(3)(i) through (iv) of this section for each resin and gel coat.

(i) Hazardous air pollutant content.

(ii) Amount of material used per month.

(iii) Application method used for production resin and tooling resin. This record is not required if all production resins and tooling resins are applied with nonatomized technology.

(iv) Calculations performed to demonstrate compliance based on MACT model point values, as described in § 63.5710.

(4) Prepare and submit the implementation plan described in § 63.5707 to the Administrator and keep it up to date.

(5) Submit semiannual compliance reports to the Administrator as specified in § 63.5764.

(b) *Compliant materials option.* For each open molding operation complying using the compliant materials option, you must demonstrate compliance by performing the steps in paragraphs (b)(1) through (4) of this section.

(1) Use the methods specified in § 63.5758 to determine the organic HAP content of resins and gel coats.

(2) Complete the calculations described in § 63.5713 to show that the weighted-average organic HAP content does not exceed the limit specified in Table 2 to this subpart.

(3) Keep records as specified in paragraphs (b)(3)(i) through (iv) of this section for each resin and gel coat.

(i) Hazardous air pollutant content.

(ii) Application method for production resin and tooling resin. This record is not required if all production resins and tooling resins are applied with nonatomized technology.

(iii) Amount of material used per month. This record is not required for an operation if all materials used for that operation comply with the organic HAP content requirements.

(iv) Calculations performed, if required, to demonstrate compliance based on weighted-average organic HAP content as described in § 63.5713.

(4) Submit semiannual compliance reports to the Administrator as specified in § 63.5764.

(c) *Add-on control option.* If you are using an add-on control device, you must demonstrate compliance by performing the steps in paragraphs (c)(1) through (5) of this section.

(1) Conduct a performance test of the control device as specified in §§ 63.5719 and 63.5722 to demonstrate initial compliance.

(2) Use the performance test results to determine control device parameters to monitor after the performance test as specified in § 63.5725.

(3) Comply with the operating limits specified in § 63.5715 and the control device and emission capture system monitoring requirements specified in § 63.5725 to demonstrate continuous compliance.

(4) Keep the records specified in § 63.5767.

(5) Submit to the Administrator the notifications and reports specified in §§ 63.5761 and 63.5764.

§ 63.5707 What is an implementation plan for open molding operations and when do I need to prepare one?

(a) You must prepare an implementation plan for all open molding operations for which you comply by using the emissions averaging option described in § 63.5704(a).

(b) The implementation plan must describe the steps you will take to bring the open molding operations covered by this subpart into compliance. For each operation included in the emissions average, your implementation plan must include the elements listed in paragraphs (b)(1) through (3) of this section.

(1) A description of each operation included in the average.

(2) The maximum organic HAP content of the materials used, the application method used (if any atomized resin application methods are used in the average), and any other methods used to control emissions.

(3) Calculations showing that the operations covered by the plan will comply with the open molding emission limit specified in § 63.5698.

(c) You must submit the implementation plan to the Administrator with the notification of compliance status specified in § 63.5761.

(d) You must keep the implementation plan on site and provide it to the Administrator when asked.

(e) If you revise the implementation plan, you must submit the revised plan with your next semiannual compliance report specified in § 63.5764.

§ 63.5710 How do I demonstrate compliance using emissions averaging?

(a) Compliance using the emissions averaging option is demonstrated on a 12-month rolling-average basis and is determined at the end of every month (12 times per year). The first 12-month rolling-average period begins on the compliance date specified in § 63.5695.

(b) At the end of the twelfth month after your compliance date and at the end of every subsequent month, use equation 1 of this section to demonstrate that the organic HAP emissions from those operations included in the average do not exceed the emission limit in § 63.5698 calculated for the same 12-month period. (Include terms in equation 1 of § 63.5698 and equation 1 of this section for only those operations and materials included in the average.)

$$\text{HAP emissions} = \left[(PV_R)(M_R) + (PV_{PG})(M_{PG}) + (PV_{CG})(M_{CG}) + (PV_{TR})(M_{TR}) + (PV_{TG})(M_{TG})\right] \qquad \text{(Eq. 1)}$$

Where:

HAP emissions= Organic HAP emissions calculated using MACT model point values for each operation included in the average, kilograms.

PV_R= Weighted-average MACT model point value for production resin used in the past 12 months, kilograms per megagram.

M_R= Mass of production resin used in the past 12 months, megagrams.

PV_{PG}= Weighted-average MACT model point value for pigmented gel coat used in the past 12 months, kilograms per megagram.

M_{PG}= Mass of pigmented gel coat used in the past 12 months, megagrams.

PV_{CG}= Weighted-average MACT model point value for clear gel coat used in the past 12 months, kilograms per megagram.

M_{CG}= Mass of clear gel coat used in the past 12 months, megagrams.

PV_{TR}= Weighted-average MACT model point value for tooling resin used in the past 12 months, kilograms per megagram.

M_{TR}= Mass of tooling resin used in the past 12 months, megagrams.

PV_{TG}= Weighted-average MACT model point value for tooling gel coat used in the past 12 months, kilograms per megagram.

M_{TG}= Mass of tooling gel coat used in the past 12 months, megagrams.

(c) At the end of every month, use equation 2 of this section to compute the weighted-average MACT model point value for each open molding resin and gel coat operation included in the average.

$$PV_{OP} = \frac{\sum_{i=1}^{n}(M_i\ PV_i)}{\sum_{i=1}^{n}(M_i)} \qquad \text{(Eq. 2)}$$

Where:

PV_{OP}=weighted-average MACT model point value for each open molding operation (PV_R, PV_{PG}, PV_{CG}, $PVPV_{TR}$, and $PVPV_{TG}$) included in the average, kilograms of HAP per megagram of material applied.

M_i=mass of resin or gel coat i used within an operation in the past 12 months, megagrams.

n=number of different open molding resins and gel coats used within an operation in the past 12 months.

PV_i=the MACT model point value for resin or gel coat i used within an operation in the past 12 months, kilograms of HAP per megagram of material applied.

(d) You must use the equations in Table 3 to this subpart to calculate the MACT model point value (PV_i) for each resin and gel coat used in each operation in the past 12 months.

(e) If the organic HAP emissions, as calculated in paragraph (b) of this section, are less than the organic HAP limit calculated in § 63.5698(b) for the same 12-month period, then you are in compliance with the emission limit in § 63.5698 for those operations and materials included in the average.

§ 63.5713 How do I demonstrate compliance using compliant materials?

(a) Compliance using the organic HAP content requirements listed in Table 2 to this subpart is based on a 12-month rolling average that is calculated at the end of every month. The first 12-month rolling-average period begins on the compliance date specified in § 63.5695.

If you are using filled material (production resin or tooling resin), you must comply according to the procedure described in § 63.5714.

(b) At the end of the twelfth month after your compliance date and at the end of every subsequent month, review the organic HAP contents of the resins and gel coats used in the past 12 months in each operation. If all resins and gel coats used in an operation have organic HAP contents no greater than the applicable organic HAP content limits in Table 2 to this subpart, then you are in compliance with the emission limit specified in § 63.5698 for that 12-month period for that operation. In addition, you do not need to complete the weighted-average organic HAP content calculation contained in paragraph (c) of this section for that operation.

(c) At the end of every month, you must use equation 1 of this section to calculate the weighted-average organic HAP content for all resins and gel coats used in each operation in the past 12 months.

$$\text{Weighted-Average HAP Content (\%)} = \frac{\sum_{i=1}^{n}(M_i \, HAP_i)}{\sum_{i=1}^{n}(M_i)} \qquad \text{(Eq. 1)}$$

Where:

M_i = mass of open molding resin or gel coat i used in the past 12 months in an operation, megagrams.

HAP_i = Organic HAP content, by weight percent, of open molding resin or gel coat i used in the past 12 months in an operation. Use the methods in § 63.5758 to determine organic HAP content.

n = number of different open molding resins or gel coats used in the past 12 months in an operation.

(d) If the weighted-average organic HAP content does not exceed the applicable organic HAP content limit specified in Table 2 to this subpart, then you are in compliance with the emission limit specified in § 63.5698.

§ 63.5714 How do I demonstrate compliance if I use filled resins?

(a) If you are using a filled production resin or filled tooling resin, you must demonstrate compliance for the filled material on an as-applied basis using equation 1 of this section.

$$PV_F = PV_u \times \frac{(100 - \%\ \text{Filler})}{100} \qquad \text{(Eq. 1)}$$

Where:

PV_F = The as-applied MACT model point value for a filled production resin or tooling resin, kilograms organic HAP per megagram of filled material.

PV_u = The MACT model point value for the neat (unfilled) resin, before filler is added, as calculated using the formulas in Table 3 to this subpart.

% Filler =The weight-percent of filler in the as-applied filled resin system.

(b) If the filled resin is used as a production resin and the value of PV_F calculated by equation 1 of this section does not exceed 46 kilograms of organic HAP per megagram of filled resin applied, then the filled resin is in compliance.

(c) If the filled resin is used as a tooling resin and the value of PV_F calculated by equation 1 of this section does not exceed 54 kilograms of organic HAP per megagram of filled resin applied, then the filled resin is in compliance.

(d) If you are including a filled resin in the emissions averaging procedure described in § 63.5710, then use the value of PV_F calculated using equation 1 of this section for the value of PV i in equation 2 of § 63.5710.

Demonstrating Compliance for Open Molding Operations Controlled by Add-On Control Devices

§ 63.5715 What operating limits must I meet?

(a) For open molding operations on which you use a thermal oxidizer as an add-on control device, you must meet the operating limits specified in Table 4 to this subpart that apply to the emission capture system and thermal oxidizer. You must establish the operating limits during the performance test according to the procedures in § 63.5725. You must meet the operating limits at all times after you establish them.

(b) If you use an add-on control device other than a thermal oxidizer, or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of alternative monitoring under § 63.8(f).

§ 63.5716 When must I conduct a performance test?

(a) If your source is an existing source, you must complete the add-on control device performance test no later than the compliance date specified in § 63.5695.

(b) If your source is a new source, you must complete the add-on control device performance test no later than 180 days after the compliance date specified in § 63.5695.

(c) You must conduct a performance test every 5 years as part of renewing your 40 CFR part 70 or 71 operating permit.

§ 63.5719 How do I conduct a performance test?

(a) You must capture the emissions using a permanent enclosure (such as a spray booth or similar containment device) and direct the captured emissions to the add-on control device.

(b) You must measure emissions as specified in paragraph (b)(1) or (2) of this section.

(1) If the enclosure vented to the control device is a permanent total enclosure as defined in Method 204 of appendix M to 40 CFR part 51, then you may measure emissions only at the outlet of the control device.

(2) If the permanent enclosure vented to the control device is not a total enclosure, you must build a temporary total enclosure, as defined in Method 204 of appendix M to 40 CFR part 51, around the permanent enclosure. You must then simultaneously measure emissions from the control device outlet and the emissions from the temporary total enclosure outlet. You determine compliance from the combined emissions from the control device outlet and the temporary total enclosure outlet.

(c) You must conduct the control device performance test using the emission measurement methods specified in paragraphs (c)(1) through (4) of this section.

(1) Use either Method 1 or 1A of appendix A to 40 CFR part 60, as appropriate, to select the sampling sites.

(2) Use Method 2, 2A, 2C, 2D, 2F or 2G of appendix A to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 18 of appendix A to 40 CFR part 60 to measure organic HAP emissions or use Method 25A of appendix A to 40 CFR part 60 to measure total gaseous organic emissions as a surrogate for total organic HAP emissions. If you use Method 25A, you must assume that all gaseous organic emissions measured as carbon are organic HAP emissions. If you use Method 18 and the number of organic HAP in the exhaust stream exceeds five, you must take into account the use of multiple chromatographic columns and analytical techniques to get an accurate measure of at least 90 percent of the total organic HAP mass emissions. Do not use Method 18 to measure organic HAP emissions from a combustion device; use instead Method 25A and assume that all gaseous organic mass emissions measured as carbon are organic HAP emissions.

(4) You may use American Society for Testing and Materials (ASTM) D6420–99 (available for purchase from at least one of the following addresses: 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI 48106.) in lieu of Method 18 of 40 CFR part 60, appendix A, under the conditions specified in paragraphs (c)(4)(i) through (iii) of this section.

(i) If the target compound(s) is listed in Section 1.1 of ASTM D6420–99 and the target concentration is between 150 parts per billion by volume and 100 parts per million by volume.

(ii) If the target compound(s) is not listed in Section 1.1 of ASTM D6420–99, but is potentially detected by mass spectrometry, an additional system continuing calibration check after each run, as detailed in Section 10.5.3 of ASTM D6420–99, must be followed, met, documented, and submitted with the performance test report even if you do not use a moisture condenser or the compound is not considered soluble.

(iii) If a minimum of one sample/analysis cycle is completed at least every 15 minutes.

(d) The control device performance test must consist of three runs and each run must last at least 1 hour. The production conditions during the test runs must represent normal production conditions with respect to the types of parts being made and material application methods. The production conditions during the test must also represent maximum potential emissions with respect to the organic HAP content of the materials being applied and the material application rates.

(e) During the test, you must also monitor and record separately the amounts of production resin, tooling resin, pigmented gel coat, clear gel coat, and tooling gel coat applied inside the enclosure that is vented to the control device.

§ 63.5722 How do I use the performance test data to demonstrate initial compliance?

Demonstrate initial compliance with the open molding emission limit as described in paragraphs (a) through (c) of this section:

(a) Calculate the organic HAP limit you must achieve using equation 1 of § 63.5698. For determining initial compliance, the organic HAP limit is based on the amount of material used during the performance test, in megagrams, rather than during the past 12 months. Calculate the limit using the megagrams of resin and gel coat applied inside the enclosure during the three runs of the performance test and equation 1 of § 63.5698.

(b) Add the total measured emissions, in kilograms, from all three of the 1-hour runs of the performance test.

(c) If the total emissions from the three 1-hour runs of the performance test are less than the organic HAP limit calculated in paragraph (a) of this section, then you have demonstrated initial compliance with the emission limit in § 63.5698 for those operations performed in the enclosure and controlled by the add-on control device.

§ 63.5725 What are the requirements for monitoring and demonstrating continuous compliance?

(a) You must establish control device parameters that indicate proper operation of the control device.

(b) You must install, operate, and maintain a continuous parameter monitoring system as specified in paragraphs (b)(1) through (8) of this section.

(1) The continuous parameter monitoring system must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four successive cycles of operation to have a valid hour of data.

(2) You must have valid data from at least 90 percent of the hours during which the process operated.

(3) You must determine the average of all recorded readings for each successive 3-hour period of the emission capture system and add-on control device operation.

(4) You must maintain the continuous parameter monitoring system at all times and have available necessary parts for routine repairs of the monitoring equipment.

(5) You must operate the continuous parameter monitoring system and collect emission capture system and add-on control device parameter data at all times that a controlled open molding operation is being performed, except during monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, if applicable, calibration checks and required zero and span adjustments).

(6) You must not use emission capture system or add-on control device parameter data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities when calculating data averages. You must use all the data collected during all other periods in calculating the data averages for determining compliance with the emission capture system and add-on control device operating limits.

(7) You must record the results of each inspection, calibration, and validation check.

(8) Any period for which the monitoring system is out-of-control, as defined in § 63.7(d)(7), or malfunctioning, and data are not available for required calculations is a deviation from the monitoring requirements. A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the continuous parameter monitoring system to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(c) *Enclosure bypass line.* You must meet the requirements of paragraphs (c)(1) and (2) of this section for each emission capture system enclosure that contains bypass lines that could divert emissions away from the add-on control device to the atmosphere.

(1) You must monitor or secure the valve or closure mechanism controlling the bypass line in a nondiverting position in such a way that the valve or closure mechanism cannot be opened without creating a record that the valve was opened. The method used to monitor or secure the valve or closure mechanism must meet one of the requirements specified in paragraphs (c)(1)(i) through (iv) of this section.

(i) *Flow control position indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow control position indicator that takes a reading at least once every 15 minutes and provides a record indicating whether the emissions are directed to the add-on control device or diverted from the add-on control device. The time of occurrence and flow control position must be recorded, as

well as every time the flow direction is changed. The flow control position indicator must be installed at the entrance to any bypass line that could divert the emissions away from the add-on control device to the atmosphere.

(ii) *Car-seal or lock-and-key valve closures.* Secure any bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. You must visually inspect the seal or closure mechanism at least once every month to ensure that the valve is maintained in the closed position, and the emissions are not diverted away from the add-on control device to the atmosphere.

(iii) *Valve closure continuous monitoring.* Ensure that any bypass line valve is in the closed (non-diverting) position through monitoring of valve position at least once every 15 minutes. You must inspect the monitoring system at least once every month to verify that the monitor will indicate valve position.

(iv) *Automatic shutdown system.* Use an automatic shutdown system in which the open molding operation is stopped when flow is diverted by the bypass line away from the add-on control device to the atmosphere when the open molding operation is running. You must inspect the automatic shutdown system at least once every month to verify that it will detect diversions of flow and shut down the open molding operation.

(2) If any bypass line is opened, you must include a description of why the bypass line was opened and the length of time it remained open in the semiannual compliance reports required in § 63.5764(d).

(d) *Thermal oxidizers.* If you are using a thermal oxidizer or incinerator as an add-on control device, you must comply with the requirements in paragraphs (d)(1) through (6) of this section.

(1) You must install a combustion temperature monitoring device in the firebox of the thermal oxidizer or incinerator, or in the duct immediately downstream of the firebox before any substantial heat exchange occurs. You must meet the requirements in paragraphs (b) and (d)(1)(i) through (vii) of this section for each temperature monitoring device.

(i) Locate the temperature sensor in a position that provides a representative temperature.

(ii) Use a temperature sensor with a minimum tolerance of 2.2° C or 0.75 percent of the temperature value, whichever is larger.

(iii) Shield the temperature sensor system from electromagnetic interference and chemical contaminants.

(iv) If a chart recorder is used, it must have a sensitivity in the minor division of at least 10° C.

(v) Perform an electronic calibration at least semiannually according to the procedures in the manufacturer's owners manual. Following the electronic calibration, you must conduct a temperature sensor validation check in which a second or redundant temperature sensor placed nearby the process temperature sensor must yield a reading within 16.7° C of the process temperature sensor's reading.

(vi) Conduct calibration and validation checks any time the sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

(vii) At least monthly, inspect all components for integrity and all electrical connections for continuity, oxidation, and galvanic corrosion.

(2) Before or during the performance test, you must conduct a performance evaluation of the combustion temperature monitoring system according to § 63.8(e). Section 63.8(e) specifies the general requirements for continuous monitoring systems and requirements for notifications, the site-specific performance evaluation plan, conduct of the performance evaluation, and reporting of performance evaluation results.

(3) During the performance test required by § 63.5716, you must monitor and record the combustion temperature and determine the average combustion temperature for the three 1-hour test runs. This average temperature is the minimum operating limit for the thermal oxidizer.

(4) Following the performance test, you must continuously monitor the combustion temperature and record the average combustion temperature no less frequently than every 15 minutes.

(5) You must operate the incinerator or thermal oxidizer so that the average combustion temperature in any 3-hour period does not fall below the average combustion temperature recorded during the performance test.

(6) If the average combustion temperature in any 3-hour period falls below the average combustion temperature recorded during the performance test, or if you fail to collect the minimum data specified in paragraph (d)(4) of this section, it is a deviation for the operating limit in § 63.5715.

(e) *Other control devices.* If you are using a control device other a thermal oxidizer, then you must comply with alternative monitoring requirements and operating limits approved by the Administrator under § 63.8(f).

(f) *Emission capture system.* For each enclosure in the emission capture system, you must comply with the requirements in paragraphs (f)(1) through (5) of this section.

(1) You must install a device to measure and record either the flow rate or the static pressure in the duct from each enclosure to the add-on control device.

(2) You must install a device to measure and record the pressure drop across at least one opening in each enclosure.

(3) Each flow measurement device must meet the requirements in paragraphs (b) and (f)(3)(i) through (iv) of this section.

(i) Locate the flow sensor in a position that provides a representative flow measurement in the duct between each enclosure in the emission capture system and the add-on control device.

(ii) Reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(iii) Conduct a flow sensor calibration check at least semiannually.

(iv) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(4) For each pressure measurement device, you must comply with the requirements in paragraphs (a) and (f)(4)(i) through (vii) of this section.

(i) Locate each pressure drop sensor in or as close to a position that provides a representative measurement of the pressure drop across each enclosure opening you are monitoring.

(ii) Locate each duct static pressure sensor in a position that provides a representative measurement of the static pressure in the duct between the enclosure and control device.

(iii) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(iv) Check the pressure tap for plugging daily.

(v) Use an inclined manometer with a measurement sensitivity of 0.0004 millimeters mercury (mmHg) to check gauge calibration quarterly and transducer calibration monthly.

(vi) Conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range or install a new pressure sensor.

(vii) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(5) For each capture device that is not part of a permanent total enclosure as defined in Method 204 in appendix M to 40 CFR part 51, you must establish

an operating limit for either the gas volumetric flow rate or duct static pressure, as specified in paragraphs (f)(5)(i) and (ii) of this section. You must also establish an operating limit for pressure drop across at least one opening in each enclosure according to paragraphs (f)(5)(iii) and (iv) of this section. The operating limits for a permanent total enclosure are specified in Table 4 to this subpart.

(i) During the emission test required by § 63.5716 and described in § 63.5719, you must monitor and record either the gas volumetric flow rate or the duct static pressure for each separate enclosure in your emission capture system at least once every 15 minutes during each of the three test runs at a point in the duct between the enclosure and the add-on control device inlet.

(ii) Following the emission test, calculate and record the average gas volumetric flow rate or duct static pressure for the three test runs for each enclosure. This average gas volumetric flow rate or duct static pressure is the minimum operating limit for that specific enclosure.

(iii) During the emission test required by § 63.5716 and described in § 63.5719, you must monitor and record the pressure drop across the opening of each enclosure in your emission capture system at least once every 15 minutes during each of the three test runs.

(iv) Following the emission test, calculate and record the average pressure drop for the three test runs for each enclosure. This average pressure drop is the minimum operating limit for that specific enclosure.

Standards for Closed Molding Resin Operations

§ 63.5728 What standards must I meet for closed molding resin operations?

(a) If a resin application operation meets the definition of closed molding specified in § 63.5779, there is no requirement to reduce emissions from that operation.

(b) If the resin application operation does not meet the definition of closed molding, then you must comply with the limit for open molding resin operations specified in § 63.5698.

(c) Open molding resin operations that precede a closed molding operation must comply with the limit for open molding resin and gel coat operations specified in § 63.5698. Examples of these operations include gel coat or skin coat layers that are applied before lamination is performed by closed molding.

Standards for Resin and Gel Coat Mixing Operations

§ 63.5731 What standards must I meet for resin and gel coat mixing operations?

(a) All resin and gel coat mixing containers with a capacity equal to or greater than 208 liters, including those used for on-site mixing of putties and polyputties, must have a cover with no visible gaps in place at all times.

(b) The work practice standard in paragraph (a) of this section does not apply when material is being manually added to or removed from a container, or when mixing or pumping equipment is being placed in or removed from a container.

(c) To demonstrate compliance with the work practice standard in paragraph (a) of this section, you must visually inspect all mixing containers subject to this standard at least once per month. The inspection should ensure that all containers have covers with no visible gaps between the cover and the container, or between the cover and equipment passing through the cover.

(d) You must keep records of which mixing containers are subject to this standard and the results of the inspections, including a description of any repairs or corrective actions taken.

Standards for Resin and Gel Coat Application Equipment Cleaning Operations

§ 63.5734 What standards must I meet for resin and gel coat application equipment cleaning operations?

(a) For routine flushing of resin and gel coat application equipment (e.g., spray guns, flowcoaters, brushes, rollers, and squeegees), you must use a cleaning solvent that contains no more than 5 percent organic HAP by weight. For removing cured resin or gel coat from application equipment, no organic HAP content limit applies.

(b) You must store organic HAP-containing solvents used for removing cured resin or gel coat in containers with covers. The covers must have no visible gaps and must be in place at all times, except when equipment to be cleaned is placed in or removed from the container. On containers with a capacity greater than 7.6 liters, the distance from the top of the container to the solvent surface must be no less than 0.75 times the diameter of the container. Containers that store organic HAP-containing solvents used for removing cured resin or gel coat are exempt from the requirements of 40 CFR part 63, subpart T. Cured resin or gel coat means resin or gel coat that has changed from a liquid to a solid.

§ 63.5737 How do I demonstrate compliance with the resin and gel coat application equipment cleaning standards?

(a) Determine and record the organic HAP content of the cleaning solvents subject to the standards specified in § 63.5734 using the methods specified in § 63.5758.

(b) If you recycle cleaning solvents on site, you may use documentation from the solvent manufacturer or supplier or a measurement of the organic HAP content of the cleaning solvent as originally obtained from the solvent supplier for demonstrating compliance, subject to the conditions in § 63.5758 for demonstrating compliance with organic HAP content limits.

(c) At least once per month, you must visually inspect any containers holding organic HAP-containing solvents used for removing cured resin and gel coat to ensure that the containers have covers with no visible gaps. Keep records of the monthly inspections and any repairs made to the covers.

Standards for Carpet and Fabric Adhesive Operations

§ 63.5740 What emission limit must I meet for carpet and fabric adhesive operations?

(a) You must use carpet and fabric adhesives that contain no more than 5 percent organic HAP by weight.

(b) To demonstrate compliance with the emission limit in paragraph (a) of this section, you must determine and record the organic HAP content of the carpet and fabric adhesives using the methods in § 63.5758.

Standards for Aluminum Recreational Boat Surface Coating Operations

§ 63.5743 What standards must I meet for aluminum recreational boat surface coating operations?

(a) For aluminum wipedown solvent operations and aluminum surface coating operations, you must comply with either the separate emission limits in paragraphs (a)(1) and (2) of this section, or the combined emission limit in paragraph (a)(3) of this section. Compliance with these limitations is based on a 12-month rolling average that is calculated at the end of every month.

(1) You must limit emissions from aluminum wipedown solvents to no more than 0.33 kilograms of organic HAP per liter of total coating solids applied from aluminum primers, clear coats, and top coats combined. No limit applies when cleaning surfaces are receiving decals or adhesive graphics.

(2) You must limit emissions from aluminum recreational boat surface coatings (including thinners, activators, primers, topcoats, and clear coats) to no

more than 1.22 kilograms of organic HAP per liter of total coating solids applied from aluminum primers, clear coats, and top coats combined.

(3) You must limit emissions from the combined aluminum surface coatings and aluminum wipedown solvents to no more than 1.55 kilograms of organic HAP per liter of total coating solids applied from aluminum primers, clear coats, and top coats combined.

(b) You must comply with the work practice standard in paragraph (b)(1), (2), (3), or (4) of this section when cleaning aluminum coating spray guns with solvents containing more than 5 percent organic HAP by weight.

(1) Clean spray guns in an enclosed device. Keep the device closed except when you place spray guns in or remove them from the device.

(2) Disassemble the spray gun and manually clean the components in a vat. Keep the vat closed when you are not using it.

(3) Clean spray guns by placing solvent in the pressure pot and forcing the solvent through the gun. Do not use atomizing air during this procedure. Direct the used cleaning solvent from the spray gun into a container that you keep closed when you are not using it.

(4) An alternative gun cleaning process or technology approved by the Administrator according to the procedures in § 63.6(g).

§ 63.5746 How do I demonstrate compliance with the emission limits for aluminum wipedown solvents and aluminum coatings?

To demonstrate compliance with the emission limits for aluminum wipedown solvents and aluminum coatings specified in § 63.5743(a), you must meet the requirements of paragraphs (a) through (f) of this section.

(a) Determine and record the organic HAP content (kilograms of organic HAP per kilogram of material, or weight fraction) of each aluminum wipedown solvent and aluminum coating (including primers, topcoats, clear coats, thinners, and activators). Use the methods in § 63.5758 to determine organic HAP content.

(b) Use the methods in § 63.5758(b) to determine the solids content (liters of solids per liter of coating, or volume fraction) of each aluminum surface coating, including primers, topcoats, and clear coats. Keep records of the solids content.

(c) Use the methods in § 63.5758(c) to determine the density of each aluminum surface coating and wipedown solvent.

(d) Compliance is based on a 12-month rolling average calculated at the end of every month. The first 12-month rolling-average period begins on the compliance date specified in § 63.5695.

(e) At the end of the twelfth month after your compliance date and at the end of every subsequent month, use the procedures in § 63.5749 to calculate the organic HAP from aluminum wipedown solvents per liter of coating solids, and use the procedures in § 63.5752 to calculate the kilograms of organic HAP from aluminum coatings per liter of coating solids.

(f) Keep records of the calculations used to determine compliance.

(g) *Approval of alternative means of demonstrating compliance.* You may apply to the Administrator for permission to use an alternative means (such as an add-on control system) of limiting emissions from aluminum wipedown solvent and coating operations and demonstrating compliance with the emission limits in § 63.5743(a).

(1) The application must include the information listed in paragraphs (g)(1)(i) through (iii) of this section.

(i) An engineering evaluation that compares the emissions using the alternative means to the emissions that would result from using the strategy specified in paragraphs (a) through (e) of this section. The engineering evaluation may include the results from an emission test that accurately measures the capture efficiency and control device efficiency achieved by the control system and the composition of the associated coatings so that the emissions comparison can be made.

(ii) A proposed monitoring protocol that includes operating parameter values to be monitored for compliance and an explanation of how the operating parameter values will be established through a performance test.

(iii) Details of appropriate recordkeeping and reporting procedures.

(2) The Administrator will approve the alternative means of limiting emissions if the Administrator determines that HAP emissions will be no greater than if the source uses the procedures described in paragraphs (a) through (e) of this section to demonstrate compliance.

(3) The Administrator's approval may specify operation, maintenance, and monitoring requirements to ensure that emissions from the regulated operations are no greater than those that would otherwise result from regulated operations in compliance with this subpart.

§ 63.5749 How do I calculate the organic HAP content of aluminum wipedown solvents?

(a) Use equation 1 of this section to calculate the weighted-average organic HAP content of aluminum wipedown solvents used in the past 12 months.

$$HAP_{WD} = \frac{\sum_{j=1}^{n} (Vol_j)(D_j)(W_j)}{\sum_{i=1}^{m} (Vol_i)(Solids_i)} \qquad \text{(Eq. 1)}$$

Where:

HAP_{WD}= weighted-average organic HAP content of aluminum wipedown solvents, kilograms of HAP per liter of total coating solids from aluminum primers, top coats, and clear coats.

n = number of different wipedown solvents used in the past 12 months.

Vol_j= volume of aluminum wipedown solvent j used in the past 12 months, liters.

D_j= density of aluminum wipedown solvent j, kilograms per liter.

W_j= mass fraction of organic HAP in aluminum wipedown solvent j.

m = number of different aluminum surface coatings (primers, top coats, and clear coats) used in the past 12 months.

Vol_i = volume of aluminum primer, top coat, or clear coat i used in the past 12 months, liters.

$Solids_i$= solids content aluminum primer, top coat, or clear coat i, liter solids per liter of coating.

(b) Compliance is based on a 12-month rolling average. If the weighted-average organic HAP content does not exceed 0.33 kilograms of organic HAP per liter of total coating solids, then you are in compliance with the emission limit specified in § 63.5743(a)(1).

§ 63.5752 How do I calculate the organic HAP content of aluminum recreational boat surface coatings?

(a) Use equation 1 of this section to calculate the weighted-average HAP content for all aluminum surface coatings used in the past 12 months.

$$HAP_{SC} = \frac{\sum_{i=1}^{m}(Vol_i)(D_i)(W_i) + \sum_{k=1}^{D}(Vol_k)(D_k)(W_k)}{\sum_{i=1}^{m}(Vol_i)(Solids_i)} \quad \text{(Eq. 1)}$$

Where:

HAP_{SC} = weighted-average organic HAP content for all aluminum coating materials, kilograms of organic HAP per liter of coating solids.

m = number of different aluminum primers, top coats, and clear coats used in the past 12 months.

Vol_i = volume of aluminum primer, top coat, or clear coat i used in the past 12 months, liters.

D_i= density of coating i, kilograms per liter.

W_i= mass fraction of organic HAP in coating i, kilograms of organic HAP per kilogram of coating.

p = number of different thinners, activators, and other coating additives used in the past 12 months.

Vol_k= total volume of thinner, activator, or additive k used in the past 12 months, liters.

D_k= density of thinner, activator, or additive k, kilograms per liter.

W_k= mass fraction of organic HAP in thinner, activator, or additive k, kilograms of organic HAP per kilogram of thinner or activator.

$Solids_i$= solids content of aluminum primer, top coat, or clear coat i, liter solids per liter of coating.

(b) Compliance is based on a 12-month rolling average. If the weighted-average organic HAP content does not exceed 1.22 kilograms of organic HAP per liter of coating solids, then you are in compliance with the emission limit specified in § 63.5743(a)(2).

§ 63.5753 How do I calculate the combined organic HAP content of aluminum wipedown solvents and aluminum recreational boat surface coatings?

(a) Use equation 1 of this section to calculate the combined weighted-average organic HAP content of aluminum wipedown solvents and aluminum recreational boat surface coatings.

$$HAP_{Combined} = HAP_{WD} + HAP_{SC} \quad \text{(Eq. 1)}$$

Where:

HAP_{WD} = the weighted-average organic HAP content of aluminum wipedown solvents used in the past 12 months, calculated using equation 1 of § 63.5749.

HAP_{SC} = the weighted average organic HAP content of aluminum recreational boat surface coatings used in the past 12 months, calculated using equation 1 of § 63.5752.

(b) Compliance is based on a 12-month rolling average. If the combined organic HAP content does not exceed 1.55 kilograms of organic HAP per liter of total coating solids, then you are in compliance with the emission limit specified in § 63.5743(a)(3).

§ 63.5755 How do I demonstrate compliance with the aluminum recreational boat surface coating spray gun cleaning work practice standards?

You must demonstrate compliance with the aluminum coating spray gun cleaning work practice standards by meeting the requirements of paragraph (a) or (b) of this section.

(a) Demonstrate that solvents used to clean the aluminum coating spray guns contain no more than 5 percent organic HAP by weight by determining organic HAP content with the methods in § 63.5758. Keep records of the organic HAP content determination.

(b) For solvents containing more than 5 percent organic HAP by weight, comply with the requirements in paragraph (b)(1) or (b)(2), and paragraph (b)(3) of this section.

(1) If you are using an enclosed spray gun cleaner, visually inspect it at least once per month to ensure that covers are in place and the covers have no visible gaps when the cleaner is not in use, and that there are no leaks from hoses or fittings.

(2) If you are manually cleaning the gun or spraying solvent into a container that can be closed, visually inspect all solvent containers at least once per month to ensure that the containers have covers and the covers fit with no visible gaps.

(3) Keep records of the monthly inspections and any repairs that are made to the enclosed gun cleaners or the covers.

Methods for Determining Hazardous Air Pollutant Content

§ 63.5758 How do I determine the organic HAP content of materials?

(a) *Determine the organic HAP content for each material used.* To determine the organic HAP content for each material used in your open molding resin and gel coat operations, carpet and fabric adhesive operations, or aluminum recreational boat surface coating operations, you must use one of the options in paragraphs (a)(1) through (6) of this section.

(1) *Method 311 (appendix A to 40 CFR part 63).* You may use Method 311 for determining the mass fraction of organic HAP. Use the procedures specified in paragraphs (a)(1)(i) and (ii) of this section when determining organic HAP content by Method 311.

(i) Include in the organic HAP total each organic HAP that is measured to be present at 0.1 percent by mass or more for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other compounds. For example, if toluene (not an OSHA carcinogen) is measured to be 0.5 percent of the material by mass, you do not need to include it in the organic HAP total. Express the mass fraction of each organic HAP you measure as a value truncated to four places after the decimal point (for example, 0.1234).

(ii) Calculate the total organic HAP content in the test material by adding up the individual organic HAP contents and truncating the result to three places after the decimal point (for example, 0.123).

(2) *Method 24 (appendix A to 40 CFR part 60).* You may use Method 24 to determine the mass fraction of non-aqueous volatile matter of aluminum coatings and use that value as a substitute for mass fraction of organic HAP.

(3) *ASTM D1259–85 (Standard Test Method for Nonvolatile Content of Resins).* You may use ASTM D1259–85 (available for purchase from ASTM) to measure the mass fraction of volatile

matter of resins and gel coats for open molding operations and use that value as a substitute for mass fraction of organic HAP.

(4) *Alternative method.* You may use an alternative test method for determining mass fraction of organic HAP if you obtain prior approval by the Administrator. You must follow the procedure in § 63.7(f) to submit an alternative test method for approval.

(5) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (a)(1) through (4) of this section, such as manufacturer's formulation data, according to paragraphs (a)(5)(i) through (iii) of this section.

(i) Include in the organic HAP total each organic HAP that is present at 0.1 percent by mass or more for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other compounds. For example, if toluene (not an OSHA carcinogen) is 0.5 percent of the material by mass, you do not have to include it in the organic HAP total.

(ii) If the organic HAP content is provided by the material supplier or manufacturer as a range, then you must use the upper limit of the range for determining compliance. If a separate measurement of the total organic HAP content using the methods specified in paragraphs (a)(1) through (4) of this section exceeds the upper limit of the range of the total organic HAP content provided by the material supplier or manufacturer, then you must use the measured organic HAP content to determine compliance.

(iii) If the organic HAP content is provided as a single value, you may assume the value is a manufacturing target value and actual organic HAP content may vary from the target value. If a separate measurement of the total organic HAP content using the methods specified in paragraphs (a)(1) through (4) of this section is less than 2 percentage points higher than the value for total organic HAP content provided by the material supplier or manufacturer, then you may use the provided value to demonstrate compliance. If the measured total organic HAP content exceeds the provided value by 2 percentage points or more, then you must use the measured organic HAP content to determine compliance.

(6) *Solvent blends.* Solvent blends may be listed as single components for some regulated materials in certifications provided by manufacturers or suppliers. Solvent blends may contain organic HAP which must be counted toward the total organic HAP content of the materials. When detailed organic HAP content data for solvent blends are not available, you may use the values for organic HAP content that are listed in Table 5 or 6 to this subpart. You may use Table 6 to this subpart only if the solvent blends in the materials you use do not match any of the solvent blends in Table 5 to this subpart and you know only whether the blend is either aliphatic or aromatic. However, if test results indicate higher values than those listed in Table 5 or 6 to this subpart, then the test results must be used for determining compliance.

(b) *Determine the volume fraction solids in aluminum recreational boat surface coatings.* To determine the volume fraction of coating solids (liters of coating solids per liter of coating) for each aluminum recreational boat surface coating, you must use one of the methods specified in paragraphs (b)(1) through (3) of this section. If the results obtained with paragraphs (b)(2) or (3) of this section do not to agree with those obtained according to paragraph (b)(1) of this section, you must use the results obtained with paragraph (b)(1) of this section to determine compliance.

(1) *ASTM Method D2697–86(1998) or D6093–97.* You may use ASTM Method D2697–86(1998) or D6093–97 (available for purchase from ASTM) to determine the volume fraction of coating solids for each coating. Divide the nonvolatile volume percent obtained with the methods by 100 to calculate volume fraction of coating solids.

(2) *Information from the supplier or manufacturer of the material.* You may obtain the volume fraction of coating solids for each coating from the supplier or manufacturer.

(3) *Calculation of volume fraction of coating solids.* You may determine it using equation 1 of this section:

$$\text{Solids} = 1 - \frac{m_{volatiles}}{D_{avg}} \qquad \text{(Eq. 1)}$$

Where:

Solids=volume fraction of coating solids, liters coating solids per liter coating.

^{m}volatiles=Total volatile matter content of the coating, including organic HAP, volatile organic compounds, water, and exempt compounds, determined according to Method 24 in appendix A of 40 CFR part 60, grams volatile matter per liter coating.

D_{avg}=average density of volatile matter in the coating, grams volatile matter per liter volatile matter, determined from test results using ASTM Method D1475–90 (available for purchase from ASTM), information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM Method D1475–90 test results and other information sources, the test results will take precedence.

(c) *Determine the density of each aluminum recreational boat wipedown solvent and surface coating.* Determine the density of all aluminum recreational boat wipedown solvents, surface coatings, thinners, and other additives from test results using ASTM Method D1475–90, information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM Method D1475–90 test results and other information sources, you must use the test results to demonstrate compliance.

Notifications, Reports, and Records

§ 63.5761 What notifications must I submit and when?

(a) You must submit all of the notifications in Table 7 to this subpart that apply to you by the dates in the table. The notifications are described more fully in 40 CFR part 63, subpart A, General Provisions, referenced in Table 8 to this subpart.

(b) If you change any information submitted in any notification, you must submit the changes in writing to the Administrator within 15 calendar days after the change.

§ 63.5764 What reports must I submit and when?

(a) You must submit the applicable reports specified in paragraphs (b) through (e) of this section. To the extent possible, you must organize each report according to the operations covered by this subpart and the compliance procedure followed for that operation.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the dates in paragraphs (b)(1) through (5) of this section.

(1) If your source is not controlled by an add-on control device (i.e., you are complying with organic HAP content limits, application equipment requirements, or MACT model point value averaging provisions), the first compliance report must cover the period beginning 12 months after the compliance date specified for your source in § 63.5695 and ending on June

30 or December 31, whichever date is the first date following the end of the first 12-month period after the compliance date that is specified for your source in § 63.5695. If your source is controlled by an add-on control device, the first compliance report must cover the period beginning on the compliance date specified for your source in § 63.5695 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.5695.

(2) The first compliance report must be postmarked or delivered no later than 60 calendar days after the end of the compliance reporting period specified in paragraph (b)(1) of this section.

(3) Each subsequent compliance report must cover the applicable semiannual reporting period from January 1 through June 30 or from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than 60 calendar days after the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must include the information specified in paragraphs (c)(1) through (7) of this section.

(1) Company name and address.

(2) A statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the report.

(3) The date of the report and the beginning and ending dates of the reporting period.

(4) A description of any changes in the manufacturing process since the last compliance report.

(5) A statement or table showing, for each regulated operation, the applicable organic HAP content limit, application equipment requirement, or MACT model point value averaging provision with which you are complying. The statement or table must also show the actual weighted-average organic HAP content or weighted-average MACT model point value (if applicable) for each operation during each of the rolling 12-month averaging periods that end during the reporting period.

(6) If you were in compliance with the emission limits and work practice standards during the reporting period, you must include a statement to that effect.

(7) If you deviated from an emission limit or work practice standard during the reporting period, you must also include the information listed in paragraphs (c)(7)(i) through (iv) of this section in the semiannual compliance report.

(i) A description of the operation involved in the deviation.

(ii) The quantity, organic HAP content, and application method (if relevant) of the materials involved in the deviation.

(iii) A description of any corrective action you took to minimize the deviation and actions you have taken to prevent it from happening again.

(iv) A statement of whether or not your facility was in compliance for the 12-month averaging period that ended at the end of the reporting period.

(d) If your facility has an add-on control device, you must submit semiannual compliance reports and quarterly excess emission reports as specified in § 63.10(e). The contents of the reports are specified in § 63.10(e).

(e) If your facility has an add-on control device, you must complete a startup, shutdown, and malfunction plan as specified in § 63.6(e), and you must submit the startup, shutdown, and malfunction reports specified in § 63.10(e)(5).

§ 63.5767 What records must I keep?

You must keep the records specified in paragraphs (a) through (d) of this section in addition to records specified in individual sections of this subpart.

(a) You must keep a copy of each notification and report that you submitted to comply with this subpart.

(b) You must keep all documentation supporting any notification or report that you submitted.

(c) If your facility is not controlled by an add-on control device (i.e., you are complying with organic HAP content limits, application equipment requirements, or MACT model point value averaging provisions), you must keep the records specified in paragraphs (c)(1) through (3) of this section.

(1) The total amounts of open molding production resin, pigmented gel coat, clear gel coat, tooling resin, and tooling gel coat used per month and the weighted-average organic HAP contents for each operation, expressed as weight-percent. For open molding production resin and tooling resin, you must also record the amounts of each applied by atomized and nonatomized methods.

(2) The total amount of each aluminum coating used per month (including primers, top coats, clear coats, thinners, and activators) and the weighted-average organic HAP content as determined in § 63.5752.

(3) The total amount of each aluminum wipedown solvent used per month and the weighted-average organic HAP content as determined in § 63.5749.

(d) If your facility has an add-on control device, you must keep the records specified in § 63.10(b) relative to control device startup, shut down, and malfunction events; control device performance tests; and continuous monitoring system performance evaluations.

§ 63.5770 In what form and for how long must I keep my records?

(a) Your records must be readily available and in a form so they can be easily inspected and reviewed.

(b) You must keep each record for 5 years following the date that each record is generated.

(c) You must keep each record on site for at least 2 years after the date that each record is generated. You can keep the records offsite for the remaining 3 years.

(d) You can keep the records on paper or an alternative media, such as microfilm, computer, computer disks, magnetic tapes, or on microfiche.

Other Information You Need To Know

§ 63.5773 What parts of the General Provisions apply to me?

You must comply with the requirements of the General Provisions in 40 CFR part 63, subpart A, as specified in Table 8 to this subpart.

§ 63.5776 Who implements and enforces this subpart?

(a) If the Administrator has delegated authority to your State or local agency, the State or local agency has the authority to implement and enforce this subpart.

(b) In delegating implementation and enforcement authority of this subpart to a State or local agency under 40 CFR part 63, subpart E, the authorities that are retained by the Administrator of the U.S. EPA and are not transferred to the State or local agency are listed in paragraphs (b)(1) through (4) of this section.

(1) Under § 63.6(g), the authority to approve alternatives to the standards listed in paragraphs (b)(1)(i) through (vii) of this section is not delegated.

(i) § 63.5698—Emission limit for open molding resin and gel coat operations.

(ii) § 63.5728—Standards for closed molding resin operations.

(iii) § 63.5731(a)—Standards for resin and gel coat mixing operations.

(iv) § 63.5734—Standards for resin and gel coat application equipment cleaning operations.

(v) § 63.5740(a)—Emission limit for carpet and fabric adhesive operations.

(vi) § 63.5743—Standards for aluminum recreational boat surface coating operations.

(vii) § 63.5746(g)—Approval of alternative means of demonstrating compliance with the emission limits for aluminum recreational boat surface coating operations.

(2) Under § 63.7(e)(2)(ii) and (f), the authority to approve alternatives to the test methods listed in paragraphs (b)(2)(i) through (iv) of this section is not delegated.

(i) § 63.5719(b)—Method for determining whether an enclosure is a total enclosure.

(ii) § 63.5719(c)—Methods for measuring emissions from a control device.

(iii) § 63.5725(d)(1)—Performance specifications for thermal oxidizer combustion temperature monitors.

(iv) § 63.5758—Method for determining hazardous air pollutant content of regulated materials.

(3) Under § 63.8(f), the authority to approve major alternatives to the monitoring requirements listed in § 63.5725 is not delegated. A ''major alternative'' is defined in § 63.90.

(4) Under § 63.10(f), the authority to approve major alternatives to the reporting and recordkeeping requirements listed in §§ 63.5764, 63.5767, and 63.5770 is not delegated. A ''major alternative'' is defined in § 63.90.

Definitions

§ 63.5779 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows:

Add-on control means an air pollution control device, such as a thermal oxidizer, that reduces pollution in an air stream by destruction or removal before discharge to the atmosphere.

Administrator means the Administrator of the United States Environmental Protection Agency (U.S. EPA) or an authorized representative (for example, a State delegated the authority to carry out the provisions of this subpart).

Aluminum recreational boat means any marine or freshwater recreational boat that has a hull or deck constructed primarily of aluminum. A recreational boat is a vessel which by design and construction is intended by the manufacturer to be operated primarily for pleasure, or to be leased, rented or chartered to another for the latter's pleasure (rather than for commercial or military purposes); and whose major structural components are fabricated and assembled in an indoor, production-line manufacturing plant or similar land-side operation and not in a dry dock, graving dock, or marine railway on the navigable waters of the United States.

Aluminum recreational boat surface coating operation means the application of primers or top coats to aluminum recreational boats. It also includes the application of clear coats over top coats. Aluminum recreational boat surface coating operations do not include the application of wood coatings or antifoulant coatings to aluminum recreational boats.

Aluminum coating spray gun cleaning means the process of flushing or removing paints or coatings from the interior or exterior of a spray gun used to apply aluminum primers, clear coats, or top coats to aluminum recreational boats.

Aluminum wipedown solvents means solvents used to remove oil, grease, welding smoke, or other contaminants from the aluminum surfaces of a boat before priming or painting. Aluminum wipedown solvents contain no coating solids; aluminum surface preparation materials that contain coating solids are considered coatings for the purpose of this subpart and are not wipedown solvents.

Antifoulant coating means any coating that is applied to the underwater portion of a boat specifically to prevent or reduce the attachment of biological organisms and that is registered with EPA as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. section 136, *et seq.*). For the purpose of this subpart, primers used with antifoulant coatings to prepare the surface to accept the antifoulant coating are considered antifoulant coatings.

Assembly adhesive means any chemical material used in the joining of one fiberglass, metal, foam, or wood parts to another to form a temporary or permanently bonded assembly. Assembly adhesives include, but are not limited to, methacrylate adhesives and putties made from polyester or vinylester resin mixed with inert fillers or fibers.

Atomized resin application means a resin application technology in which the resin leaves the application equipment and breaks into droplets or an aerosol as it travels from the application equipment to the surface of the part. Atomized resin application includes, but is not limited to, resin spray guns and resin chopper spray guns.

Boat means any type of vessel, other than a seaplane, that can be used for transportation on the water.

Boat manufacturing facility means a facility that manufactures the hulls or decks of boats from fiberglass or aluminum or assembles boats from premanufactured hulls and decks, or builds molds to make fiberglass hulls or decks. A facility that manufactures only parts of boats (such as hatches, seats, or lockers) or boat trailers, but no boat hulls or decks or molds for fiberglass boat hulls or decks, is not considered a boat manufacturing facility for the purpose of this subpart.

Carpet and fabric adhesive means any chemical material that permanently attaches carpet, fabric, or upholstery to any surface of a boat.

Clear gel coat means gel coats that are clear or translucent so that underlying colors are visible. Clear gel coats are used to manufacture parts for sale. Clear gel coats do not include tooling gel coats used to build or repair molds.

Closed molding means any molding process in which pressure is used to distribute the resin through the reinforcing fabric placed between two mold surfaces to either saturate the fabric or fill the mold cavity. The pressure may be clamping pressure, fluid pressure, atmospheric pressure, or vacuum pressure used either alone or in combination. The mold surfaces may be rigid or flexible. Closed molding includes, but is not limited to, compression molding with sheet molding compound, infusion molding, resin injection molding (RIM), vacuum-assisted resin transfer molding (VARTM), resin transfer molding (RTM), and vacuum-assisted compression molding. Processes in which a closed mold is used only to compact saturated fabric or remove air or excess resin from the fabric (such as in vacuum bagging), are not considered closed molding. Open molding steps, such as application of a gel coat or skin coat layer by conventional open molding prior to a closed molding process, are not closed molding.

Cured resin and gel coat means resin or gel coat that has been polymerized and changed from a liquid to a solid.

Deviation means any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emission limit, operating limit, or work practice requirement;

(2) Fails to meet any term or condition which is adopted to implement an applicable requirement in this subpart and which is included in the operating permit for any affected source required to obtain such permit; or

(3) Fails to meet any emission limit, operating limit, or work practice requirement in this subpart during any startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Enclosure means a structure, such as a spray booth, that surrounds a source of emissions and captures and directs the emissions to an add-on control device.

Fiberglass boat means a vessel in which either the hull or deck is built from a composite material consisting of a thermosetting resin matrix reinforced with fibers of glass, carbon, aramid, or other material.

Fiberglass hull and deck coatings means coatings applied to the exterior or interior surface of fiberglass boat hulls and decks on the completed boat. Polyester and vinylester resins and gel coats used in building fiberglass parts are not fiberglass hull and deck coatings for the purpose of this subpart.

Filled resin means a resin to which an inert material has been added to change viscosity, density, shrinkage, or other physical properties.

Gel coat means a thermosetting resin surface coating containing styrene (Chemical Abstract Service or CAS No. 100–42–5) or methyl methacrylate (CAS No. 80–62–6), either pigmented or clear, that provides a cosmetic enhancement or improves resistance to degradation from exposure to the elements. Gel coat layers do not contain any reinforcing fibers and gel coats are applied directly to mold surfaces or to a finished laminate.

Hazardous air pollutant or HAP means any air pollutant listed in, or pursuant to section 112(b) of the Clean Air Act.

Hazardous air pollutant content or HAP content means the amount of HAP contained in a regulated material at the time it is applied to the part being manufactured. If no HAP is added to a material as a thinner or diluent, then the HAP content is the same as the HAP content of the material as purchased from the supplier. For resin and gel coat, HAP content does not include any HAP contained in the catalyst added to the resin or gel coat during application to initiate curing.

Hazardous air pollutant data sheet (HDS) means documentation furnished by a material supplier or an outside laboratory to provide the organic HAP content of the material by weight, measured using an EPA Method, manufacturer's formulation data, or an equivalent method. For aluminum coatings, the HDS also documents the solids content by volume, determined from the manufacturer's formulation data. The purpose of the HDS is to help the affected source in showing compliance with the organic HAP content limits contained in this subpart. The HDS must state the maximum total organic HAP concentration, by weight, of the material. It must include any organic HAP concentrations equal to or greater than 0.1 percent by weight for individual organic HAP that are carcinogens, as defined by the Occupational Safety and Health Administration Hazard Communication Standard (29 CFR part 1910), and 1.0 percent by weight for all other individual organic HAP, as formulated. The HDS must also include test conditions if EPA Method 311 is used for determining organic HAP content.

Maximum achievable control technology (MACT) model point value means a number calculated for open molding operations that is a surrogate for emissions and is used to determine if your open molding operations are in compliance with the provisions of this subpart. The units for MACT model point values are kilograms of organic HAP per megagram of resin or gel coat applied.

Manufacturer's certification means documentation furnished by a material supplier that shows the organic HAP content of a material and includes a HDS.

Mold means the cavity or surface into or on which gel coat, resin, and fibers are placed and from which finished fiberglass parts take their form.

Mold sealing and release agents means materials applied to a mold to seal, polish, and lubricate the mold to prevent parts from sticking to the mold. Mold sealers, waxes, and glazing and buffing compounds are considered mold sealing and release agents for the purposes of this subpart.

Mold stripping and cleaning solvents means materials used to remove mold sealing and release agents from a mold before the mold surface is repaired, polished, or lubricated during normal mold maintenance.

Month means a calendar month.

Neat resin means a resin to which no filler has been added.

Nonatomized resin application means any application technology in which the resin is not broken into droplets or an aerosol as it travels from the application equipment to the surface of the part. Nonatomized resin application technology includes, but is not limited to, flowcoaters, chopper flowcoaters, pressure fed resin rollers, resin impregnators, and hand application (for example, paint brush or paint roller).

Open molding resin and gel coat operation means any process in which the reinforcing fibers and resin are placed in the mold and are open to the surrounding air while the reinforcing fibers are saturated with resin. For the purposes of this subpart, open molding includes operations in which a vacuum bag or similar cover is used to compress an uncured laminate to remove air bubbles or excess resin, or to achieve a bond between a core material and a laminate.

Pigmented gel coat means opaque gel coats used to manufacture parts for sale. Pigmented gel coats do not include tooling gel coats used to build or repair molds.

Production resin means any resin used to manufacture parts for sale. Production resins do not include tooling resins used to build or repair molds, or assembly adhesives as defined in this section.

Recycled resin and gel coat application equipment cleaning solvent means cleaning solvents recycled on-site or returned to the supplier or another party to remove resin or gel coat residues so that the solvent can be reused.

Research and development activities means:

(1) Activities conducted at a laboratory to analyze air, soil, water, waste, or product samples for contaminants, environmental impact, or quality control;

(2) Activities conducted to test more efficient production processes or methods for preventing or reducing adverse environmental impacts, provided that the activities do not include the production of an intermediate or final product for sale or exchange for commercial profit, except in a *de minimis* manner; and

(3) Activities conducted at a research or laboratory facility that is operated under the close supervision of technically trained personnel, the primary purpose of which is to conduct research and development into new processes and products and that is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a *de minimis* manner.

Resin means any thermosetting resin with or without pigment containing styrene (CAS No. 100–42–5) or methyl

methacrylate (CAS No. 80–62–6) and used to encapsulate and bind together reinforcement fibers in the construction of fiberglass parts.

Resin and gel coat application equipment cleaning means the process of flushing or removing resins and gel coats from the interior or exterior of equipment that is used to apply resin or gel coat in the manufacture of fiberglass parts.

Resin and gel coat mixing operation means any operation in which resin or gel coat, including the mixing of putties or polyputties, is combined with additives that include, but are not limited to, fillers, promoters, or catalysts.

Roll-out means the process of using rollers, squeegees, or similar tools to compact reinforcing materials saturated with resin to remove trapped air or excess resin.

Skin coat is a layer of resin and fibers applied over the gel coat to protect the gel coat from being deformed by the next laminate layers.

Tooling resin means the resin used to build or repair molds (also known as tools) or prototypes (also known as plugs) from which molds will be made.

Tooling gel coat means the gel coat used to build or repair molds (also known as tools) or prototypes (also known as plugs) from which molds will be made.

Vacuum bagging means any molding technique in which the reinforcing fabric is saturated with resin and then covered with a flexible sheet that is sealed to the edge of the mold and where a vacuum is applied under the sheet to compress the laminate, remove excess resin, or remove trapped air from the laminate during curing. Vacuum bagging does not include processes that meet the definition of closed molding.

Vinylester resin means a thermosetting resin containing esters of acrylic or methacrylic acids and having double-bond and ester linkage sites only at the ends of the resin molecules.

Volume fraction of coating solids means the ratio of the volume of coating solids (also known as volume of nonvolatiles) to the volume of coating; liters of coating solids per liter of coating.

Wood coatings means coatings applied to wooden parts and surfaces of boats, such as paneling, cabinets, railings, and trim. Wood coatings include, but are not limited to, primers, stains, sealers, varnishes, and enamels. Polyester and vinylester resins or gel coats applied to wooden parts to encapsulate them or bond them to other parts are not wood coatings.

Tables to Subpart VVVV

Table 1 to Subpart VVVV—Compliance Dates for New and Existing Boat Manufacturing Facilities

As specified in § 63.5695, you must comply by the dates in the following table:

If your facility is—	And—	Then you must comply by this date—
1. An existing source	Is a major source on or before August 22, 2001[1].	August 23, 2004.
2. An existng or new area source	Becomes a major source after August 22, 2001[1].	1 year after becoming a major source or August 22, 2002, whichever is later.
3. A new source	Is a major source at startup[1]	Upon startup or August 22, 2001, whichever is later.

[1]Your facility is a major source if it is a stationary source or group of stationary sources located within a contiguous area and under common control that emits or can potentially emit, considering controls, in the aggregate, 9.1 megagrams or more per year of a single hazardous air pollutant or 22.7 megagrams or more per year of a combination of hazardous air pollutants.

Table 2 to Subpart VVVV—Alternative Organic HAP Content Requirements for Open Molding Resin and Gel Coat Operations

As specified in §§ 63.5701(b), 63.5704(b)(2), and 63.5713(a), (b), and (d), you must comply with the requirements in the following table:

For this operation—	And this applicaton method—	You must not exceed this weighted-average organic HAP content (weight percent) requirement—
1. Production resin operations	Atomized (spray)	28 percent.
2. Production resin operations	Nonatomized (nonspray)	35 percent.
3. Pigmented gel coat operations	Any method	33 percent.
4. Clear gel coat operations	Any method	48 percent
5. Tooling resin operations	Atomized (spray)	30 percent.
6. Tooling resin operations	Nonatomized (nonspray)	39 percent.
7. Tooling gel coat operations	Any method	40 percent.

Table 3 to Subpart VVVV—MACT Model Point Value Formulas for Open Molding Operations[1]

As specified in §§ 63.5710(d) and 63.5714(a), you must calculate point values using the formulas in the following table:

For this operation—	And this application method—	Use this formula to calculate the MACT model plant value for each resin and gel coat—
1. Production resin, tooling resin	a. Atomized	$0.014 \times (\text{Resin HAP\%})^{2.425}$
	b. Atomized, plus vacumm bagging with roll-out	$0.01185 \times (\text{Resin HAP\%})^{2.425}$
	c. Atomized, plus vacuum bagging without roll-out	$0.00945 \times (\text{Resin HAP\%})^{2.425}$
	d. Nonatomized	$0.014 \times (\text{Resin HAP\%})^{2.275}$
	e. Nonatomized, plus vaccum bagging with roll-out	$0.0110 \times (\text{Resin HAP\%})^{2.275}$
	f. Nonatomized, plus vacuum bagging without roll-out.	$0.0076 \times (\text{Resin HAP\%})^{2.275}$

For this operation—	And this application method—	Use this formula to calculate the MACT model plant value for each resin and gel coat—
2. Pigmented gel coat, clear gel coat, tooling gel coat	All methods	$0.445 \times (\text{Gel coat HAP\%})^{1.675}$

[1]Equations calculate MACT model point value in kilograms of organic HAP per megagrams of resin or gel coat applied. The equations for vacuum bagging with roll-out are applicable when a facility rolls out the applied resin and fabric prior to applying the vacuum bagging materials. The equations for vacuum bagging without roll-out are applicable when a facility applies the vacuum bagging materials immediately after resin application without rolling out the resin and fabric. HAP% = organic HAP content as supplied, expressed as a weight-percent value between 0 and 100 percent.

Table 4 to Subpart VVVV—Operating Limits if Using an Add-on Control Device for Open Molding Operations

As specified in §§ 63.5715(a) and 63.5725(f)(5), you must meet the operating limits in the following table:

For the following device—	You must meet the following operating limit—	And you must demonstrate continuous compliance with the operating limit by—
1. Thermal oxidizer	The average combustion temperature in any 3-hour period must not fall below the combustion temperature limit established according to § 63.5725(d).	a. Collecting the combustion temperature data according to § 63.5725(d); b. reducing the data to 3-hour block averages; and c. maintaining the 3-hour average combustion temperature at or above the temperature limit.
2. Other control devices	An operating limit approved by the Administrator according to § 63.8(f).	a. Collecting parameter monitoring as approved by the Administrator according to § 63.8(f); and b. maintaining the parameters within the operating limits approved according to § 63.8(f).
3. Emission capture system that is a PTE according to § 63.5719(b).	a. The direction of the air flow at all times must be into the enclosure; and b. in any 3-hour period, either the average facial velocity of air through all natural draft openings in the enclosure must be at least 200 feet per minute; or c. the pressure drop across the enclosure must be at least 0.007 inch H_2O, as established in Method 204 of appendix M to 40 CFR part 51.	i. Collecting the direction of air flow, and either the facial velocity of air through all natural draft openings according to § 63.5725(f)(3) or the pressure drop across the enclosure according to § 63.5725(f)(4); and ii. reducing the data for facial velocity or pressure drop to 3-hour block averages; and iii. maintaining the 3-hour average facial velocity of air flow through all natural draft openings or the pressure drop at or above the facial velocity limit or pressure drop limit, and maintaining the direction of air flow into the enclosure at all times.
4. Emission capture system that is not a PTE according to § 63.5719(b).	a. The average gas volumetric flow rate or duct static pressure in each duct between a capture device and add-on control device inlet in any 3-hour period must not fall below the average volumetric flow rate or duct static pressure limit established for that capture device according to § 63.5725(f)(5); and b. the average pressure drop across an opening in each enclosure in any 3-hour period must not fall below the average pressure drop limit established for that capture device according to § 63.5725(f)(5).	i. Collecting the gas volumetric flow rate or duct static pressure for each capture device according to § 63.5725(f)(1) and (3); ii. reducing the data to 3-hour block averages; iii. maintaining the 3-hour average gas volumetric flow rate or duct static pressure for each capture device at or above the gas volumetric flow rate or duct static pressure limit; iv. collecting data for the pressure drop across an opening in each enclosure according to § 63.5725(f)(2) and (4); v. reducing the data to 3-hour block averages; and vi. maintaining the 3-hour average pressure drop across the opening for each enclosure at or above the gas volumetric flow rate or duct static pressure limit.

Table 5 to Subpart VVVV—Default Organic HAP Contents of Solvents and Solvent Blends

As specified in § 63.5758(a)(6), when detailed organic HAP content data for solvent blends are not available, you may use the values in the following table:

Solvent/solvent blend	CAS No.	Average organic HAP content, percent by mass	Typical organic HAP, percent by mass
1. Toluene	108–88–3	100	Toluene.
2. Xylene(s)	1330–20–7	100	Xylenes, ethylbenzene.
3. Hexane	110–54–3	50	n-hexane.
4. n-hexane	110–54–3	100	n-hexane.
5. Ethylbenzene	100–41–4	100	Ethylbenzene.
6. Aliphatic 140		0	None.
7. Aromatic 100		2	1% xylene, 1% cumene.
8. Aromatic 150		9	Naphthalene.
9. Aromatic naptha	64742–95–6	2	1% xylene, 1% cumene.
10. Aromatic solvent	64742–94–5	10	Naphthalene.
11. Exempt mineral spirits	8032–32–4	0	None.
12. Ligroines (VM & P)	8032–32–4	0	None.
13. Lactol spirits	64742–89–6	15	Toluene.
14. Low aromatic white spirit	64742–82–1	0	None.
15. Mineral spirits	64742–88–7	1	Xylenes.
16. Hydrotreated naphtha	64742–48–9	0	None.

Solvent/solvent blend	CAS No.	Average organic HAP content, percent by mass	Typical organic HAP, percent by mass
17. Hydrotreated light distillate	64742–47–8	0.1	Toluene.
18. Stoddard solvent	8052–41–3	1	Xylenes.
19. Super high-flash naphtha	64742–95–6	5	Xylenes.
20. Varol® solvent	8052–49–3	1	0.5% xylenes, 0.5% ethyl benzene.
21. VM & P naphtha	64742–89–8	6	3% toluene, 3% xylene.
22. Petroleum distillate mixture	68477–31–6	8	4% naphthalene, 4% biphenyl.

Table 6 to Subpart VVVV—Default Organic HAP Contents of Petroleum Solvent Groups

As specified in § 63.5758(a)(6), when detailed organic HAP content data for solvent blends are not available, you may use the values in the following table:

Solvent type	Average organic HAP content, percent by mass	Typical organic HAP, percent by mass
Aliphatic (Mineral Spirits 135, Mineral Spirits 150 EC, Naphtha, Mixed Hydrocarbon, Aliphatic Hydrocarbon, Aliphatic Naptha, Naphthol Spirits, Petroleum Spirits, Petroleum Oil, Petroleum Naphtha, Solvent Naphtha, Solvent Blend.).	3	1% Xylene, 1% Toluene, and 1% Ethylbenzene.
Aromatic (Medium-flash Naphtha, High-flash Naphtha, Aromatic Naphtha, Light Aromatic Naphtha, Light Aromatic Hydrocarbons, Aromatic Hydrocarbons, Light Aromatic Solvent.).	6	4% Xylene, 1% Toluene, and 1% Ethylbenzene.

Table 7 to Subpart VVVV—Applicability and Timing of Notifications

As specified in § 63.5761(a), you must submit notifications according to the following table:

If your facility—	You must submit—	By this date—
1. Is an existing source subject to this subpart	An initial notification containing the information specified in § 63.9(b)(2).	No later than the dates specified in § 63.9(b)(2).
2. Is a new source subject to this subpart	The notifications specified in § 63.9(b) (3) to (5).	No later than the dates specified § 63.9(b)(4) and (5).
3. Qualifies for a compliance extension as specified in § 63.9(c).	A request for a compliance extension as specified in § 63.9(c).	No later than the dates specified in § 63.6(i).
4. Is complying with organic HAP content limits, application equipment requirements; or MACT model point value averaging provisions.	A notification of compliance status as specified in § 63.9(h).	No later than 30 calendar days after the end of the first 12-month averaging period after your facility's compliance date.
5. Is complying by using an add-on control device.	a. notification of intent to conduct a performance test as specified in § 63.9(e).	No later than the date specified in § 63.9(e).
	b. A notification of the date for the continuous monitoring system performance evaluation as specified in § 63.9(g).	With the notification of intent to conduct a performance test.
	c. A notification of compliance status as specified in § 63.9(h).	No later than 60 calendar days after the completion of the add-on control device performance test and continuous monitoring system performance evaluation.

Table 8 to Subpart VVVV—Applicability of General Provisions (40 CFR Part 63, Subpart A) to Subpart VVVV

As specified in § 63.5773, you must comply with the applicable requirements of the General Provisions according to the following table:

Citation	Requirement	Applies to subpart VVVV	Explanation
§ 63.1(a)	General Applicability	Yes.	
§ 63.1(b)	Initial Applicability Determination	Yes.	
§ 63.1(c)(1)	Applicability After Standard Established	Yes.	
§ 63.1(c)(2)		Yes	Area sources are not regulated by subpart VVVV.
§ 63.1(c)(3)		No	[Reserved]
§ 63.1(c)(4)–(5)		Yes.	
§ 63.1(d)		No	[Reserved]
63.1(e)	Applicability of Permit Program	Yes.	
§ 63.2	Definitions	Yes	Additional definitions are found in § 63.5779.
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4(a)	Prohibited Activities	Yes.	
§ 63.4(b)–(c)	Circumvention/Severability	Yes.	
§ 63.5(a)	Construction/Reconstruction	Yes.	
§ 63.5(b)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	

Citation	Requirement	Applies to subpart VVVV	Explanation
§ 63.5(c)		No	[Reserved]
§ 63.5(d)	Application for Approval of Construction/ Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction	Yes.	
§ 63.5(f)	Approval of Construction/Reconstruction Based on prior State Review.	Yes.	
§ 63.6(a)	Compliance with Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)	Compliance Dates for New and Reconstructed Sources.	Yes	§ 63.695 specifies compliance dates, including the compliance date for new area sources that become major sources after the effective date of the rule.
§ 63.6(c)	Compliance Dates for Existing Sources	Yes	§ 63.5695 specifies compliance dates, including the compliance date for existing area sources that become major sources after the effective date of the rule.
§ 63.6(d)		No	[Reserved]
§ 63.6(e)(1)–(2)	Operation and Maintenance Requirements.	No	Operating requirements for open molding operations with add-on controls are specified in § 63.5725.
§ 63.6(e)(3)	Startup, Shut Down, and Malfunction Plans.	Yes	Only sources with add-on controls must complete startup, shutdown, and malfunction plans.
§ 63.6(f)	Compliance with Nonopacity Emission Standards.	Yes.	
§ 63.6(g)	Use of an Alternative Nonopacity Emission Standard.	Yes.	
§ 63.6(h)	Compliance with Opacity/Visible Emissions Standards.	No	Subpart VVVV does not specify opacity or visible emission standards.
§ 63.6(i)	Extension of Compliance with Emission Standards.	Yes.	
§ 63.6(j)	Exemption from Compliance with Emission Standards.	Yes.	
§ 63.7(a)(1)	Performance Test Requirements	Yes.	
§ 63.7(a)(2)	Dates for performance tests	No	§ 63.5716 specifies performance test dates.
§ 63.7(a)(3)	Performance testing at other times	Yes.	
§ 63.7(b)–(h)	Other performance testing requirements	Yes.	
§ 63.8(a)(1)–(2)	Monitoring Requirements—Applicability	Yes	All of § 63.8 applies only to sources with add-on controls. Additional monitoring requirements for sources with add-on controls are found in § 63.5725.
§ 63.8(a)(3)		No	[Reserved]
§ 63.8(a)(4)		No	Subpart VVVV does not refer directly or indirectly to § 63.11.
§ 63.8(b)(1)	Conduct of Monitoring	Yes.	
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Continuous Monitoring Systems (CMS).	Yes	Applies to sources that use a CMS on the control device stack.
§ 63.8(c)(1)–(4)	Continuous Monitoring System Operation and Maintenance.	Yes.	
§ 63.8(c)(5)	Continuous Opacity Monitoring Systems (COMS).	No	Subpart VVVV does not have opacity or visible emission standards.
§ 63.8(c)(6)–(8)	Continuous Monitoring System Calibration Checks and Out-of-Control Periods.	Yes.	
§ 63.8(d)	Quality Control Program	Yes.	
§ 63.8(e)	CMS Performance Evaluation	Yes.	
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Yes	Applies only to sources that use continuous emission monitoring systems (CEMS).
§ 63.8(g)	Data Reduction	Yes	
§ 63.9(a)	Notification Requirements—Applicability	Yes.	
§ 63.9(b)	Initial Notifications	Yes	
§ 63.9(c)	Request for Compliance Extension	Yes.	
§ 63.9(d)	Notification That a New Source Is Subject to Special Compliance Requirements.	Yes.	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to sources with add-on controls.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	No	Subpart VVVV does not have opacity or visible emission standards.

Citation	Requirement	Applies to subpart VVVV	Explanation
§ 63.9(g)(1)	Additional CMS Notifications—Date of CMS Performance Evaluation.	Yes	Applies only to sources with add-on controls.
§ 63.9(g)(2)	Use of COMS Data	No	Subpart VVVV does not require the use of COMS.
§ 63.9(g)(3)	Alternative to Relative Accuracy Testing	Yes	Applies only to sources with CEMS.
§ 63.9(h)	Notification of Compliance Status	Yes.	
§ 63.9(i)	Adjustment of Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting—Applicability	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	§§ 63.567 and 63.5770 specify additional recordkeeping requirements.
§ 63.10(b)(2)(i)–(xi)	Recordkeeping Relevant to Startup, Shutdown, and Malfunction Periods and CMS.	Yes	Applies only to sources with add-on controls.
§ 63.10(b)(2)(xii)–(xiv)	General Recordkeeping Requirements	Yes.	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes	§ 63.5686 specifies applicability determinations for non-major sources.
§ 63.10(c)	Additional Recordkeeping for Sources with CMS.	Yes	Applies only to sources with add-on controls.
§ 63.10(d)(1)	General Reporting Requirements	Yes	§ 63.5764 specifies additional reporting requirements.
§ 63.10(d)(2)	Performance Test Results	Yes	§ 63.5764 specifies additional requirements for reporting performance test results.
§ 63.10(d)(3)	Opacity or Visible Emissions Observations.	No	Subpart VVVV does not specify opacity or visible emission standards.
§ 63.10(d)(4)	Progress Reports for Sources with Compliance Extensions.	Yes.	
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Yes	Applies only to sources with add-on controls.
§ 63.10(e)(1)	Additional CMS Reports—General	Yes	Applies only to sources with add-on controls.
§ 63.10(e)(2)	Reporting Results of CMS Performance Evaluations.	Yes	Applies only to sources with add-on controls.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	Yes	Applies only to sources with add-on controls.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart VVVV does not specify opacity or visible emission standards.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§ 63.11	Control Device Requirements—Applicability.	No	Facilities subject to subpart VVVV do not use flares as control devices.
§ 63.12	State Authority and Delegations	Yes	§ 63.5776 lists those sections of subpart A that are not delegated.
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by Reference	Yes.	
§ 63.15	Availability of Information/Confidentiality	Yes.	

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Part III

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171 and 172

Hazardous Materials: Exceptions From Labeling and Placarding Materials Poisonous by Inhalation (PIH); Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 172

[RSPA–99–6195 (Docket No. HM–206D)]

RIN 2137–AD37

Hazardous Materials: Exceptions From Labeling and Placarding Materials Poisonous by Inhalation (PIH)

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: In an interim final rule published on September 16, 1999, and amended on September 24, 1999, RSPA provided a limited exception, until October 1, 2001, from requirements to place new POISON INHALATION HAZARD or POISON GAS labels on packages of PIH materials to facilitate international transportation. This final rule responds to two comments received on the interim final rule, extends the provisions of the interim final rule, and provides additional exceptions from requirements to place new POISON INHALATION HAZARD or POISON GAS labels and placards on certain packages and transport vehicles in international transportation.

DATES: This final rule is effective on October 1, 2001. However, compliance with the regulations is authorized immediately.

FOR FURTHER INFORMATION CONTACT: Helen L. Engrum, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–8553.

SUPPLEMENTARY INFORMATION:

I. Background

On January 8, 1997, the Research and Special Programs Administration (RSPA, we) published a final rule in the **Federal Register** (62 FR 1217) under Docket HM–206 amending the hazard communication requirements in the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to enhance the identification of hazardous materials transported in commerce. Provisions of the final rule included two new placards and two new labels for materials poisonous (toxic) by inhalation (PIH), one label and placard for Division 2.3 gases, and one label and placard for Division 6.1 liquids. We issued the final rule in response to Section 25 of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Public Law 101–615), which required the Secretary of Transportation to initiate a rulemaking to determine methods to improve hazard communication, including the existing system of placarding vehicles transporting hazardous materials. We amended the final rule on July 22, 1997 (62 FR 39398) and on April 1, 1998 (63 FR 16070), to make editorial corrections and technical amendments and to respond to petitions for reconsideration and an appeal under 49 CFR 106.38. The rule became effective October 1, 1998 and specified the following mandatory compliance dates: October 1,1999 for use of the new PIH labels and October 1, 2001 for use of the new PIH placards.

The United Nations Committee of Experts on the Transport of Dangerous Goods has not yet endorsed adoption of the PIH labels and placards. Further, neither the International Maritime Dangerous Goods Code (IMDG Code) nor the Canadian Transport of Dangerous Goods Regulations (TDGR) incorporate the PIH labels and placards. Therefore, to facilitate international transportation of PIH materials, we published an interim final rule (IFR) on September 16, 1999 (64 FR 50260) to provide a limited exception until October 1, 2001, from the requirement to display PIH labels on packages. The exception permits non-bulk packages of PIH materials in a closed transport vehicle or freight container to be labeled in accordance with the IMDG Code or with the TDGR provided the transport vehicle or freight container is placarded and marked with the identification number for the PIH material in accordance with requirements in the HMR. This exception was intended to facilitate international transportation of PIH materials when transported by vessel under the provisions of the IMDG Code or by motor vehicle or rail car to or from Canada. We issued the IFR to minimize delays and frustrated shipments based on concern that shipments of PIH materials could encounter some difficulty, particularly in certain foreign ports.

On September 24, 1999 (64 FR 51719), the IFR was amended to correct an inadvertent error in § 171.12a regarding Canadian shipments of PIH materials. The September 24, 1999 corrections provided for the transportation of packages containing PIH materials between the United States and Canada in conformance with the labeling requirements in the TDGR.

Because the new PIH labels would otherwise have been required on October 1, 1999, it was not feasible for us to publish an NPRM proposing the limited exception and receive comments before issuing the IFR, or to provide at least 30 days before the effective date of the IFR. Delay in issuing the IFR would have potentially frustrated the shipment of these high hazard materials by vessel, or by motor vehicle or rail car to or from Canada. However, we encouraged interested parties to participate in this rulemaking by submitting comments on the IFR. We received two comments—from the Hazardous Materials Advisory Council (HMAC) and Elf Atochem North America, Inc. (Elf Atochem).

In response to the two comments and to facilitate international transportation of PIH materials, in this final rule we are providing the following provisions and exceptions for international shipments: (1) An exception from PIH labeling requirements for certain non-bulk and bulk packagings in closed transport vehicles or freight containers transported by vessel or by motor vehicle or rail car to or from Canada; (2) an exception from PIH labeling requirements for certain non-bulk and bulk packagings in closed transport vehicles or freight containers transported by vessel or by motor vehicle or rail car to or from Mexico; and (3) an exception from PIH placarding requirements on a transport vehicle or freight container carrying PIH materials within a single port area. PIH placards are required on a packaging, transport vehicle, or freight container carrying PIH materials in the United States.

II. Provisions in This Final Rule

A. Extension of Exceptions From PIH Labeling and Placarding Requirements

We adopted the new PIH labeling and placarding requirements because of the extreme risks associated with transportation of PIH materials and our belief that the old POISON and POISON GAS labels and placards are not adequate to communicate the inhalation hazard of these materials. We are continuing to work for international recognition of the PIH labels and placards. However, the United Nations Committee of Experts on the Transport of Dangerous Goods has not yet adopted the PIH labels and placards nor are they permitted under the IMDG Code and the TDGR. We continue to believe that the PIH labels and placards facilitate rapid and accurate identification of these extremely toxic materials by emergency responders and transportation workers and, thus, enhance the safe transportation of these materials.

However, in the absence of similar labeling and placarding provisions in the UN Recommendations and other

international standards based on those recommendations, the potential for delayed or frustrated international shipments, due to confusion over labeling and placarding differences or the need to remove and replace labels, will exist on October 1, 2001. On September 30, 1999, the limited exception from PIH labeling of international shipments provided by the September 16, 1999 IFR expires, and mandatory compliance for use of the PIH placard takes effect.

We are issuing this final rule to provide additional labeling and placarding exceptions for certain shipments of PIH materials to facilitate international transportation of these materials until such time as the United Nations Committee of Experts on the Transport of Dangerous Goods amends the UN Recommendations to either adopt or permit the use of the U.S. PIH labels and placards. The exceptions apply to shipments of PIH materials transported under the provisions of the IMDG Code and the TDGR.

In its comments on the September 1999 IFR, Elf Atochem requests an expansion of the limited PIH labeling exception for international shipments to the import or export of small bulk packages in open freight containers. Elf Atochem states that the IFR fails to provide a similar exception for ''small bulk'' packages that are permitted to be labeled rather than placarded under 49 CFR 172.514(c) and 7.2.2.1 of the IMDG Code. Elf Atochem states that these small bulk packages will be subject to the same possibility of errors and mishandling in port areas, and that transportation workers will have the same potential increased exposure if they have to handle and re-label these packages in the port area. Therefore, Elf Atochem requests that the exception provided for non-bulk packages in the September 16, 1999 IFR be extended to include those small bulk packages that may be transported in an open vehicle or freight container that are imported or exported by vessel, and that are permitted or required to be labeled.

In this final rule, we are amending §§ 171.12 and 171.12a to permit a package containing a PIH material to be labeled or placarded with a label or placard that conforms to the IMDG Code or TDG regulatory hazard communication specifications for ''Class 6.1'' or ''Class 2.3'' labels and placards, as appropriate, if transported in a closed transport vehicle or freight container marked with identification numbers appropriate for the material and placarded as required under the HMR. We agree with Elf Atochem that small bulk packages should be included in this exception. Therefore, this exception applies to both non-bulk and bulk packages transported in closed transport vehicles or freight containers. We do not agree that the PIH labeling exception should be expanded to packages in open vehicles or freight containers. Offerors and transporters of PIH materials should be aware that the PIH labeling exception applies to PIH materials shipped in domestic or international transportation in accordance with the IMDG Code.

We recognize that there are a limited number of materials for which the HMR identify a material as a PIH with a Division 6.1 primary or subsidiary hazard where the UN Recommendations, IMDG Code, and TDGR do not indicate such a primary or subsidiary hazard (e.g., Trichloroacetyl chloride, UN 2442). Packages of such materials shipped in closed transport vehicles or freight containers under the provisions of the UN Recommendations, IMDG Code, or TDGR in accordance with the exception provided in this final rule must be labeled or placarded to indicate the subsidiary PIH hazard. To indicate the subsidiary hazard, offerors may use labels or placards that conform to the UN Recommendations, IMDG Code, or TDGR requirements for ''Class 6.1'' or ''Class 2.3'' materials, as appropriate.

B. Shipments to or From Mexico

In comments on the September 1999 IFR, HMAC requested a delay in implementation of the PIH labeling requirements for shipments to or from Mexico. The September 16, 1999 IFR does not address shipments between the United States and Mexico. A number of HMAC's members who transport PIH materials to Mexico are concerned about the difficulties they could encounter as a result of this omission.

HMAC states that it recognizes that including an exception of this nature in the HMR is not as straightforward as those for shipments by vessel and shipments to and from Canada. However, it considers such an exception equally necessary and requests that we delay implementation of the PIH labeling requirements until such time that an appropriate means of including an exception for shipments to or from Mexico can be found.

We agree with HMAC that shipments of PIH materials to or from Mexico should be permitted to take advantage of the labeling exceptions allowed for other international shipments. Thus, we are adding a new paragraph (e) to § 171.12 to permit a material poisonous by inhalation transported in a closed transport vehicle or freight container by highway or rail from Mexico to the United States or from the United States to Mexico to be labeled or placarded with a label or placard that conforms to the UN Recommendations on the Transport of Dangerous Goods specifications for a ''Division 2.3'' or ''Division 6.1'' label or placard in place of a POISON GAS or POISON INHALATION HAZARD label or placard. The transport vehicle or freight container must be marked with identification numbers for the materials in any quantity and placarded as required by subpart F of the HMR.

C. Placarding Exception in Port Areas

In this final rule, we are also providing a limited exception from PIH placarding requirements applicable to transport vehicles and freight containers. A transport vehicle or freight container used to transport packages of PIH materials in international transportation may be placarded with placards that conform to IMDG Code for ''Class 6.1'' or ''Class 2.3'' materials, as appropriate, instead of the new PIH placards, when transported within a single port area (including contiguous harbor) and when marked with appropriate identification numbers. For highway or rail transportation to or from the port area within the United States, the transport vehicle or freight container must display the appropriate PIH placard.

D. Additional Revisions

In this final rule, we are revising §§ 171.12(b)(8) and 171.12a(b)(5) for clarity. In addition, we are revising §§ 172.400a, 172.407(f) and 172.519(f) to make the current labeling and placarding exceptions consistent with the PIH labeling and placarding exceptions in this final rule.

III. Transitional Provisions

In the final rule issued under Docket HM–206, we included transitional provisions for continued use of the old POISON or POISON GAS placards until October 1, 2001. These transitional provisions remain in effect. Therefore, for materials poisonous by inhalation offered for transportation or transported by all modes of transportation, until October 1, 2001, placards may be used that conform to specifications for placards: (1) In effect on September 30, 1991; (2) specified in the December 21, 1990 final rule for highway transportation only; or specified in the July 22, 1997 final rule.

IV. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. A regulatory evaluation prepared for the January 8, 1997 final rule is available and has been placed in the docket for this rulemaking. The possible savings associated with avoiding delay or frustration of shipments are considered so minimal as to not warrant revision of the regulatory evaluation. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This final rule preempts state, local, and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Federal hazardous materials transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) that preempts state, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(1) The designation, description, and classification of hazardous materials;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule addresses covered subject item 2 above and preempts state, local, and Indian tribe requirements not meeting the ''substantively the same'' standard. This final rule is necessary to assure an acceptable level of safety for the transportation of PIH materials and to facilitate international transportation of these materials.

Federal hazardous materials transportation law provides at section 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA has determined that the effective date of federal preemption be 90 days from publication of this final rule in the **Federal Register**.

C. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), requires an agency to review regulations to assess their impact on small entities unless the agency determinates that a rule is not expected to have a significant impact on a substantial number of small entities. This final rule provides relief to certain small entities by excepting certain international shipments of PIH materials from labeling and placarding requirements that differ from international requirements. I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. This final rule does not contain any new information collection requirements.

F. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading of this document to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector.

H. Environmental Assessment

This final rule provides a limited exception from PIH labeling and placarding requirements for certain shipments offered for or transported in international commerce. The limited exception will not affect emergency response to incidents involving PIH materials because the PIH hazard will be prominently highlighted on shipping papers, on package markings, and by use of applicable 4-digit identification numbers and PIH placards on freight containers and transport vehicles. We find that there are no significant environmental impacts associated with this final rule.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, the interim rule amending 49 CFR parts 171 and 172 which was published at 64 FR 50260 on September 16, 1999, and amended at 64 FR 51719 on September 24, 1999, is adopted as a final rule with the following changes:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR part 1.

2. In § 171.12, paragraphs (b)(8)(iii) and (iv) are revised and new paragraphs (b)(8)(v), (b)(8)(vi), and (e) are added to read as follows:

§ 171.12 Import and export shipments.

* * * * *

(b) * * *

(8) * * *

(iii) The package must be marked in accordance with § 172.313 of this subchapter;

(iv) Except as provided in paragraph (b)(8)(v) of this section, the package must be labeled or placarded POISON GAS or POISON INHALATION HAZARD, as appropriate, in accordance with subparts E and F of this subchapter;

(v) A label or placard that conforms to IMDG Code specifications for a ''Class 2.3'' or ''Class 6.1'' label or placard may be substituted for the POISON GAS or POISON INHALATION HAZARD label or placard required by paragraph (b)(8)(iv) of this section on a package transported in a closed transport vehicle or freight container. The transport vehicle or freight container must be marked with identification numbers for the hazardous material, regardless of the total quantity contained in the transport vehicle or freight container, in the manner specified in § 172.313(c) of this subchapter and placarded as required by subpart F of this subchapter;

(vi) A package, freight container, or transport vehicle may be placarded in conformance with IMDG Code placard specifications for ''Class 2.3'' or ''Class 6.1'', as appropriate, in place of the POISON GAS or POISON INHALATION HAZARD placard required by paragraph (b)(8)(iv) of this section when moving within a single port area, including contiguous harbor.

* * * * *

(e) *Shipments to or from Mexico.* Unless otherwise excepted, hazardous materials shipments from Mexico to the United States or from the United States to Mexico must conform to all applicable requirements of this subchapter. When a hazardous material that is a material poisonous by inhalation (see § 171.8) is transported by highway or rail from Mexico to the United States, or from the United States to Mexico, the following requirements apply:

(1) The shipping description must include the words ''Toxic Inhalation Hazard'' or ''Poison-Inhalation Hazard'' or ''Inhalation Hazard'', as required in § 172.203(m) of this subchapter.

(2) The material must be packaged in accordance with requirements of this subchapter.

(3) The package must be marked in accordance with § 172.313 of this subchapter.

(4) Except as provided in paragraph (c)(5) of this section, the package must be labeled or placarded POISON GAS or POISON INHALATION HAZARD, as appropriate, in accordance with subparts E and F of this subchapter.

(5) A label or placard that conforms to the UN Recommendations on the Transport of Dangerous Goods specifications for a ''Division 2.3'' or ''Division 6.1'' label or placard may be substituted for the POISON GAS or POISON INHALATION HAZARD label or placard required by §§ 172.400(a) and 172.504(e) of this subchapter on a package transported in a closed transport vehicle or freight container. The transport vehicle or freight container must be marked with identification numbers for the material, regardless of the total quantity contained in the transport vehicle or freight container, in the manner specified in § 172.313(c) of this subchapter and placarded as required by subpart F of this subchapter.

3. In § 171.12a, paragraphs (b)(5)(iii) and (iv) are revised and new paragraphs (b)(5)(v) and (vi) are added, to read as follows:

§ 171.12a Canadian shipments and packagings.

* * * * *

(b) * * *

(5) * * *

(iii) The package must be marked in accordance with § 172.313 of this subchapter;

(iv) Except as provided in paragraph (b)(5)(v) of this section and for a package containing anhydrous ammonia, the package must be labeled or placarded POISON GAS or POISON INHALATION HAZARD, as appropriate, in accordance with subparts E and F of this subchapter;

(v) A label or placard that conforms to the specifications in the TDG Regulations for a ''Class 2.3'' or ''Class 6.1'' label or placard may be substituted for the POISON GAS or POISON INHALATION HAZARD label or placard required by paragraph (b)(5)(iv) of this section on a package transported in a closed transport vehicle or freight container. The transport vehicle or freight container must be marked with identification numbers for the material, regardless of quantity, in the manner specified in § 172.313(c) of this subchapter and placarded as required by subpart F of this subchapter. When moving in the United States, the transport vehicle or freight container may also be placarded in accordance with the appropriate TDG regulations in addition to the POISON GAS or POISON INHALATION HAZARD placards required by paragraph (b)(5)(iv) of this section;

(vi) For shipments of anhydrous ammonia, the shipping paper must contain an indication that the markings, labels and placards have been applied in conformance with the TDG Regulations and this paragraph (b)(5).

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

4. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

5. In § 172.400a, new paragraph (d) is added to read as follows:

§ 172.400a Exceptions from labeling.

* * * * *

(d) A package containing a material poisonous by inhalation (see § 171.8 of this subchapter) in a closed transport vehicle or freight container may be excepted from the POISON INHALATION HAZARD or POISON GAS label or placard, under the conditions set forth in §§ 171.12 and 171.12a of this subchapter.

6. In § 172.407, paragraph (f) is revised to read as follows:

§ 172.407 Label specifications.

* * * * *

(f) *Exceptions.* Except for materials poisonous by inhalation (See § 171.8 of this subchapter), a label conforming to specifications in the UN Recommendations may be used in place of a corresponding label that conforms to the requirements of this subpart.

* * * * *

7. In § 172.519, paragraph (f) is revised to read as follows:

§ 172.519 General specifications for placards.

* * * * *

(f) *Exceptions.* When hazardous materials are offered for transportation or transported under the provisions of §§ 171.11, 171.12, or 171.12a of this subchapter, a placard conforming to the specifications in the ICAO Technical Instructions, the IMDG Code, or the TDG Regulations, respectively, may be used in place of a corresponding placard that conforms to the requirements of this subpart, except that a bulk packaging, transport vehicle, or freight container containing a material poisonous by inhalation (see § 171.8 of this subchapter) must be placarded in accordance with this subpart (see §§ 171.12(b)(8), 171.12(e) and 171.12a(b)(5) of this subchapter).

* * * * *

Issued in Washington, DC, on August 15, 2001, under the authority delegated in 49 CFR part 1.

Robert A. McGuire,

Acting Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 01–21002 Filed 8–21–01; 8:45 am]

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Federal Register

Wednesday,
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Part IV

Department of Housing and Urban Development

24 CFR Parts 300 et al.
Government National Mortgage Association Mortgage-Backed Securities Program—Payments to Securityholders; Book-Entry Procedures; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 300, 320, 330 and 350

[Docket No. FR–4629–F–02]

RIN 2503–AA16

Government National Mortgage Association Mortgage-Backed Securities Program—Payments to Securityholders; Book-Entry Procedures

AGENCY: Government National Mortgage Association, HUD.

ACTION: Final rule.

SUMMARY: This final rule issued by the Government National Mortgage Association (the ''Association'' or ''Ginnie Mae'') will govern payments on Ginnie Mae I and Ginnie Mae II Pass-Through Securities (''Ginnie Mae MBS'') registered in the name of a securities intermediary and clearing corporation (a ''Depository''). The rule requires that payments on Ginnie Mae MBS due to Depositories be made in immediately available funds and supersedes any current provisions allowing those payments to be made by check. Payments to other security holders may be made by check or other means provided the check is received by the security holder not later than the applicable payment date specified in the Ginnie Mae Mortgage-Backed Securities Guide (the ''Ginnie Mae MBS Guide'' or the ''Guide''). The final rule eliminates any requirement that a physical certificate representing a Ginnie Mae MBS or, for consistency, a Ginnie Mae multiclass security (''Ginnie Mae Multiclass Securities,'' and together with Ginnie Mae MBS, ''Ginnie Mae Securities'') be maintained by a Depository. In addition, in the final rule, because the Federal Reserve Banks are expected to become Depositories for all book-entry Ginnie Mae Securities, Ginnie Mae is, consistent with the practices of other Federal entities with securities on the Fedwire Book-Entry Securities System, adopting an appropriate version of the standard technical rules under which book-entry Ginnie Mae Securities will be held and transferred on such system. The final rule follows publication of a February 26, 2001 proposed rule, takes into consideration public comment on the proposed rule, and make certain changes at this final rule stage.

EFFECTIVE DATES: October 1, 2001. This rule is applicable to electronic payments covered by § 320.5(h)(1) , beginning with payments due on and after October 1, 2001. For the elimination of certificates covered by § 320.5(g), the rule is applicable on the date on which each issue is first registered in the name of a Federal Reserve Bank. In no event, however, shall the applicability of the final rule with respect to any issue of Ginnie Mae Securities be earlier than October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Thomas R. Weakland, Vice President, Office of Program Administration, Government National Mortgage Association, Department of Housing and Urban Development, Room 6204, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–2884. A telecommunications device for hearing-impaired persons (TTY) is available at (202) 708–9300. (The telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 2001 (66 FR 12428), Ginnie Mae published a proposed rule that would require payments on Ginnie Mae I Modified Pass-Through Securities (''Ginnie Mae I MBS'') with an issue date before October 1, 1998, and registered in the name of a Depository to be made in immediately available funds as prescribed by Ginnie Mae, thus superseding any current provision allowing payments to be made by check. The proposed rule also provided that, if payment on certificated Ginnie Mae I MBS was made by check, the check must be received by the securityholder not later than the 15th day of each month. In addition, the proposed rule would have eliminated any requirement that a Depository of a Ginnie Mae Security maintain a physical certificate evidencing such security.

II. Reasons for This Rulemaking

A. Statutory Purpose

Ginnie Mae, a wholly owned corporate instrumentality of the United States within the Department of Housing and Urban Development, was created as a distinct entity in 1968. Ginnie Mae can trace its origins to the creation of the National Mortgage Association of Washington (later renamed the Federal National Mortgage Association) on February 10, 1938, by the Federal Housing Administrator, acting under Title III of the National Housing Act. As stated in section 301 of the National Housing Act, Ginnie Mae's purposes are:

To establish secondary market facilities for residential mortgages, to provide that the operations thereof shall be financed by private capital to the maximum extent feasible, and to authorize such facilities to—

(1) Provide stability in the secondary market for residential mortgages;

(2) Respond appropriately to the private capital market;

(3) Provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing;

(4) Promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing .

Ginnie Mae began guaranteeing mortgage-backed securities in 1970. Since that date, more than $1 trillion of Ginnie Mae MBS have been issued and sold in the capital markets, and over $600 billion of such securities currently are outstanding. Consistent with its legislative purpose, Ginnie Mae's guaranteed mortgage-backed securities program (the ''MBS Program'') has been a significant contributor to the expansion of homeownership opportunities for American families. Ginnie Mae has provided an efficient link between the capital markets, issuers and homebuyers. By making Ginnie Mae MBS attractive to investors, Ginnie Mae ensures that a continuous flow of private capital is available to fund mortgage loans. By helping to ensure that mortgage funds are available throughout the country, Ginnie Mae has been instrumental in eliminating regional differences in the availability of mortgage credit for American families.

In issuing the proposed rule, Ginnie Mae drew on its long experience and expertise in an effort to continue to satisfy its Congressionally mandated objectives. Most of the approximately $600 billion of outstanding Ginnie Mae MBS are registered in the name of the current Depository, The Depository Trust & Clearing Corporation (''DTCC''), for the benefit of holders reflected on the books of DTCC. The final rule based on the proposed rule will enable Ginnie Mae to transfer the book-entry Ginnie Mae MBS to new Depositories, the Federal Reserve Banks. Ginnie Mae has determined that clearing, settling and paying Ginnie Mae MBS through the Federal Reserve Banks will further its statutory mission as established by Congress by increasing the liquidity of

Ginnie Mae MBS, decreasing the costs of issuance of Ginnie Mae MBS, enhancing the stability of Ginnie Mae's MBS programs, improving the market for Ginnie Mae MBS, and thus contributing to maximizing capital for residential mortgage financing and the public's access to such financing.

B. Request From the Securities Industry

Early in 2000, the investment industry asked Ginnie Mae whether the payment and settlement system of the Federal Reserve Banks could be used for Ginnie Mae MBS. The Federal Reserve Banks' Fedwire Book-Entry Securities System (the ''Fedwire System'') is used to clear, settle and pay all United States Treasury marketable debt instruments, most of the book-entry securities issued by other government agencies and government sponsored enterprises (collectively with the United States Treasury securities, referred to herein as ''United States government securities'') and the mortgage-backed securities (''Fannie Mae and Freddie Mac MBS'') issued by Federal National Mortgage Association (now Fannie Mae) and the Federal Home Loan Mortgage Corporation (''Freddie Mac''). The use of the Fedwire System for Ginnie Mae Securities also is consistent with recent recommendations of the International Securities Services Association for securities clearing and settlement systems to implement processes for delivery against payment and immediate payment in central bank monies.

C. Adopting the Fedwire System in This Final Rule

Ginnie Mae, after careful review and consideration of public comments, has concluded that the Fedwire System will provide a more efficient means to clear, settle and pay book-entry Ginnie Mae Securities.

1. *Uniformity.* By utilizing the Fedwire System, Ginnie Mae Securities would trade, clear and settle in the same manner as United States government securities and Fannie Mae and Freddie Mac MBS. The uniformity created by adding Ginnie Mae Securities to the Fedwire System will improve the market for Ginnie Mae Securities. As an incidental benefit, because of volume efficiencies, it is likely also to improve the market for other United States government securities and Fannie Mae and Freddie Mac MBS.

2. *Payment Efficiencies.* Use of Automated Clearing House (''ACH'') debits in conjunction with the use of the Fedwire System will decrease payment delays and uncertainties and reduce costs.

Eliminating Payment Delays. Under Ginnie Mae's current rules, DTCC receives payments on Ginnie Mae MBS by electronic transfer or check and then credits those payments to the beneficial owners of Ginnie Mae MBS. DTCC has been able to accommodate Ginnie Mae's current rules and has been able to credit those payments on the next business day. The delay between the receipt of funds and credit of payments to beneficial owners of Ginnie Mae MBS is inefficient and inconsistent with how payments are made on other United States government securities and Fannie Mae and Freddie Mac MBS. In the Fedwire System, Federal Reserve Banks credit payments to security holders on the same business day the Federal Reserve Banks receive the payments. Same day credit should result in more favorable pricing for Ginnie Mae MBS because investors will not need to make pricing adjustments for payment delays.

Eliminating Payment Uncertainties. The use of ACH debits as the payment mechanism eliminates uncertainty as to principal payments'that is, the amount remitted to the investor will not be different from what is reported as being due to the investor.

Reducing Costs. In order to accommodate Ginnie Mae's current rules, DTCC has had to create lines of credit in order to cover the risk that issuers' checks will not clear in time to credit payments to securityholders. Maintaining the availability of lines of credit increases the costs of investing in Ginnie Mae MBS and subjects Ginnie Mae to a larger credit risk than under the proposed system.

3. *Attractiveness to Foreign Private Investors and Central Banks.* Ginnie Mae seeks to increase demand for its securities in order to reduce the cost of housing. With fewer United States Treasury securities on the market, Ginnie Mae MBS, carrying the full faith and credit of the United States government, are a desirable alternative investment for foreign investors seeking to maximize investment return with a minimum of credit risk. Use of the Fedwire System for settlement and clearing of Ginnie Mae Securities, including payments in United States central bank funds, will eliminate any perceived risk in having a private party (DTCC) involved in the payment system for Ginnie Mae Securities. Foreign investors, particularly foreign central banks, have indicated a preference for the Fedwire System.

Moreover, Ginnie Mae has considered the recent change in the focus of European central banks as a result of the European economic and monetary union. With the European Central Bank assuming the responsibilities of monetary policymaking and implementation for the union, the task of maintaining price stability and managing foreign currency exchange for the eleven members of the union has shifted away from those members' central banks to the European Central Bank. As a result, the members' central bank reserves no longer are required for foreign exchange or monetary policy, and members increasingly focus on growing these reserves and maximizing the total return on such reserves. Most foreign central banks are members of the Fedwire System and can clear and settle directly with the Federal Reserve Banks without having to use an intermediary such as a clearing bank. Settling through DTCC would require foreign central banks to create new processes and procedures that create potential operational risks for them.

Ginnie Mae believes that foreign investors, particularly foreign central banks, will be more likely to invest in Ginnie Mae Securities if they are traded on the Fedwire System, and thus the change to the Fedwire System should expand the market and stimulate demand for Ginnie Mae Securities. This would further Ginnie Mae's statutory purposes of assisting the secondary market for residential mortgages and promoting access to mortgage credit by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential financing.

4. *Back Office Efficiencies.* Over time, having a single system through which United States government securities, Fannie Mae and Freddie Mac MBS and Ginnie Mae Securities are traded should result in decreased costs of back office operations for participants in the government securities market, including issuers of Ginnie Mae MBS. In addition, requiring issuers of book-entry Ginnie Mae I MBS who pay by check to convert to ACH payments should not impose operating inefficiencies on most issuers, because only three issuers now make payments on Ginnie Mae MBS exclusively by check.

5. *More Efficient Securities Settlement Functions.* In clearing and settling securities trades, the Federal Reserve Banks have a distinct advantage over DTCC. DTCC and the Federal Reserve Banks both process transactions using the ''delivery against payment'' mechanism. That is, the security and the payment for the security are exchanged simultaneously. This simultaneous exchange significantly eliminates settlement risk, because once the transfer is received it is final and cannot be reversed. However, under the

Fedwire System, transfers are settled immediately in central bank funds throughout the day. Thus, all Fedwire transfers are final as soon as the receiving institution is notified of the credit to its account.

In addition, all trades made by Federal Reserve Bank participants in United States Government securities, Fannie Mae and Freddie Mac MBS and Ginnie Mae MBS can be netted against each other, requiring less capital for settlement purposes.

6. *Eliminating Physical Securities.* In connection with the move to the Fedwire System, all physical certificates currently evidencing book-entry Ginnie Mae Securities will be eliminated. This move will eliminate the cost to the system of maintaining custodial facilities for physical certificates.

7. *Maximizing Capital and Access to Residential Mortgage Financing by the Public.* By instituting a single standard under the Fedwire System, Ginnie Mae believes that the secondary market for residential loans guaranteed by it will function more efficiently and increase liquidity for Ginnie Mae Securities, as described above. The overall effect of this should be to maximize capital available for residential mortgage financing. Ginnie Mae believes it has a duty to maximize administrative efficiencies that promote its central mission, as mandated by Congress, and has concluded that the change to payment by electronic means instead of by check fulfills and furthers this duty.

D. Conditions Governing Use of Fedwire System

In order to utilize the Fedwire System for clearing, settling and paying Ginnie Mae MBS, two changes to Ginnie Mae's MBS Program must be made. First, because the Federal Reserve Banks do not accept payments on securities by check, all payments made by issuers with respect to Ginnie Mae MBS must be made through ACH debits, or other electronic method acceptable to Ginnie Mae and the Federal Reserve Banks, in immediately available funds. Further, as noted in the Federal Reserve Bank of New York's comments on the February 26, 2001 proposed rule, in order to facilitate payment by ACH debit, issuers must hold funds in accounts that are capable of being accessed by ACH debit by or on behalf of the Federal Reserve Banks.

Second, in order to achieve the efficiencies and fungibility of a single system for transferring interests both in Ginnie Mae Securities and other United States government securities and Fannie Mae and Freddie Mac MBS utilizing the Fedwire System, the Federal Reserve Banks have asked that Ginnie Mae adopt the regulations described in part 350 as part of the final rule. Part 350 is discussed in more detail below.

III. Discussion of Public Comments

HUD received 12 public comments on its proposed rule. The following provides a discussion of the issues raised by the commenters and HUD's response to these comments.

Comment—Objection—The Loss of Float

Ginnie Mae received several comments essentially stating that issuers who make payments by check are entitled to continue to use this method of payment on book-entry Ginnie Mae I MBS, because this method provides them a monetary benefit that was taken into consideration in pricing their securities. This benefit, some commenters assert, is both a property right and a contract right.

Response. Ginnie Mae disagrees with these assertions as discussed below.

1. Issuers Have No Property Right

Some of the commenters argue that they have a property right in the ''float'' created by non-electronic methods of payment, and that the proposed rule constitutes a ''taking'' of that property right by Ginnie Mae. In order to bring a successful Fifth Amendment takings claim, an issuer must demonstrate that its ''private property [was] taken for public use, without just compensation.'' U.S. Constitution, Amendment V. As an initial matter, a plaintiff must demonstrate the existence of a ''legally-cognizable property interest'' and that the government interfered with plaintiff's use of that property. *See Buse Timber & Sales, Inc.* v. *United States,* 45 Fed. Cl. 258 (1999). Ginnie Mae believes that the commenters cannot satisfy this test, for the following reasons.

(a) Neither Congress nor Ginnie Mae's MBS Program gave issuers a right to make payments by check. Further, the Ginnie Mae MBS Program does not permit issuers to earn interest on their principal and interest custodial accounts. *See* Guide, section 16–3(A)(requiring custodial accounts to be non-interest bearing accounts). If an issuer has made a separate arrangement with a custodial bank to receive a benefit resulting from the deposit of principal and interest collections, this separate arrangement and benefit neither creates a right to make payment by check nor binds Ginnie Mae. Moreover, to give issuers a right to the float would be inconsistent with the purposes set out in section 301 of the National Housing Act. Ginnie Mae's authorizing legislation charged it with the responsibility for: Providing stability in the secondary market for residential mortgages; responding appropriately to the private capital market; and providing ongoing assistance to the secondary market for residential mortgages by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing. By enacting the proposed rule, Ginnie Mae is responding to this charge by taking measures that are needed to improve the efficiency and effectiveness of the secondary market for Ginnie Mae Securities.

(b) Changes over time in the speed of mail delivery and check collection and clearing processes also belie the notion that issuers have a property right in their float. In particular, inefficiencies in the collection of checks and the corresponding availability of funds led Congress to enact in 1987 the Expedited Funds Availability Act (Title VI of the Competitive Equality Banking Act of 1987), which set out standardized funds availability schedules and directed the Board of Governors of the Federal Reserve System (the ''Federal Reserve Board'') to take further steps to reduce check clearing and processing times. Expedited Funds Availability Act, 12 U.S.C. 4001–4010 (2001). The act and regulations adopted by the Federal Reserve Board imposed shorter time periods between presentation of checks and the clearing of checks (the ''settlement period'') by requiring the ''expeditious'' return of checks or timely payment between banks. *See, e.g.,* 12 U.S.C. 4002 and 12 CFR 229.30, 339.36(f)(2001) (providing for same day funding for certain checks and cash equivalents). The Federal Reserve Board also was charged with the responsibility to consider further proposals to accelerate the settlement period between banks. *See* 12 U.S.C. 4008(b) and (c). Future technical innovations may cause the Federal Reserve Board to pursue even shorter check clearing times. Ginnie Mae is not aware of any successful challenge to such actions as ''unconstitutional takings of float'' by the Federal Reserve Board.

(c) A taking occurs when government action interferes with the affected party's ''reasonable investment-backed expectations.'' *See Penn Central Transp. Co.* v. *New York City,* 438 U.S. 104, 124 (1978). Here, it is highly implausible that the issuers reasonably expected that more efficient payment methods would never be introduced during the life of the securities being issued. Ginnie Mae has, at considerable expense, adopted electronic processes in place of

inefficient, paper-based delivery methods as technological improvements have made such changes feasible. For example, in connection with the issuance of Ginnie Mae MBS, the Ginnie Mae Guide permits issuers to submit electronic versions of various schedules and documents via the GinnieNET 2020 system. *See* generally http://www.ginniemae.gov. Ginnie Mae also continues to improve electronic data interchange capabilities which allows trading partners to exchange reporting and additional information with one another and Ginnie Mae. *See* All Participants in Ginnie Mae Programs Memorandum 99–04 (Feb. 10, 1999). Technical improvements in the payment process on Ginnie Mae MBS are a natural extension of Ginnie Mae's electronic and automation initiatives.

The value, significance and cost of Ginnie Mae's full faith and credit guaranty, coupled with continued issuance of Ginnie Mae certificates after adoption of mandatory payment by wire transfer, effective for Ginnie Mae I MBS with an issue date on or after October 1, 1998, without any change in the guaranty fee, belie any contention that payment by check was an ''investment-backed'' expectation. Similarly, the evolving changes in the check collection process under the mandate of the Funds Availability Act undercut any ''investment-backed expectation'' that issuers would always have the benefit of float.

(d) There is no set formula for determining whether a deprivation of property constitutes a taking. *See Connolly* v. *Pension Benefit Guar. Corp.,* 475 U.S. 211, 224 (1986) (rejecting a takings challenge to legislation that, by requiring private employers who chose to withdraw from multiemployer pension plans to pay a proportionate share of the plan's unfunded but vested benefits in order to prevent the failure of the plans, created liability in excess of the limited liability expressly fixed by the pension plan agreements). Indeed, no wrongful taking has been found to occur when the government adjusts private economic rights for the common good rather than simply appropriating fees for the government's own use. *See Connolly* at 225, 227 (emphasizing that ''[t]hose who do business in the regulated field cannot object if the legislative scheme is buttressed by subsequent Amendments to achieve the legislative end.'' (quoting *FHA* v. *Darlington, Inc.,* 358 U.S. 84, 91 (1958)).

(e) Applying the foregoing test, issuers receive the benefits of Ginnie Mae's guaranty of their securities under what is clearly a regulatory scheme. Issuers could reasonably expect that Ginnie Mae would exercise its regulatory powers to make adjustments to its programs to fulfill its legislative mandate. Ginnie Mae is acting in its regulatory capacity under a public program and in accordance with Ginnie Mae's legislative purpose: to maintain and enhance the value and liquidity in the secondary market for mortgage loans and mortgage-backed securities.

(f) The mortgage loan industry and its secondary market has been moving steadily toward paperless execution as technology advances—mortgage bankers are originating mortgage loans over the internet, mortgages are being registered under central registry systems, securities are being issued in book-entry form, and substantially all United States government securities and Fannie Mae and Freddie Mac MBS are issued in electronic form and require electronic payments. Ginnie Mae's adoption of electronic payment requirements for all Ginnie Mae MBS with an issue date on or after October 1, 1998, was merely one in a series of business practice changes that have been adopted to keep up with changing technology and a fast-developing financial market. As discussed above, in response to technology and at the request of issuers, Ginnie Mae incurred substantial costs to provide issuers the ability to submit mortgage pools electronically and to exchange reports and data electronically. Commenters could have reasonably expected this innovation in the method of payment.

2. No Limitation on Ginnie Mae's Ability To Modify Contract Rights

As noted earlier, the commenters also asserted the retention of making payments by check on the basis of contract rights. The commenters stated that their ''contracts'' under the Ginnie Mae MBS Program allow them to continue to make payments by check, and that Ginnie Mae is otherwise bound by whatever outmoded business practices existed at the time the contracts were entered into. Ginnie Mae disagrees for the following reasons.

(a) The proposed rule does not change the date by which payments are required to be paid to security holders. DTCC is the security holder and DTCC is paid on the payment date. The same commenter suggests that some investors may prefer to receive payment by check. If an investor wishes to receive payments by check, then the investor may request the issuance of a physical certificate.

Payment by electronic transfer is the payment mechanism for all book-entry Ginnie Mae I MBS with issue date on or after October 1, 1998, all Ginnie Mae II MBS, all United States government securities and Fannie Mae and Freddie Mac MBS held in the Fedwire System, and most privately-issued mortgage-backed securities.

(b) Even if the method of payment on Ginnie Mae I MBS were considered a part of a contract between Ginnie Mae and the issuers, Ginnie Mae nonetheless has authority to regulate the method of payment under the United States Supreme Court's ''unmistakability doctrine.'' *See Bowen* v. *Public Agencies Opposed to Social Security Entrapment,* 477 U.S. 41, 52 (1986) (finding that in the absence of an unmistakable promise to the contrary, all ''contractual arrangements, including those to which the sovereign is a party, remain subject to subsequent legislation by the sovereign''); *United States* v. *Winstar,* 518 U.S. 839 (1996); and *Grass Valley Terrace* v. *United States,* 46 Fed. Cl. 629 (2000) (finding that the ''unmistakability doctrine'' applies to all government contracts, and that the government had not made an unmistakable promise not to change borrowers' contractual prepayment options because the prepayment options were not ''the essence of the agreement'' between the government and the borrowers). *But see General Dynamics Corp.* v. *United States,* 74 Fed. Cl. 514 (2000) (adopting a two-step analysis which first determines if the government action regarding a contract is a ''public and general'' act rather than a way of releasing the government from its own contractual obligations, and if so, then applies the unmistakability doctrine; and finding that government action for the purpose of reducing federal expenses is not a ''public and general act''). Here, Ginnie Mae is requiring electronic payment to further its statutory mission established by Congress, not to avoid an obligation.

(c) Applying the ''unmistakability doctrine'' to Ginnie Mae's proposal, it would have to be established that either:

(1) Ginnie Mae made an unmistakable promise not to exercise its sovereign power to regulate the method of payment on Ginnie Mae MBS, or

(2) The issuers' option to make payment by check was ''the essence of'' or at least a significant part of the essence of their agreement with Ginnie Mae.

Ginnie Mae believes that neither is the case.

(d) Nothing in Ginnie Mae's Charter Act, its regulations, the Ginnie Mae MBS Guide or Ginnie Mae's guaranty agreements (as discussed below) suggest that Ginnie Mae would *not* exercise its

regulatory authority with respect to maintaining and enhancing the value and liquidity in the secondary market for mortgage loans and mortgage-backed securities. Indeed, Ginnie Mae acts on a regular basis, as evidenced by the change in the Ginnie Mae MBS Guide regarding issuances of Ginnie Mae I MBS on and after October 1, 1998, to make the market for Ginnie Mae I MBS more efficient.

(e) Similarly, nothing in Ginnie Mae's Charter Act, its regulations, the Ginnie Mae Guide or Ginnie Mae's guaranty agreements suggest that Ginnie Mae waived its right to modify the terms of its MBS Program. Ginnie Mae MBS are issued pursuant to the Ginnie Mae MBS Guide, which specifies, among other things, the methods by which payments are required to be made on Ginnie Mae MBS. The Ginnie Mae MBS Guide permits Ginnie Mae to modify the Guide from time to time, so long as such modifications are consistent with applicable laws and regulations and its outstanding guaranty agreements. In its guaranty agreements with issuers, Ginnie Mae agrees to guarantee payments of principal and interest payable by issuers to holders of Ginnie Mae MBS in return for a guaranty premium and the issuers' commitments to comply with the guaranty agreement and the provisions of the Ginnie Mae MBS Guide (to the extent such provisions do not conflict with the guaranty agreements) as the Guide may be amended from time to time. The guaranty agreements neither include the specific terms of the Ginnie Mae MBS nor specify the methods by which payments are required to be made by the issuers to security holders. Consequently, Ginnie Mae has reserved the right to change the methods by which payments are made to security holders.

(f) The commenters also have not established that the right to make payment by check goes to ''the essence of the agreement'' with Ginnie Mae. In this case, there is no doubt that, if there is a contract between Ginnie Mae and its issuers, then a viable contract still remains if nothing is changed other than the method of making payments. This is evidenced by the fact that issuers voluntarily make electronic payments on certificated Ginnie Mae I MBS (even though issuers are permitted to make these payments by check) and that issuers have continued to issue Ginnie Mae I MBS after the date on which electronic payments were required to be made with respect to all new issuances.

(g) The commenters seem to propose that, even if there is no express provision in the contracts limiting Ginnie Mae's authority to modify the payment rules, by implication they have the right to make payments in whatever manner they please. Ginnie Mae reads no such implication into its program documents. Any such implication would be contrary both to the doctrine of unmistakability and to what Congress has by statute, as discussed above, directed Ginnie Mae to do.

3. Estoppel Does Not Run Against Ginnie Mae

With no basis for a claim of property right or contract right, it appears that the commenters' essential claim is one of promissory estoppel. Because Ginnie Mae has allowed payment by check in the past and the commenters have benefited from this practice, they allege a legal ''right'' has been created. Ginnie Mae has considered this claim very carefully under the legal tenets discussed below, but ultimately, concludes that the claim of a right to inefficient payment here is not justified.

Taking another approach, one commenter states that, when Ginnie Mae amended its MBS Guide in 1998 and left in place the check paying method for Ginnie Mae I MBS with an issue date before October 1, 1998, Ginnie Mae in effect ''ratified'' that check paying method and is now estopped from changing it.

(a) The ordinary rules of estoppel do *not* apply when estoppel is claimed against the government. A party asserting estoppel against the government bears a ''heavy burden,'' and the Supreme Court has never been hospitable toward such claims. *See Bateman* v. *Federal Deposit Insurance Corporation,* 112 F. Supp.2d 89, 94 (D. Mass. 2000); *Heckler* v. *Community Health Services, Inc.,* 467 U.S. 51 (1984); and *see generally* Annot., Modern Status of Applicability of Doctrine of Estoppel Against Federal Government and its Agencies, 27 ALR Fed. 702 (2000); Annot., Applicability of Doctrine of Estoppel Against Government and its Governmental Agencies, 1 ALR 2nd 338 (1999).

(b) Some opinions suggest that there might be estoppel against the government if there is ''affirmative misconduct.'' *See Melrose Associates* v. *United States,* 45 Fed. Cl. 56, 59 (Ct. Fed. Cl. 1999), *aff'd without opinion,* 2001 U.S. App. LEXIS 3251 (Fed. Cir. Feb. 12, 2001). But the commenters have not claimed any misconduct by Ginnie Mae. As explained above, the action Ginnie Mae takes today is taken out of a desire to follow the directions Congress has given it.

(c) Although the Supreme Court has stopped short of establishing a rule barring all claims of estoppel against the government, it has found that ''the whole history and practice with respect to claims against the United States reveals the impossibility of an estoppel claim for money in violation of a statute.'' *Spiroff* v. *United States,* 95 F. Supp.2d 673, 677–78 (E.D. Mich. 2000). Ginnie Mae does not perceive any special circumstances here that would justify such a claim.

(d) If the claim of equitable estoppel were between two private parties, the claimant would have to prove several things, including that he was ignorant of material facts known to the other party. *See Penny* v. *Giuffrida,* 897 F.2d 1543 (10th Cir. 1990). Even if the ordinary estoppel rules apply to Ginnie Mae's actions, the commenters have not alleged that Ginnie Mae failed to disclose material facts that were known only to it.

Comment—Less Burdensome Alternatives to Ginnie Mae's Proposal

Several commenters stated that the proposed regulation unfairly burdens issuers who pay by check and that there are less burdensome alternatives to eliminating the float enjoyed by these issuers. The commenters suggested five specific alternatives.

Response. Ginnie Mae has carefully considered each alternative and determined that grafting any of these alternatives into the Fedwire System to accommodate Ginnie Mae Securities would not satisfy two important Ginnie Mae goals—uniformity of treatment with United States government securities and Fannie Mae and Freddie Mac MBS and elimination of payment uncertainties—that will be achieved by adoption of the final rule. In addition, the responses set out below more fully explain why each alternative is not a solution that benefits Ginnie Mae issuers and investors generally.

Alternative 1. Allow issuers of Ginnie Mae I MBS with an issue date before October 1, 1998, that currently remit by check on the 15th of the month, to wire payments on such securities on the 16th of the month. To implement this alternative, commenters suggested that Ginnie Mae advise investors currently paid by check that if they want to receive funds by wire transfer on such Ginnie Mae I MBS, then the investors must agree to be paid on the 16th.

Response. The simple problem with this alternative is that it defeats the uniformity that Ginnie Mae is seeking. Were this alternative adopted, some otherwise fungible Ginnie Mae I MBS would pay on one date, while others would be paid on another date.

Alternative 2. Move all book-entry Ginnie Mae MBS to the Fedwire System except for Ginnie Mae I MBS issued prior to October 1, 1998. Securities remaining at DTCC would include securities with respect to which issuers are currently paying electronically in order to defray DTCC costs, including operating costs and the cost of funding check-paying issuer's float.

Response. Again, a significant problem with this alternative is that it defeats the uniformity that Ginnie Mae is seeking with respect to the payment dates for otherwise fungible book-entry Ginnie Mae I MBS. Further, Ginnie Mae will lose the operation of efficiencies it seeks if it has separate processes dependent upon a Ginnie Mae MBS's date of issuance.

In addition, there are practical difficulties. It is not clear whether DTCC would continue such limited MBS operations after securities that were issued on or after October 1, 1998 moved to the Fedwire System. DTCC, as the registered security holder, receives most payments for book-entry Ginnie Mae I MBS electronically on the 15th of the month. There are no restrictions on DTCC's investment of such funds, and DTCC accrues interest on the funds overnight and pays the beneficial owners of such securities on the next business day. The investors have agreed that DTCC could pay them on the 16th of the month because the investors own DTCC and the interest that DTCC earns pays for its operations and enables it to advance funds to cover payments on the 16th for those checks that have not cleared. If the amount of securities paying electronically were significantly reduced, the funds available for operational expenses would be similarly reduced. It is not clear that the remaining interest would be sufficient to entice DTCC into continuing operations.

Alternative 3. Use a third party to process the issuers' checks with respect to book-entry Ginnie Mae I MBS issued before October 1, 1998.

Response. As in the case of alternatives 1 and 2, this alternative will result in two income payment dates. Furthermore, if Ginnie Mae arranged for a third party to process checks on the 15th, it is unlikely to obtain same day clearing and payment for those checks. Therefore, someone would still need to advance funds to cover checks so that investors in such securities could be paid on the 15th. Ginnie Mae has no legal authority to bear the cost of putting in place and maintaining such a process for the exclusive financial benefit of issuers that want to write checks. Moreover, such a process would not eliminate the risks associated with the involvement of a private party in the payment process. Thus, neither the added complication and expense nor the uncertainties of involving third parties in the payment process can be justified.

Alternative 4. Either Ginnie Mae or The Bond Market Association could reimburse affected issuers for monthly losses on float.

Response. Because Ginnie Mae has the authority to make the MBS Program changes contained in this final rule, it has no obligation to reimburse issuers for any loss of float occasioned by adoption of this rule. With respect to the suggestion that The Bond Market Association bear such expense, Ginnie Mae has no authority to impose this expense on the Association. The Bond Market Association has not indicated that it is willing to pay this expense.

Alternative 5. Ginnie Mae can reduce the guaranty fee payable by affected issuers to reimburse them for monthly losses on float.

Response. Again, because Ginnie Mae has the authority to make the MBS Program changes contained in this final rule, it has no obligation to reimburse issuers for any loss of float occasioned by adoption of this rule.

Comment—Objection to Administrative Process

Ginnie Mae received several comments questioning whether Ginnie Mae had followed proper administrative procedures. The commenters claim that thirty days was inadequate time for them to comment on the proposal.

Response. Ginnie Mae disagrees for the following reasons:

(a) HUD acknowledges that it is the general practice of HUD to provide a 60-day public comment period on all proposed rules. HUD, however, reduced its usual 60-day public comment period to 30 days for its February 26, 2001 proposed rule since most issuers would not be affected by the rule and the rule was not anticipated to implement changes that would be considered controversial. The proposed changes ensure that Ginnie Mae keeps pace with the efficiencies and effectiveness of modern systems and technology.

(b) HUD believes that the 30-day public comment period provided an adequate response time for the February 26, 2001 rule. The change in the method of payment is a fairly simple proposal that HUD believes should have been anticipated by the issuers in light of Ginnie Mae's previous adoption of other changes in its MBS programs to incorporate market innovations.

(c) The 30-day comment period also was adequate given the small number of persons affected by the proposed change. Approximately 24 out of approximately 300 issuers of Ginnie Mae I MBS make payments on book-entry securities by check. Of those 24 issuers, all but three issuers also make payments electronically on Ginnie Mae I MBS issued on or after October 1, 1998, and Ginnie Mae II MBS. Thus, for most affected issuers, the long-term benefits resulting from implementation of the final rule will far outweigh the short-term disadvantages for pre-October 1998 Ginnie Mae I MBS.

Moreover, Ginnie Mae has considered all comments that it has received on the proposed regulation, even comments received more than thirty days after the end of the comment period.

In addition to **Federal Register** publication, Ginnie Mae also provided notification and a description of its proposed rule in its All Participants in Ginnie Mae Programs Memorandum 01–07 (March 15, 2001). Ginnie Mae was not required to provide any additional notice of the proposed rulemaking to participants in its programs, and the memorandum was one of the routine communications that Ginnie Mae from time to time sends to participants in its programs. One of the commenters suggested that Ginnie Mae had violated the Administrative Procedures Act because it believed the description of the proposed rule in the memorandum implied that Ginnie Mae's decision to issue the new payment rule was predetermined. To the contrary, Ginnie Mae anticipated and has fully considered all comments received in response to the February 26, 2001 proposed notice, as well as the other factors discussed above.

Two commenters objected to the three-month period for implementing the conversion to the Fedwire System, which was described in the All Participants in Ginnie Mae Programs Memorandum referred to in the preceding paragraph. These commenters noted that the three-month conversion process requires issuers to bear the expense associated with programming changes that will be used for a short period and then discarded after completion of the conversion. These commenters suggest that this burdensome process could be eliminated if Ginnie Mae adopted a one-time conversion date for all Ginnie Mae Securities. While it has considered this approach, the Ginnie Mae Conversion Subcommittee, including representatives from broker-dealers, Bond Market staff, Ginnie Mae, Federal Reserve, DTCC, clearing banks and

custodial banks, has concluded that it would be impossible to convert all $600 billion of outstanding Ginnie Mae Securities to the Fedwire System over one weekend.

Finally, one commenter objects, as well, to the short time frame between the adoption of the final rule and the date on which the conversion process is to begin, also as described in the All Participants in Ginnie Mae Programs Memorandum 01–07. This commenter notes that the 60- to 75-day time frame does not allow adequate time for testing and implementing the programming code changes necessary to effect the conversion to the Fedwire System, and diverts personnel needed to implement other systems' enhancements. Ginnie Mae has discussed this issue with the commenter and determined that some of the system changes anticipated by the commenter will not be required because of information that Ginnie Mae will provide via its GinnieNET System. Ginnie Mae has carefully considered this comment, and concludes that its conversion timetable should allow issuers adequate time to prepare for the conversion.

C. Conclusion

Ginnie Mae is charged with the responsibility for providing stability in the secondary market for residential mortgages, responding appropriately to the private capital market and providing ongoing assistance to the secondary market for residential mortgages by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing. Ginnie Mae carefully considered all comments on the rule and in issuing this final rule, which will improve the efficiency and effectiveness of the secondary market for Ginnie Mae MBS, Ginnie Mae is appropriately responding to its Congressional charge.

IV. Changes Made at the Final Rule Stage

The final rule incorporates several changes to the proposed rule. First, § 300.3 is included to reflect that The Government National Mortgage Association may be referred to variously as ''the Association,'' ''GNMA'' or ''Ginnie Mae.'' Second, references in part 320 of the proposed rule to ''Ginnie Mae I MBS'' have been changed throughout the final rule to ''mortgage-backed securities.'' This change was made for administrative convenience and is not substantive. Part 320 authorizes Ginnie Mae's guaranty of certain mortgage-backed securities. Ginnie Mae's mortgage-backed securities program is embodied in the Ginnie Mae MBS Guide, which denominates certain securities as Ginnie Mae I MBS and others as Ginnie Mae II MBS. The Guide was modified and updated in 1998 to require electronic payment on all Ginnie Mae I MBS issued on or after October 1, 1998. Although the Guide already requires electronic payments on Ginnie Mae II MBS, because part 320 covers both types of Ginnie Mae guaranteed mortgage-backed securities, Ginnie Mae has determined that the final rule with respect to electronic payment should refer to ''mortgage-backed securities'' (which term currently is used throughout part 320 and would cover both Ginnie Mae I and Ginnie Mae II MBS), rather than Ginnie Mae I MBS.

Next, for similar reasons, Ginnie Mae has modified proposed § 320.5(h)(ii) to refer to the applicable payment date as specified in the Guide rather than to the 15th day of the month. Ginnie Mae I MBS pay on the 15th day of each month or, if such day is not a business day, the next business day. Ginnie Mae II MBS generally pay on the 20th day of each month or the next business day. Again, because part 320 covers both types of Ginnie Mae guaranteed mortgage-backed securities, Ginnie Mae has determined that the final rule should refer to the generic term ''applicable payment date'' in order to preserve existing payment dates.

The Federal Reserve Bank of New York (the ''Reserve Bank'') provided comments in support of the proposed rule. The Reserve Bank's comments are technical in nature, complement the other changes effected by the proposed rule and are logical outgrowths of the proposed rule. First, the Reserve Bank recommended that Ginnie Mae follow the practice of entities, such the United States Department of Treasury, other government agencies, Fannie Mae and Freddie Mac, with securities on the Fedwire System by adopting the standard technical ''book-entry rules'' under which such securities are held and transferred on the Fedwire System. The standard technical rules are well defined, widely known and inform investors and pledgees of the precise nature of their interest in securities held through the Fedwire System. Ginnie Mae agrees with the Reserve Bank, and believes that the ''book-entry rules,'' included as new part 350 in the final rule, are not controversial and would not have been opposed had they been included in the proposed rule. As discussed above, adoption of the ''book-entry rules'' is consistent with the objective of having United States government securities, including Ginnie Mae Securities, and mortgage-backed securities issued by Fannie Mae and Freddie Mac trade under the same rules.

Second, to facilitate the use of the Fedwire Book-Entry Securities System and to achieve the objectives sought to be obtained by Ginnie Mae, the Reserve Bank suggested that Ginnie Mae amend its proposed § 320.5(h)(1)(i) by requiring issuers to maintain funds in accounts that are accessible by ACH debit transactions originated by or on behalf of the Depository. In addition, the Reserve Bank asked that the definition of ''Depository'' in proposed §§ 320.5(j) and 330.5 be modified to clarify that the Federal Reserve Banks act as clearing corporations for purposes of Article 8 of the Uniform Commercial Code. Finally, the Reserve Bank requested a revision to proposed § 320.5(h)(2)(i)—cross-referencing the section of the regulation in which Ginnie Mae's guaranty is described. Ginnie Mae agrees that these changes are technical rather than substantive in nature, and has incorporated them in the final rule.

V. Other Matters

In the proposed rule, Ginnie Mae solicited comments on the effect and desirability of mandating electronic payments on certificated Ginnie Mae I MBS, which comprise approximately 1.4% of outstanding Ginnie Mae I MBS. Ginnie Mae received no comments with respect to this proposal and at this time is not making any change in the final rule that affects the manner in which payments are made on certificated Ginnie Mae I MBS.

VI. Findings and Certifications

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule addresses ministerial functions associated with the Ginnie Mae MBS program, such as the manner of dividend payments and the method used to document ownership of certificates.

Environmental Impact

This rule encompasses activities of the Government National Mortgage Association under Title III of the National Housing Act (12 U.S.C. 1716, et. seq.). Therefore, in accordance with 24 CFR 50.19(c)(19) of HUD's regulations, this rule is categorically excluded from environmental review under the National Environmental

Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

List of Subjects in 24 CFR Parts 300, 320, 330 and 350

Mortgages, Securities.

Accordingly, parts 300, 320 and 330 of title 24 of the Code of Federal Regulations are amended, and part 350 of title 24 of the Code of Federal Regulations is added as follows:

PART 300—GENERAL

1. The authority for citation for 24 CFR part 300 continues to read as follows:

Authority: 12 U.S.C. 1723a, unless otherwise noted, and 42 U.S.C. 3535(d).

2. Section 300.3 is revised to read as follows:

§ 300.3 Description.

The Government National Mortgage Association (hereinafter in this chapter called the Association, GNMA or Ginnie Mae) furnishes fiduciary services to itself and other departments and agencies of the Government, and guarantees privately issued securities backed by trusts or pools of mortgages or loans which are insured or guaranteed by the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA) or the Rural Housing Service (RHS) and certain other loans or mortgages guaranteed or insured by the Government. In the course of its business, the Association is referred to as GNMA or Ginnie Mae.

PART 320—GUARANTY OF MORTGAGE-BACKED SECURITIES

3. The authority citation for 24 CFR part 320 continues to read as follows:

Authority: 12 U.S.C. 1721(g) and 1723a(a); 42 U.S.C. 3535(d).

4. Section 320.5 is amended by revising paragraph (g) and adding paragraphs (h), (i), and (j) to read as follows:

§ 320.5 Securities

* * * * *

(g) *Registered Ownership.* Ownership of mortgage-backed securities issued pursuant to this subpart registered in the name of a Depository shall be conclusively established by registration in the name of the Depository as owner on the Association's central registry and it shall be unnecessary for a Depository to maintain custody of any physical certificates evidencing such ownership.

(h) *Payments on Mortgage-Backed Securities.* Issuers must remit all payments due to holders of mortgage-backed securities such that holders will receive their installments as follows:

(1) *Payment to a Depository.* (i) For all securities registered in the name of a Depository or the designated nominee for a Depository, issuers are required to make payments in immediately available funds by ACH transaction, Fedwire, or by such other method as directed and/or authorized by the Association pursuant to the MBS Guide, including requiring that issuers maintain funds accounts in institutions that are accessible by debit ACH transactions originated by such Depository or its designee.

(ii) Payment must be made by the hour specified in the MBS Guide on the calendar day of the month specified in the MBS Guide for payment on such mortgage-backed securities (the ''applicable Payment Date''), with adjustments to such time as may be specified in the MBS Guide for Payments Dates that do not fall on business days.

(2) *Payments to other holders.* An issuer of mortgage-backed securities that are not registered in the name of a Depository or its nominee may make payments to a security holder by ACH transaction or Fedwire, provided that it obtains the prior written approval of the holder of such mortgage-backed securities. If an issuer begins to make such payments by electronic transfer, it must continue to do so while the securities are registered in the name of that security holder. If an issuer makes payments on mortgage-backed securities by check, the check must be received by the security holder not later than the applicable Payment Date each month.

(i) *Guaranty.* The Association's guaranty described in § 320.13 is a guaranty that payment will be made to the registered owner of securities as reflected in the Association's central registry. The Association makes no other guaranty, including any guaranty that a Depository will appropriately credit payments to beneficial owners of such mortgage-backed securities. The Association's guarantee of securities payable to a Depository or its nominee becomes effective when the Depository or its nominee is registered as the registered owner of the securities on the Association's central registry.

(j) *Definition of Depository.* As used in this section, Depository means a clearing corporation within the meaning of Article 8 of the Uniform Commercial Code, including any Federal Reserve Bank, that maintains systems by which ownership and transfer of interests in mortgage-backed securities are made through the books of such clearing corporation.

PART 330—GUARANTY OF MULTICLASS SECURITIES

5. The authority citation for 24 CFR part 330 continues to read as follows:

Authority: 12 U.S.C. 1721(g) and 1723a(a); 42 U.S.C. 3535(d).

6. Revise § 330.5 to read as follows:

§ 330.5 Definitions.

As used in this part, the following terms shall have the meanings indicated:

Consolidated securities. A series of multiclass securities, each class of which provides for payments proportionate with payments on the underlying eligible collateral.

Depositor. The entity that deposits, or executes an agreement to deposit, as contained in the Multiclass Guide, eligible collateral into a trust in exchange for consolidated securities.

Depository. A clearing corporation within the meaning of Article 8 of the Uniform Commercial Code, including any Federal Reserve Bank, that maintains systems by which ownership and transfer of interests in Ginnie Mae multiclass securities are made through entries on the books of such clearing corporation.

GNMA electronic bulletin board. An information distribution system established by the Association for the Multiclass Securities program.

GNMA MBS certificates. The guaranteed mortgage-backed securities issued under part 320 of this chapter.

Government mortgages. Mortgages that are eligible under section 306(g) of the National Housing Act (12 U.S.C. 1721(g)) for inclusion in GNMA mortgage-backed securities pools.

Multiclass Registrar. The institution that is specified by the Association as the registrar of the related class and series of multiclass securities.

Participant. For structured securities, the sponsor, co-sponsor, trustee, trust counsel, and accounting firm. For consolidated securities, the depositor. Other entities may be designated as participants in the Multiclass Guide.

Sponsor. With respect to structured securities, the entity that establishes the required trust executing the trust agreement and depositing the eligible collateral in the trust in exchange for the structured securities.

Structured securities. Securities of a series at least one class of which provides for payments of principal or interest disproportionately from payments on the underlying eligible collateral.

7. Revise § 330.30 to read as follows:

§ 330.30 GNMA Guaranty.

(a) *Securities held by Depositories.* Ownership of multiclass securities registered in the name of a Depository shall be conclusively established by registration in the name of the Depository as owner on the books and records of the Multiclass Registrar, and it shall be unnecessary for a Depository to maintain custody of any physical certificates evidencing such ownership.

(b) *Guaranty.* The Association's guaranty is a guaranty that payment will be made to the registered owner of securities as reflected on the books and records of the Multiclass Registrar.

(1) The Association makes no other guaranty, including any guaranty that a Depository will appropriately credit payments to beneficial owners of GNMA multiclass securities. The Association's guarantee of securities payable to a Depository or its nominee becomes effective when the Depository or its nominee is registered as the registered owner of the securities on the books and records of the Multiclass Registrar.

(2) The Association guarantees the timely payment of principal and interest as provided by the terms of the multiclass security. The Association's guaranty is backed by the full faith and credit of the United States.

8. Add Part 350 to read as follows:

PART 350—BOOK-ENTRY PROCEDURES

Sec.

350.1 Purpose.
350.2 Definitions.
350.3 Maintenance of Ginnie Mae Securities.
350.4 Law governing rights and obligations of United States, and Federal Reserve Banks as Depositories; Rights of any Person against United States, and Federal Reserve Banks as Depositories; Law Governing Other Interests.
350.5 Creation of Participant's Security Entitlement; Security Interests.
350.6 Obligations of the Reserve Banks as Depositories; No Adverse Claims.
350.7 Authority of Federal Reserve Banks as Depositories.
350.8 Withdrawal of Eligible Book-entry Ginnie Mae Securities for Conversion to Definitive Form.
350.9 Waiver of Regulations.
350.10 Liability of Federal Reserve Banks as Depositories.
350.11 Notice of Attachment for Ginnie Mae Securities in Book-entry System.

Authority: 12 U.S.C. 1721(g) and 1723a(a); 42 U.S.C. 3535(d).

§ 350.1 Purpose.

The purpose of this part is to achieve the efficiencies and fungibility through use of a single system for transferring interests both in Ginnie Mae Securities and other United States Government securities and in mortgage-backed securities issued by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. The Association only guarantees that payments required to be made by issuers of Ginnie Mae Securities will be made to the registered owner of those Ginnie Mae Securities. The Association undertakes no other obligation. Under the Book-entry System, the Federal Reserve Banks will be the registered owner of Book-entry Ginnie Mae Securities, not the agent of the Association, and the Association makes no warranty or guaranty with respect to the maintenance of the Book-entry System by the Federal Reserve Banks.

§ 350.2 Definitions.

(a) *Specified Terms.* As used in this part, the following terms shall have the meanings indicated:

Book-entry Ginnie Mae Security. A Ginnie Mae Security issued or maintained in the Book-entry System. Book-entry Ginnie Mae Security also means the separate interest and principal components of a Book-entry Ginnie Mae Security if such security has been designated by Ginnie Mae as eligible for division into such components and the components are maintained separately on the books of one or more Federal Reserve Banks.

Book-entry System. The automated book-entry system operated by the Federal Reserve Banks acting as Depositories for Ginnie Mae, on which Book-entry Ginnie Mae Securities are recorded, transferred and maintained in book-entry form.

Definitive Ginnie Mae Security. A Ginnie Mae Security in engraved or printed form, or that is otherwise represented by a certificate.

Depository. A clearing corporation within the meaning of Article 8 of the Uniform Commercial Code, including any Federal Reserve Bank, that maintains systems by which ownership and transfer of interests in Book-entry Ginnie Mae Securities are made through entries on the books of such clearing corporation.

Eligible Book-entry Ginnie Mae Security. A Book-entry Ginnie Mae Security issued or maintained in the Book-entry System which by the terms of its Security Documentation is eligible to be converted from book-entry form into definitive form.

Entitlement Holder. A Person to whose account an interest in a Book-entry Ginnie Mae Security is credited on the records of a Securities Intermediary.

Federal Reserve Bank Operating Circular. The publication issued by each Federal Reserve Bank that sets forth the terms and conditions under which the Reserve Bank maintains book-entry securities accounts (including Book-entry Ginnie Mae Securities accounts) and transfers book-entry Securities (including Book-entry Ginnie Mae Securities).

Ginnie Mae Security. Any security or obligation guaranteed as to payment of principal and/or interest by Ginnie Mae under its Charter Act and issued in the form of a Definitive Ginnie Mae Security or a Book-entry Ginnie Mae Security.

Participant. A Person that maintains a Participant's Securities Account with a Federal Reserve Bank.

Person. An individual, corporation, company, governmental entity, association, firm, partnership, trust, estate, representative, and any other similar organization, but such term does not mean or include the United States or a Federal Reserve Bank.

Revised Article 8. The same meaning as in 31 CFR 357.2.

Secretary. The Secretary of Housing and Urban Development and, where appropriate, any person designated by the Secretary to perform a particular function for the Secretary, including any HUD officer, employee, or agent.

Security. Any mortgage participation certificate, note, bond, debenture, evidence of indebtedness, collateral-trust certificate, transferable share,

certificate of deposit for a security, or, in general, any interest or instrument commonly known as a security.

Securities Documentation. The applicable statement of terms, trust agreement, trust indenture, securities agreement or other documents establishing the terms of a Book-entry Ginnie Mae Security.

Transfer message. An instruction of a member of a Federal Reserve Bank to effect a transfer of a Book-entry Security (including a Book-entry Ginnie Mae Security) maintained in the Book-entry System, as set forth in Federal Reserve Bank Operating Circulars.

(b) *Other Terms.* Unless the context requires otherwise, terms used in this part that are not defined in this part, have the meanings as set forth in 31 CFR 357.2. Definitions and terms used in 31 CFR part 357 should read as though modified to effectuate their application to Ginnie Mae Securities.

§ 350.3 Maintenance of Ginnie Mae Securities.

A Ginnie Mae Security may be maintained in the form of a Definitive Ginnie Mae Security or a Book-entry Ginnie Mae Security. A Book-entry Ginnie Mae Security shall be maintained in the Book-entry System.

§ 350.4 Law governing rights and obligations of United States, and Federal Reserve Banks as Depositories; Rights of any Person against United States, and Federal Reserve Banks as Depositories; Law Governing Other Interests.

(a) Except as provided in paragraph (b) of this section, the following rights and obligations are governed solely by the book-entry regulations contained in this part, the Securities Documentation, and Federal Reserve Bank Operating Circulars (but not including any choice of law provisions in the Security Documentation to the extent such provisions conflict with the Book-entry regulations contained in this part):

(1) The rights and obligations of a Federal Reserve Bank as a Depository with respect to:

(i) A Book-entry Ginnie Mae Security or Security Entitlement; and

(ii) The operation of a book-entry system operated by a Depository as it applies to Ginnie Mae Securities; and

(2) The rights of any Person, including a Participant, against the Federal Reserve Banks as Depositories with respect to:

(i) A Book-entry Ginnie Mae Security or Security Entitlement; and

(ii) The operation of the book-entry system operated by the Federal Reserve Banks as Depositories as it applies to Ginnie Mae Securities.

(b) A security interest in a Security Entitlement that is in favor of a Federal Reserve Bank from a Participant and that is not recorded on the books of a Federal Reserve Bank pursuant to § 350.5(c)(1), is governed by the law (not including the conflict-of-law rules) of the jurisdiction where the head office of the Federal Reserve Bank maintaining the Participant's Securities Account is located. A security interest in a Security Entitlement that is in favor of a Federal Reserve Bank from a Person that is not a Participant, and that is not recorded on the books of a Federal Reserve Bank pursuant to § 350.5(c)(1), is governed by the law determined in the manner specified in paragraph (d) of this section.

(c) If the jurisdiction specified in the first sentence of paragraph (b) of this section is a State that has not adopted Revised Article 8, then the law specified in paragraph (b) of this section shall be the law of that State as though Revised Article 8 had been adopted by that State.

(d) To the extent not otherwise inconsistent with this part, and notwithstanding any provision in the Security Documentation setting forth a choice of law, the provision set forth in 31 CFR 357.11 regarding law governing other interests apply and shall be read as though modified to effectuate the application of 31 CFR 357.11 to Book-entry Ginnie Mae Securities.

§ 350.5 Creation of Participant's Security Entitlement; Security Interests.

(a) A Participant's Security Entitlement is created when a Federal Reserve Bank indicates by book-entry that a Book-entry Ginnie Mae Security has been credited to a Participant's Securities Account.

(b) A security interest in a Security Entitlement of a Participant in favor of the United States to secure deposits of public money, including without limitation deposits to the Treasury tax and loan accounts, or other security interests in favor of the United States that is required by Federal statute, regulation, or agreement, and that is marked on the books of a Federal Reserve Bank is thereby effected and perfected, and has priority over any other interest in the securities. Where a security interest in favor of the United States in a Security Entitlement of a Participant is marked on the books of a Federal Reserve Bank, such Reserve Bank may rely, and is protected in relying, exclusively on the order of an authorized representative of the United States directing the transfer of the security. For purposes of this paragraph, an ''authorized representative of the United States'' is the official designated in the applicable regulations or agreement to which a Federal Reserve Bank is a party, governing the security interest.

(c)(1) The Federal Reserve Banks as Depositories have no obligation to agree to act on behalf of any Person or to recognize the interest of any transferee of a security interest or other limited interest in favor of any Person except to the extent of any specific requirement of Federal law or regulation or to the extent set forth in any specific agreement with the Federal Reserve Bank on whose books the interest of the Participant is recorded. To the extent required by such law or regulation or set forth in an agreement with a Federal Reserve Bank, or the Federal Reserve Bank Operating Circular, a security interest in a Security Entitlement that is in favor of a Federal Reserve Bank or a Person may be created and perfected by a Federal Reserve Bank as Depository marking its books to record the security interest. Except as provided in paragraph (b) of this section, a security interest in a Security Entitlement marked on the books of a Federal Reserve Bank shall have priority over any other interest in the securities.

(2) In addition to the method provided in paragraph (c)(1) of this section, a security interest, including a security interest in favor of a Federal Reserve Bank, may be perfected by any method by which a security interest may be perfected under applicable law as described in § 350.4(b) or (d). The perfection, effect of perfection or non-perfection and priority of a security interest are governed by such applicable law. A security interest in favor of a Federal Reserve Bank shall be treated as a security interest in favor of a clearing corporation in all respects under such law, including with respect to the effect of perfection and priority of such security interest. A Federal Reserve Bank Operating Circular shall be treated as a rule adopted by a clearing corporation for such purposes.

§ 350.6 Obligations of the Reserve Banks as Depositories; No Adverse Claims.

Except in the case of a security interest in favor of the United States or a Federal Reserve Bank or otherwise as provided in § 350.5(c)(1), for the purposes of this part, the Federal Reserve Banks as Depositories shall treat the Participant to whose Securities Account an interest in a Book-entry Ginnie Mae Security has been credited as the person exclusively entitled to issue a Transfer Message, to receive interest and other payments with respect thereof and otherwise to

exercise all the rights and powers with respect to such Security, notwithstanding any information or notice to the contrary. The Federal Reserve Banks as Depositories are not liable to a Person asserting or having an adverse claim to a Security Entitlement or to a Book-entry Ginnie Mae Security in a Participant's Securities Account, including any such claim arising as a result of the transfer or disposition of a Book-entry Ginnie Mae Security by a Federal Reserve Bank pursuant to a Transfer Message that the Federal Reserve Bank reasonably believes to be genuine.

§ 350.7 Authority of Federal Reserve Banks as Depositories.

(a) Each Federal Reserve Bank is hereby authorized as Depository for Book-entry Ginnie Mae Securities to perform the following functions with respect to Book-entry Ginnie Mae Securities to which this part applies, in accordance with the Securities Documentation, Federal Reserve Bank Operating Circulars, this part, and procedures established by the Secretary consistent with these authorities:

(1) To service and maintain Book-entry Ginnie Mae Securities in accounts established for such purposes;

(2) To make payments with respect to such securities;

(3) To effect transfer of Book-entry Ginnie Mae Securities between Participants' Securities Accounts as directed by the Participants;

(4) To effect conversions between Book-entry Ginnie Mae Securities and Definitive Ginnie Mae Securities pursuant to the applicable Securities Documentation; and

(5) To perform such other duties as the Federal Reserve Banks as Depositories may be requested by Ginnie Mae.

(b) Each Federal Reserve Bank as Depository may issue Operating Circulars, not inconsistent with this part, governing the details of its handling of Book-entry Ginnie Mae Securities, Security Entitlements, and the operation of the book-entry system under this part.

§ 350.8 Withdrawal of Eligible Book-entry Ginnie Mae Securities for Conversion to Definitive Form.

(a) Eligible Book-entry Ginnie Mae Securities may be withdrawn from the Book-entry System by requesting delivery of like Definitive Ginnie Mae Securities.

(b) A Reserve Bank as Depository shall, upon receipt of appropriate instructions to withdraw Eligible Book-entry Ginnie Mae Securities from book-entry in the Book-entry System, facilitate the conversion of such securities into Definitive Ginnie Mae Securities and their delivery in accordance with such instructions. No such conversion shall affect existing interests in such Ginnie Mae Securities.

(c) All requests for withdrawal of Eligible Book-entry Ginnie Mae Securities must be made prior to the maturity or date of call of the securities.

(d) Definitive Ginnie Mae Securities that are to be delivered upon withdrawal may be issued in either registered or bearer form, to the extent permitted by the applicable Securities Documentation.

§ 350.9 Waiver of Regulations.

Ginnie Mae reserves the right in its discretion, to waive any provision(s) of these regulations in any case or class of cases for the convenience of Ginnie Mae or the United States, or in order to relieve any Person(s) of unnecessary hardship, if such action is not inconsistent with law, does not adversely affect any substantial existing rights, and the Association is satisfied that such action will not subject the Association or the United States to any substantial expense or liability.

§ 350.10 Liability of Federal Reserve Banks as Depositories.

The Federal Reserve Banks as Depositories may rely on the information provided in a Transfer Message, and are not required to verify the information. The Federal Reserve Banks as Depositories shall not be liable for any action taken in accordance with the information set out in a Transfer Message, or evidence submitted in support thereof.

§ 350.11 Notice of Attachment for Ginnie Mae Securities in Book-entry System.

The interest of a debtor in a Security Entitlement may be reached by a creditor only by legal process upon the Securities Intermediary with whom the debtor's securities account is maintained, except where a Security Entitlement is maintained in the name of a secured party, in which case the debtor's interest may be reached by legal process upon the secured party. These regulations do not purport to establish whether a Federal Reserve Bank as Depository is required to honor an order or other notice of attachment in any particular case or class of cases.

Dated: August 14, 2001.

Ronald A. Rosenfeld,

President, Government National Mortgage Association.

[FR Doc. 01–21109 Filed 8–21–01; 8:45 am]

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Federal Register

Wednesday,
August 22, 2001

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121, et al.
Digital Flight Data Recorder Resolution Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125 and 135

[Docket No. FAA–2001–10428; SFAR No. 89]

RIN 2120–AH46

Digital Flight Data Recorder Resolution Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; Request for comments.

SUMMARY: This regulation allows operators of specified airplanes to operate those airplanes under part 121, part 125, or part 135 without meeting the resolution requirements for certain parameters of information recorded by flight data recorders. Shortly before the compliance date for the regulations, the FAA received information from airplane manufacturers that certain airplane models in service did not meet the resolution requirements. This regulation is needed to allow operators of these airplanes to continue operating these airplanes with their current recording capabilities until the FAA is able to determine the appropriate remedy for this problem.

DATES: Effective: August 17, 2001. Submit comments by September 21, 2001.

ADDRESSES: Address your comments to Docket Management System, U.S. Department of Transportation Dockets, Room Plaza 401, 400 Seventh Street SW., Washington, DC 20590–0001. You must identify the docket number *FAA–2001–10428* at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA has received you comments, please include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. *FAA–2001–10428.*'' We will date-stamp the postcard and mail it back to you.

You also may submit comments electronically to the following Internet address: *http://dms.dot.gov.*

You you may review the public docket containing comments to this regulation at the Department of Transportation (DOT) Dockets Office, located on the plaza level of the Nassif Building at the above address. You may review the public docket in person at the address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Also, you may review the public dockets on the Internet at *http://dms/dot.gov.*

FOR FURTHER INFORMATION CONTACT: Gary E. Davis, Air Transportation Division, AFS–200, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8166.

SUPPLEMENT INFORMATION:

Availability of Final Rules

You can get and electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (*http://dms.dot.gov/search).*

(2) On the search page type in the last five digits of the Docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number for the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Ruelmaking's web page at *http://www.faa.gov/avr/arm/nprm.htm* or the Government Printing Office's web page at *http://www.access.gpo.gov.su_docs/aces/aces140.htm.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official. Internet users can find additional information of SBREFA in the ''Quick Jump'' section of the FAA's web page at http://www.faa.gov and may send electronic inquires to the following Internet address: (9–AWA–SBREFA@faa.gov.

Background

In response to a series of recommendations issued by the National Transportation Safety Board (NTSB), the FAA revised and updated parts 121, 125, and 135 of Title 14, Code of Federal Regulations (14 CFR) in 1997 to require that flight data recorders (FDRs) on airplanes in the U.S. fleet be upgraded to record additional paramenters of data. The exact number of parameters required depends on the age of the airplane (62 FR 38362, July 17, 1997). Newly manufactured airplanes are required to be designed to record more parameters as well. Under that rulemaking action, the FAA prescribed a phased compliance schedule beginning in 1999. All upgrades must be completed by August 20, 2001. Airplanes manufactured after August 2000 must record 57 parameters of flight data at the time of manufacture.

As part of the revision to the FDR regulations, the FAA developed appendix M to part 121, which specifies the ranges, accuracies, sampling intervals, and resolution requirements for each parameter recorded. The standards of appendix M were based on the requirements of the former U.S. standard, appendix B to Part 121, and on the European Organization for Civil Aviation Equipment (EuroCAE) standards found in document ED–55. Appendix M reflects tightened range, accuracy, sampling interval, and resolution requirements to reflect the performance expected of newer technologies. Appendix E to part 125 and appendix F to part 135 are identical to appendix M to part 121, and address the same airplanes in the service of different operators. Our discussion of appendix M to part 121 in this preamble also applies to appendix E to part 125 and appendix F to part 135.

Actions Following the 1997 Rulemaking

Airbus Industries

After we issued the revised digital flight data recorder (DFDR) regulations in 1997, the FAA received several communications from Airbus Industries (Airbus) indicating that in order to comply with the new DFDR recording requirements of appendix M, several of its airplane models would have to undergo major equipment retrofits, a circumstance that the rule explicitly tried to avoid. Airbus stated that although the DFDRs in its airplanes recorded the required parameters, some of the resolution and sampling intervals for certain parameters differed slightly from those required by appendix M. Airbus had noted these differences in its comment to the notice of proposed rulemaking, but the comment was not fully addressed in the preamble to the final rule.

After consulting with the NTSB, the FAA determined that changes to appendix M were an appropriate means to account for the differences in Airbus DFDR equipment. These changes were adopted in 1999 and 2000, before the requirements for those airplanes took effect, by adding footnotes to the

affected parameters in appendix M. The footnotes specify slightly different standards for certain parameters of specified Airbus airplanes.

The Boeing Company

On May 31, 2001, the Boeing Company (Boeing) filed a petition for exemption, indicating that three models of its airplanes did not meet the resolution requirements for some FDR parameters as required under appendix M, and would not meet them by the August 20, 2001, compliance date. Boeing requested that operators of its airplanes be allowed to continue operating without meeting the resolution requirements of appendix M. In the alternative, Boeing requested that appendix M be revised to reflect the resolution recording capabilities of the affected airplanes.

The FAA cannot issue an exemption from an operating rule to a manufacturer on behalf of the operators of its airplanes. Moreover, the issues raised in the Boeing petition are complex and their immediate resolution is not clear. More time is needed for the agency to make an informed decision on the various issues raised by the petition. We also need to gather the necessary technical and cost information that are part of any regulatory decision. Although several meetings have been held and further information gathered, the FAA has determined that it will not have sufficient information to make informed decisions and implement them before the August 20, 2001, compliance date.

Dassault Aviation

In memos dated June 25 and 27, 2001, Dassault Aviation (Dassault) informed the FAA that there were FDR resolution compliance difficulties on its model Falcon 900EX and model Mystere-Falcon 900 (with modification M1975 or M2695 installed) airplanes. These involve parameters for radio altitude and normal acceleration. Dassault states that as configured with its current flight data acquisition unit and bus assembly, it is unable to reach the resolution required by the rule. Dassault indicates that it would be a significant expense to develop the retrofit of a new data acquisition unit, and requests relief similar to that granted to Airbus. Like the Boeing request, the FAA has determined that it does not have the time to gather the information necessary to resolve this issue before the August 20, 2001, compliance date.

Current Action

Accordingly, the FAA is adopting this Special Federal Aviation Regulation (SFAR) to allow affected operators to continue to operate their airplanes without meeting the resolution requirements of appendix M for parameters listed for the individual aircraft models. These airplanes must continue to record the affected parameters to the resolution at which they are currently capable. In addition, airplane operators are required to report to the FAA the model and registration number of each affected airplane.

This regulation is effective for 2 years. The FAA intends to withdraw or modify this relief when it is able to make a determination on the manufacturers' requests to change the regulations. At this time, the FAA is unable to state what type of solution is expected for any of the problems described. It is possible that there may be a change to the regulations, that the affected airplanes will be required to meet the regulations, or a combination of both. The FAA will allow an appropriate amount of time to accomplish any modifications to these airplanes that may be required.

Operators of affected airplanes are cautioned that the relief provided by this regulation is extremely limited, and applies only to the resolution requirements for the particular parameters for those airplane models listed. No other relief from any other requirement of part 121 or appendix M is to be implied, and failure to comply with any other requirement is subject to normal enforcement action.

Immediate relief is provided to operators of models not specified in this SFAR, but use of the relief is subject to different requirements. An operator that discovers a resolution problem with an airplane model not specifically listed in this SFAR must immediately report the nature and scope of the problem discovered. The FAA will decide whether that relief may continue to be used, based on the information submitted. These operators are also required to submit the information required by paragraph 3.d. of this SFAR within 30 days of beginning use of the relief. Operators are cautioned that the FAA will not consider expanding this relief to cover, for example, airplanes that do not record one or more required parameters, operators that lack available parts for retrofit, or new airplanes that do not meet the flight data recorder requirements at the time of certification.

Effective Date and Good Cause for Immediate Adoption

Sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedure Act (APA) (5 U.S.C. Sections 553(b)(3)(B) and 553(d)(3)) authorize agencies to dispense with certain notice procedures and immediately adopt rules when they find ''good cause'' to do so. Under section 553(b)(3)(B), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Section 553(d)(3) allows an agency, upon finding good cause, to make a rule effective immediately, thereby avoiding the 30-day delayed effective date requirement in section 553.

The FAA finds that prior notice and public comment to this final rule are impracticable because the purpose of the rule is to temporarily suspend a requirement that takes effect very shortly. This relief is temporary pending further decisions by the FAA after more information is gathered. The FAA is requesting that any interested party submit comments concerning the issues involved so that it may make an informed decision concerning a permanent remedy for the issues. The agency also finds that it would be contrary to the public interest to delay this relief and ground the affected airplanes while a decision on recording resolution is pending.

Further, the FAA finds that good cause exists to make this regulation effective in less than 30 days. Relief is required no later than the compliance date, August 20, 2001, which is less than 30 days from issuance of this regulation.

The regulation is effective August 17, 2001. Use of this regulation requires further action by affected operators as described in the regulation.

Request for Comment

Although this regulation is being adopted without formal notice and comment because of the considerable time restraints, the FAA is interested in all comments regarding these issues from affected operators, parts suppliers, or other interested parties whose input would be valuable to the FAA in resolving the issues. Comments concerning the economic impact of possible solutions, such as changes to the regulations or the retrofit of the affected airplanes, are also requested.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically

excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion. The FAA has determined that this rule qualifies for a categorical exclusion because no significant impacts to the environment are expected to result from its finalization or implementation. No changes in current operations of aircraft will result from the adoption of this rule.

Paperwork Reduction Act

This regulation requires operators of affected airplanes to inform the FAA of the registration number and model of those airplanes. This information is essential to the FAA's understanding of the scope of the problems and future determinations of the effect of any actions required to resolve the problems described.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. 3507(j) and 5 CFR 1320.13), the Department of Transportation/Federal Aviation Administration requested an emergency clearance from the Office of Management and Budget (OMB) for the information collection activity associated with this SFAR. OMB approved the information collection activity on August 8, 2001, and assigned it OMB control number 2120–0669. A description of that information collection activity including the affected public and the estimated burden is summarized below.

The FAA was just recently made aware that between 400 and 600 airplanes would not meet the August 20, 2001, compliance date for FDR upgrades (14 CFR 121.344, et al.). This SFAR will provide temporary relief to the affected airplane operators, but in order to do so, the agency must know who the operators are, and which and how many airplanes are involved. It is estimated that approximately 50 operators will spend about 8 minutes per affected airplane to respond for an estimated one-time burden of 67 hours.

The FAA is required to inform the public that an agency may not conduct or sponsor, and that a person is not required to respond to, a request for collection without the approval of OMB. That approval was granted for this information collection, and the approval expires February 28, 2002.

International Compatibility

The FAA has reviewed corresponding International Civil Aviation Organization international standards and recommended practices and Joint Aviation Airworthiness Authorities regulations, where they exist, and has identified no differences in this amendment and the foreign regulations.

Economic Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreement Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, 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 $100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA determined that this rulemaking: (1) Will not be a ''significant regulatory action'' as defined in Executive Order 12866 or as defined in DOT's Regulatory Policies and Procedure; (2) will not have a significant economic impact on a substantial number of small entities; (3) will have minimal effects on international trade; and (4) will not contain a significant intergovernmental or private sector mandate.

The FAA determined that this rule will provide regulatory relief, but only if expeditiously enacted before August 20, 2001. If it is not enacted, then approximately 700 U.S.-registered airplanes could be grounded. Because this rule provides significant regulatory relief, this economic summary constitutes the analysis and no regulatory evaluation will be placed in the docket.

This rule will temporarily permit specified airplanes to be operated under part 121, part 125, or part 135 without meeting certain requirements for FDR resolution specified in the applicable appendix. Operators of specified airplane models will be able to continue operating those airplanes after August 20, 2001, with their current recording capabilities until the FAA is able to determine the appropriate remedy for the problems. In the absence of this action, about 700 airplanes could be grounded until the technical problems can be resolved. Because the solution of those technical problems is not known at this time, these airplanes could be grounded for a lengthy period of time. If these airplanes were to be taken out of service, U.S. scheduled air service would suffer extensive disruptions. Many flights would be canceled with no opportunity for passengers to reschedule. The potential economic losses would be considerable. As the FDR system itself has no direct effect on the safe operation of the individual airplane on which it is installed, allowing these airplanes to continue to operate while this issue is resolved will not reduce airplane safety. Further, these airplanes are recording some of the information required by the rule. On that basis, although the FAA cannot quantify the potentially substantial economic losses were the rule not issued, the FAA qualitatively determined that the rule is cost relieving.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that the action will have such an impact, the agency must prepare a Regulatory Flexibility Analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the Act provides that the head of the agency may so certify, and an RFA is not required. The certification must include

a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA conducted the required review of this rule and determined that it will provide economic relief for several small airlines. In the absence of this rule, some small airlines would face significant economic hardship because they would face significant costs. On that basis, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered to be unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

In accordance with the statute, the FAA assessed the potential effect of this final rule on international trade to be cost relieving and, therefore, determined that this rule will not result in a negative impact on international trade by companies doing business in or with the United States. This rule provides equivalent relief to those airplanes registered in the United States and operating under 14 CFR part 129. Under section 129.20, those airplanes are required to meet the requirements of airplanes operating under parts 121 or 125, depending on the status of the operator.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), (Pub. L. 104–4, March 22, 1995), is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Federalism Implications

The regulations herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 14 CFR Parts 121, 125, and 135

Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 121, 125, and 135 of Title 14, Code of Federal Regulations as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

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

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

2. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

3. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g) 41706, 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

4. In parts 121, 125, and 135, Special Federal Aviation Regulation No. 89 the text of which will appear at the beginning of part 121 is added to read as follows:

Special Federal Aviation Regulation No. 89—Suspension of Certain Flight Data Recorder Requirements

1. *Applicability.* This Special Federal Aviation Regulation provides relief to operators of the airplanes listed in paragraph 2 of this regulation. Relief under this regulation is limited to suspension of the resolution requirements only as listed in appendix M to part 121, appendix E to part 125, or appendix F to part 135, for the flight data recorder parameters noted for individual airplane models.

2. *Airplanes Affected.*

(a) Boeing model 717 airplanes—resolution requirement of appendix M to Part 121 or appendix E to part 125 for parameter number 5. Normal Acceleration (Vertical);

(b) Boeing model 757 airplanes)—resolution requirements of appendix M to Part 121 or appendix E to part 125 for parameter number 12a. Pitch Control(s) position (non-fly-by-wire systems); number 14a. Yaw Control position(s) (non-fly-by-wire); number 19. Pitch Trim Surface Position; and number 23. Ground Spoiler Position or Speed Brake Selection.

(c) Boeing Model 767 airplanes—resolution requirements of appendix M to Part 121 or appendix E to part 125 for parameter number 12a. Pitch Control(s) position (non-fly-by-wire systems); number 14a. Yaw Control position(s) (non-fly-by-wire); number 16. Lateral Control Surface(s) Position (for inboard aileron(s) only); number 19. Pitch Trim Surface Position; and number 23. Ground Spoiler Position or Speed Brake Selection.

(d) Dassault Model Falcon 900 EX and Model Mystere-Falcon 900 (with modification M1975 or M2695 installed) airplanes—resolution requirements of appendix M to Part 121, appendix E to part 125 or appendix F to part 135 for parameter number 5. Normal Acceleration (Vertical); and number 26. Radio Altitude.

(e) Other airplanes for which notification under paragraph 3(b) of this regulation is made to the FAA regarding flight data recorder resolution requirement noncompliance.

3. *Requirements for use.*

(a) An operator of an airplane described in paragraphs 2(a) through 2(d) of this regulation may make immediate use of the relief granted by this SFAR.

(b) An operator seeking relief for another airplane model under paragraph 2(e) of this SFAR must notify the FAA immediately in writing as to the nature and extent of the resolution problem found, and must comply with all other requirements of this SFAR, including the report required in paragraph 3(d) of this SFAR. Operators may make immediate use of this relief, but relief may be withdrawn by the FAA after a review of the information filed. Additional information may be required.

(c) An operator of an affected airplane must continue to record all affected parameters to the maximum resolution possible using the installed equipment; that equipment must be maintained in proper working order.

(d) An operator of an affected airplane must, within 30 days of using the relief granted by this regulation, report the following information:

(1) The operator's name and address, and the name and phone number of a contact person for the information reported;

(2) The model and registration number of each affected airplane;

(3) For each affected airplane, the parameter(s) for which resolution relief is being used, and the actual resolution being recorded;

(4) Any additional information requested by the FAA.

(e) Reports must be filed with the FAA Flight Standards Service, Denise Cashmere, Administrative Officer, AFS–200, 800 Independence Ave., SW., Washington, DC 20591. Additionally, each operator must file a copy of the report with its Principal Avionics Inspector or Principal Operations Inspector, as appropriate.

4. *Expiration.* This Special Federal Aviation Regulation expires on August 18, 2003.

Issued in Washington, DC, on August 17, 2001.

Jane F. Garvey,

Administrator.

[FR Doc. 01–21146 Filed 8–17–01; 2:00 pm]

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Federal Register

Wednesday,
August 22, 2001

Part VI

Federal Retirement Thrift Investment Board

5 CFR Parts 1605 and 1606
Correction of Administrative Errors; Lost Earnings Attributable to Employing Agency Errors; Final Rule

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1605 and 1606

Correction of Administrative Errors; Lost Earnings Attributable to Employing Agency Errors

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is amending the Board's regulations describing how an administrative error will be corrected to incorporate changes required by the Federal Erroneous Retirement Coverage Corrections Act (FERCCA). These amendments also explain changes in the TSP record keeping system which were implemented on May 1, 2001.

EFFECTIVE DATE: August 22, 2001.

FOR FURTHER INFORMATION CONTACT: Salomon Gomez on (202) 942–1661, Patrick J. Forrest on (202) 942–1659, or Merritt A. Willing on (202) 942–1666, FAX (202) 942–1676

SUPPLEMENTARY INFORMATION: The Board administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514, codified, as amended, largely at 5 U.S.C. 8351 and 8401–8479. The TSP is a tax-deferred retirement savings plan for Federal employees, similar to a cash or deferred arrangement established under section 401(k) of the Internal Revenue Code. Sums in the Thrift Savings Plan are held in trust for TSP participants.

On September 19, 2000, Congress enacted the Federal Erroneous Retirement Coverage Corrections Act, title II of Public Law 106–265, 114 Stat. 762, which permits Federal employees and annuitants who were placed in the wrong retirement system to choose between FERS and CSRS Offset. The Office of Personnel Management (OPM) has primary responsibility for implementing FERCCA. On March 19, 2001, OPM published an interim rule in the **Federal Register** (66 FR 15606) implementing its obligations under FERCCA.

On April 19, 2001, the Board published a proposed rule with a request for comments in the **Federal Register** (66 FR 20090) regarding its obligations under FERCCA. The Board received comments from four TSP participants and from two agencies.

The first participant observed that the proposed regulation explains how participants who were misclassified as CSRS or FERS will be corrected under FERCCA but does not explain how participants who were misclassified as FICA only will be corrected. The Board has therefore clarified this language in the final regulation by adding a new paragraph (d) to section 1605.14.

The second participant questioned how the misclassification of his retirement coverage will be corrected. However, the Board has no role in the correction of misclassification errors, and these questions must be addressed either to the employing agency or to OPM.

The third participant questioned how a retroactive TSP contribution will affect his annuity if he chooses to be reclassified as FERS. OPM, not the Board, manages the annuity portion of the Federal retirement package and this question must be addressed to OPM. He also asked whether a participant, upon being reclassified as FERS, may choose to make up contributions only for a portion of the period of misclassification, *e.g.,* for 1988 through 1999 with no contributions in 2000, and what rate of return will be paid.

Any participant who elects FERS coverage will have the same election opportunities as those afforded correctly covered FERS employees. For example, contribution elections to begin or change the amount of TSP contributions may be made during an open season and will become effective the last month of that open season. See 5 CFR 1600.13(b). Within these restrictions, a participant can make up TSP contributions for specific periods of time of less than a year.

In addition, as provided in § 1605.11(c)(5), makeup contributions are invested in accordance with the participant's contribution allocation of record at the time the makeup contributions are posted to the account; if a participant does not have a contribution allocation on file for that date, the makeup contributions will be invested in the Government Securities Investment (G) Fund. Lost earnings on makeup contributions, however, are based upon the participant's contribution allocation of record for the time the contribution would have been made had the participant been correctly covered by FERS, or, if no contribution allocation is on record for that date, on the G Fund rate.

The third commenter asked whether a participant must file an amended tax return if he or she makes retroactive contributions. Makeup contributions for FERCCA participants are treated as tax-deferred compensation for the year in which they are made. Thus, makeup contributions will reduce taxable income for the year in which they are actually made and not for the year(s) in which they should have been made. (However, if the makeup contributions should have been made in a prior year, they are subject to that year's Internal Revenue Service elective deferral limit and not the current year's limit. 5 CFR 1605.11(c)(6).)

A fourth participant disagreed with the requirement in § 1605.16(a)(2) that contribution allocation errors occurring before May 1, 2001, may be corrected only if they are discovered within 30 days after the error occurs. However, as the Board noted in promulgating prior regulations, 65 FR 19863, participants are expected to be diligent in discovering errors in their accounts.

One agency, the Department of Defense, Civilian Personnel Management Services, requested that the Board clarify proposed § 1605.13(d) which permits a participant who prevails in a back pay case to return contributions that were previously withdrawn. Specifically, the agency asked that the Board clarify whether these contributions will be reinvested based upon the participant's contribution allocation at the time of separation or the allocation at the time the account balance is restored. The Board has clarified this paragraph by adding language that makes it clear that returned contributions will be reinvested based upon the allocation of record at the time of separation. If the participant desires a different allocation, he or she may file a Form TSP–50 to request an interfund transfer.

The agency also asks whether a participant who prevails in a back pay case and who chooses to return contributions that were previously withdrawn could also choose to reinstate a loan which was previously declared a taxable distribution. The Board has clarified this paragraph by adding a new paragraph (e) to § 1605.13 making it clear that such a participant also may reinstate a loan.

Comments were also received from a second agency, the Defense Finance and Accounting Service (DFAS). DFAS was concerned with whether the Board will continue its practice of issuing advice to agencies in the form of TSP Bulletins and cover FERCCA corrections. The Board does indeed intend to continue to issue TSP Bulletins for use by agencies.

DFAS also asks for clarification of the ''as of date'' and distinction between the ''attributable pay date.'' Both terms are defined in § 1605.1. The term ''as of date'' is used in part 1605 to explain the procedures for reporting a late contribution, as in paragraphs 1605.11(b)(1) and (c)(4). In contrast, the

term ''attributable pay date'' is used only in connection with negative adjustments, as in paragraphs 1605.12(b)(1) and (c)(2).

Section 1605.14(a)(1) allows a CSRS participant who was misclassified as FERS to choose whether the employee contributions that were made during the period of misclassification should remain in the account or be returned to the participant. DFAS asks whether the Board intends to develop a new form for this transaction. The Board does not believe that a new universal form, applicable to all agencies, is required. This is a transaction between the affected participant and his or her payroll office. Agencies will have to devise a method by which to record their participants' choices, but they do not need to advise the TSP.

DFAS also asks why the FERS participant who was erroneously classified as CSRS does not have a similar choice whether to leave his or her employee contributions in the TSP or to remove them. This determination, however, was made by Congress when it enacted FERCCA and not by the Board. The distinction is based upon the expectation that FERS employees will need their TSP contributions to make up part of their retirement income, while that is not necessarily the case with CSRS employees.

Finally, DFAS objects to the requirement, in § 1605.14(c)(3), that the TSP declare an outstanding loan to be a distribution (and therefore taxable), see § 1655.13, when a participant who was misclassified as either FERS or CSRS is reclassified as FICA only. However, FERSA does not allow persons whose retirement coverage is FICA only to participate in the TSP. Thus, these persons cannot have a TSP account or make loan repayments to a TSP account.

Other than the changes to §§ 1605.13 and 1605.14, discussed above, the Board adopts the provisions of the proposed rule as the final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees of the Federal Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, and 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments in the aggregate, or by the private sector. Therefore, a statement under section 1532 is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 801(a)(1)(A), the Board submitted a report containing these rules and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in today's **Federal Register**. These rules are not major rules as defined at 5 U.S.C. 804(2).

List of Subjects in 5 CFR Parts 1605 and 1606

Claims, Employment benefit plans, Government employees, Pensions, Retirement.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set out in the preamble, 5 CFR chapter VI is amended as set forth below:

1. Part 1605 is revised to read as follows:

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

Subpart A—General

Sec.
1605.1 Definitions.

Subpart B—Employing Agency Errors

1605.11 Makeup of missed or insufficient contributions.
1605.12 Removal of erroneous contributions.
1605.13 Back pay awards and other retroactive pay adjustments.
1605.14 Misclassified retirement coverage.
1605.15 [Reserved]
1605.16 Claims for correction of employing agency errors; time limitations.

Subpart C—Board or TSP Record Keeper Errors

1605.21 Plan-paid lost earnings and other corrections.
1605.22 Claims for correction of Board or TSP record keeper error; time limitations.

Subpart D—Miscellaneous Provisions

1605.31 Contributions missed as a result of military service.

Authority: 5 U.S.C. 8351 and 8474. Section 1605.14 also issued under Title II, Pub. L. 106–265, 114 Stat. 770.

Subpart A—General

§ 1605.1 Definitions.

As used in this part:

''As of'' date means the date on which a TSP contribution or other transaction should have taken place.

Attributable pay date ordinarily means the pay date of an erroneous contribution with respect to which a negative adjustment is being made. If, however, the erroneous contribution was a makeup or late contribution, the attributable pay date is the ''as of'' date associated with the erroneous makeup or late contribution.

Board error means any act or omission by the Board which is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

Contribution allocation of record means the last contribution allocation on file for the participant's account, which either will have been derived pursuant to § 1601.12 of this chapter or will result from the participant's filing of an election pursuant to § 1601.13 of this chapter.

Employing agency means the organization that employs an individual eligible to contribute to the TSP and that has authority to make personnel compensation decisions for the individual.

Employing agency error means any act or omission by an employing agency that is not in accordance with all applicable statutes, regulations, or administrative procedures, including internal procedures promulgated by the employing agency and TSP procedures provided to employing agencies by the Board.

FERCCA correction means the correction of a retirement coverage error pursuant to the Federal Erroneous Retirement Coverage Corrections Act, title II, Public Law 106–265, 114 Stat. 770.

Late contributions means: Employee contributions that were timely deducted from a participant's basic pay but were not timely reported to the TSP record keeper for investment; employee contributions that were timely reported to the TSP but were not posted to the participant's account by the TSP because the payment record on which they were submitted contained errors; and attributable agency matching

contributions and agency automatic (1%) contributions that were not timely reported.

Lost earnings record means a data record containing information enabling the TSP system to compute lost earnings.

Makeup contributions are employee contributions that should have been deducted from a participant's basic pay, or employer contributions that should have been charged to an employing agency, on an earlier date but were not deducted or charged and, consequently, are being deducted or charged currently.

Negative adjustment means the removal of money from a participant's TSP account by an employing agency.

Negative adjustment record means a data record submitted by an employing agency to remove from a participant's TSP account money which was previously submitted in error.

Pay date means the date established by an employing agency for payment of its employees.

Payment record means a data record submitted by an employing agency to report contributions or loan payments to a participant's TSP account.

Record keeper error means any act or omission by the TSP record keeper that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

Source of contributions means employee contributions, agency automatic (1%) contributions, or agency matching contributions.

TSP record keeper means the entity that is engaged by the Board to perform record keeping services for the Thrift Savings Plan. The TSP record keeper is the National Finance Center, United States Department of Agriculture, located in New Orleans, Louisiana.

Subpart B—Employing Agency Errors

§ 1605.11 Makeup of missed or insufficient contributions.

(a) *Applicability.* This section applies whenever, as the result of an employing agency error, a participant does not receive all of the TSP contributions to which he or she is entitled. This includes situations in which an employing agency error prevents a participant from making an election to contribute to his or her TSP account, in which an employing agency fails to implement a contribution election properly submitted by a participant, in which an employing agency fails to make agency automatic (1%) contributions or agency matching contributions that it is required to make, or in which an employing agency otherwise erroneously contributes less to the TSP for a participant's account than it should have. The corrections required by this section must be made in accordance with this part and the procedures provided to employing agencies by the Board in bulletins or other guidance. It is the responsibility of the employing agency to determine whether it has made an error that entitles a participant to error correction under this section.

(b) *Employer makeup contributions.* If an employing agency has failed to make agency automatic (1%) contributions that are required under 5 U.S.C. 8432(c)(1)(A), agency matching contributions that are required under section 8432(c)(2), or conversion contributions that are required under section 8432(c)(3), the following rules apply:

(1) The employing agency must promptly submit all missed contributions to the TSP record keeper on behalf of the affected participant. For each pay date involved, the employing agency must submit a separate payment record showing the ''as of'' date for the contributions. Employer makeup contributions will be invested in accordance with the participant's contribution allocation of record at the time the makeup contributions are posted to the account.

(2) If the participant is entitled to lost earnings on employer makeup contributions pursuant to 5 CFR part 1606, the employing agency must also submit lost earnings records.

(c) *Employee makeup contributions.* Within 30 days of receiving information from his or her employing agency indicating that the employing agency acknowledges that an error has occurred which has caused less in employee contributions to be made to the participant's account than should have been made, a participant may elect to establish a schedule of makeup contributions to replace the missed contributions through future payroll deductions. Employee makeup contributions can be made in addition to any TSP contributions that the participant is otherwise entitled to make. The following rules apply to employee makeup contributions:

(1) The schedule of makeup contributions elected by the participant must establish the dollar amount of the contributions to be made each pay period over the duration of the schedule. The contribution amount per pay period may vary during the course of the schedule, but the amounts to be contributed must be established when the schedule is created. The schedule may not exceed four times the number of pay periods over which the error occurred.

(2) At its discretion, an employing agency may set a ceiling on the length of a schedule of employee makeup contributions which is less than four times the number of pay periods over which the error occurred. The ceiling may not, however, be less than twice the number of pay periods over which the error occurred.

(3) The employing agency must implement the participant's schedule of makeup contributions as soon as practicable.

(4) For each pay date involved, the employing agency must submit a separate payment record showing the ''as of'' date for the employee makeup contribution. An employee is not eligible to make up contributions with an ''as of'' date occurring within six months after a financial hardship in-service withdrawal, as provided in § 1650.33 of this chapter.

(5) Employee makeup contributions will be invested in accordance with the participant's contribution allocation of record at the time the makeup contributions are posted to the account. If no contribution allocation is on file, the contributions will be invested in the G Fund.

(6) Employee makeup contributions will not be considered in applying the maximum amount per pay period that a participant is permitted to contribute to the TSP, but will be included for purposes of applying the annual limits contained in sections 402(g) and 415(c) of the Internal Revenue Code (I.R.C.) (26 U.S.C. 402(g) and 415(c)). For purposes of applying the annual limits of sections 402(g) and 415(c) of the I.R.C., employee makeup contributions will be applied against the limit for the year in which the contributions should have been made (i.e., the year of the ''as of'' date).

(i) Before establishing a schedule of employee makeup contributions, the employing agency must review any schedule proposed by the affected participant, as well as the participant's prior TSP contributions, if any, to determine whether the makeup contributions, when combined with prior contributions for the same year, would exceed the annual contribution limit(s) contained in sections 402(g) and 415(c) of the I.R.C. for the year(s) with respect to which the contributions are being made.

(ii) The employing agency must not permit contributions that, when combined with prior contributions, would exceed the applicable annual contribution limits contained in sections 402(g) and 415(c) of the I.R.C.

(7) A schedule of employee makeup contributions may be suspended if a participant has insufficient net pay to permit the makeup contributions. If this happens, the period of suspension should not be counted against the maximum number of pay periods to which the participant is entitled in order to complete the schedule of makeup contributions.

(8) A participant may elect to terminate a schedule of employee makeup contributions at any time, but a termination is irrevocable. If a participant separates from Government service, the participant may elect to accelerate the payment schedule by a lump sum contribution from his or her final paycheck.

(9) At the same time that a participant makes up missed employee contributions, the employing agency must make any agency matching contributions that would have been made had the error not occurred. Agency matching contributions must be submitted pursuant to the rules set forth in paragraph (b) of this section. A participant may not receive matching contributions associated with any employee contributions that are not actually made up. If employee makeup contributions are suspended in accordance with paragraph (c)(7) of this section, the payment of agency matching contributions must also be suspended.

(10) If a participant transfers to an employing agency different from the one at which the participant was employed at the time of the missed contributions, it remains the responsibility of the former employing agency to determine whether employing agency error was responsible for the missed contributions. If it is determined that such an error has occurred, the current agency must take any necessary steps to correct the error. The current agency may seek reimbursement from the former agency of any amount that would have been paid by the former agency had the error not occurred.

(11) Employee makeup contributions may be made only by payroll deduction from basic pay. Contributions by check, money order, cash, or other form of payment directly from the participant to the TSP, or from the participant to the employing agency for deposit to the TSP, are not permitted.

(12) If the participant is entitled to lost earnings on the makeup contributions pursuant to 5 CFR part 1606, the employing agency must also submit lost earnings records.

(d) *Late contributions.* If, as a result of agency error, the TSP posts a late contribution to a participant's account more than 30 calendar days after the ''as of'' date that is reported by the employing agency on the payment record, the employing agency must submit any lost earnings records pursuant to 5 CFR part 1606. Late contributions will be invested in accordance with the participant's contribution allocation of record on the posting date.

§ 1605.12 Removal of erroneous contributions.

(a) *Applicability.* This section applies to negative adjustments. These include situations in which, because of an employing agency error, employee contributions in excess of the amount elected by a participant are contributed to a participant's account, employee contributions (and any attributable agency matching contributions) are made on behalf of a participant who did not elect to make contributions, or excess employer contributions are made to a participant's account. Negative adjustments resulting from a FERCCA correction are addressed in § 1605.14.

(b) *Method of correction.* Negative adjustment records must be submitted by employing agencies in accordance with this part and with any other procedures provided by the Board.

(1) To remove money from a participant's account, the employing agency must submit, for each attributable pay date involved, a negative adjustment record stating the amount of the erroneous contribution being removed, the attributable pay date with respect to which the erroneous contribution was made, and the source(s) of the contributions. The TSP record keeper will derive the investment of the negative adjustment from the allocation of any contribution which was reported for the attributable pay date. If no contribution was submitted for the attributable pay date, the negative adjustment will not be processed.

(2) A negative adjustment record may be for all or a part of the contributions made for the attributable pay date and source of contributions; however, for each source of contributions, the negative adjustment may not exceed the amount of contributions made for that date, less any prior negative adjustments for the same date.

(c) *Processing negative adjustments.* Negative adjustments will be processed in accordance with the following rules:

(1) Negative adjustment records received and accepted by the TSP record keeper by the second-to-last business day of a month will be processed effective as of the end of that month. Negative adjustment records accepted by the TSP record keeper after the second-to-last business day of a month will be processed effective as of the end of the following month; and

(2) For each negative adjustment record, the TSP record keeper will determine attributable earnings on the amount of the adjustment by source of contribution and investment fund. Thus, earnings and losses from different sources will not be netted against each other, and earnings and losses from different investment funds will not be netted against each other. Further, interfund transfers occurring between the attributable pay date of the negative adjustment and the date the adjustment is processed by the TSP record keeper will not be considered.

(d) *Employee contributions.* The following rules apply to negative adjustments involving employee contributions:

(1) If, on the posting date, the amount calculated under paragraph (c) of this section is greater than the amount of the proposed negative adjustment, the full amount of the adjustment will be returned to the employing agency. Subject to paragraph (d)(4) of this section, the earnings on the erroneous contribution will remain in the participant's account;

(2) If, on the posting date, the amount calculated under paragraph (c) of this section is less than the amount of the proposed negative adjustment, the amount of the adjustment, reduced by the investment loss, will be returned to the employing agency. However, an investment loss will not affect the employing agency's obligation to refund to the participant the full amount of the erroneous contribution;

(3) If an employing agency removes erroneous employee contributions from a participant's account, it must also remove, under paragraph (e) of this section, any attributable agency matching contributions; and

(4) If all employee contributions are removed from a participant's account under the rules set forth in this section, the participant may choose to leave any earnings in the account unless he or she was not eligible to have an account in the TSP at the time earnings were credited to the account, and remains ineligible. If the participant was ineligible for a TSP account (and remains ineligible), the earnings will be paid to the participant. If earnings remain in the account, upon the participant's separation from Government service, they will be subject to the same withdrawal rules as apply to any other funds in a participant's account.

(e) *Employer contributions.* The following rules apply to negative adjustments involving erroneous employer contributions:

(1) Erroneous employer contributions will be returned to the employing agency only if the negative adjustment record is posted by the TSP record keeper within one year of the date the erroneous contribution was posted. If one year or more has elapsed when the negative adjustment record is posted, the amount computed under paragraph (c) of this section will be removed from the participant's account and used to offset TSP administrative expenses;

(2) If the erroneous contribution has been in the participant's account for less than one year when the negative adjustment record is posted and the amount computed under paragraph (c) of this section is greater than the amount of the adjustment, the employing agency will receive the full amount of the erroneous contribution. Any earnings attributable to the erroneous contribution will be removed from the participant's account and used to offset TSP administrative expenses;

(3) If the erroneous contribution has been in the participant's account for less than one year when the negative adjustment record is posted and the amount computed under paragraph (c) of this section is less than the amount of the adjustment, the employing agency will receive the amount of the erroneous contribution reduced by the investment loss; and

(4) An employing agency's obligation to submit negative adjustment records to remove erroneous contributions from a participant's account is not affected by the length of time the contributions have been in the account.

(f) *Each negative adjustment to be processed separately.* For purposes of paragraphs (d) and (e) of this section—

(1) If multiple negative adjustments for a participant are posted on the same business day, the amount removed from the participant's account and/or returned to the employing agency will be determined separately for each adjustment, for each source of contributions, and for each investment fund. Earnings and losses for erroneous contributions made on different dates will not be netted against each other. Instead, each source of contributions and each fund will be treated as separate for purposes of these calculations;

(2) The amount computed by application of the rules in this section will be removed from the participant's account pro rata from all investment funds, by source, based on the allocation of the participant's most recent month-end valued account balance; and

(3) If there is insufficient money in the same source of contributions to cover the amount to be removed, the negative adjustment record will be rejected.

§ 1605.13 Back pay awards and other retroactive pay adjustments.

(a) *Participant not employed.* The following rules apply to participants who receive a back pay award or other retroactive pay adjustment for a period during which the participant was separated from Government employment:

(1) If the participant is reinstated to Government employment, immediately upon reinstatement the employing agency must give the participant the opportunity to submit a contribution election to make current contributions. The contribution election will be effective as soon as administratively feasible, but no later than the first day of the first full pay period after it is received;

(2) The employing agency must give the participant the following options for electing makeup contributions:

(i) If the participant had a contribution election on file when he or she separated, upon the participant's reinstatement to Government employment, that election will be reinstated for purposes of the makeup contributions; or

(ii) Instead of making contributions for the period of separation in accordance with the reinstated contribution election, the participant may submit a new contribution election for any open season(s) that occurred during the period of separation;

(3) All makeup contributions under this section will be invested based on the participant's contribution allocation of record at the time the makeup contributions are posted to the account; and

(4) The employing agency must submit lost earnings records pursuant to 5 CFR part 1606. Lost earnings will be calculated and credited to a participant's account in accordance with 5 CFR part 1606 using the rates of return for the G Fund unless otherwise requested by the agency (with the concurrence of the participant), or as ordered by a court or other tribunal with jurisdiction over the participant's back pay case.

(b) *Participant employed.* The following rules apply to participants who receive a back pay award or other retroactive pay adjustment for a period during which the participant was not separated from Government employment:

(1) The participant will be entitled to make up contributions for the period covered by the back pay award or retroactive pay adjustment only if for that period—

(i) The participant had designated a percentage of basic pay to be contributed to the TSP; or

(ii) The participant had designated a dollar amount of contributions each pay period which equaled the applicable ceiling (FERS or CSRS) on contributions per pay period, and which, therefore, was limited as a result of the reduction in pay that is made up by the back pay award or other retroactive pay adjustment;

(2) The employing agency must compute the amount of additional employee contributions, agency matching contributions, and agency automatic (1%) contributions that would have been contributed to the participant's account had the reduction in pay leading to the back pay award or other retroactive pay adjustment not occurred; and

(3) If the participant is entitled to lost earnings pursuant to 5 CFR part 1606, the employing agency must also submit lost earnings records.

(c) *Contributions to be deducted before payment or other retroactive pay adjustment.* Employee makeup contributions required under paragraphs (a) and (b) of this section:

(1) Must be computed before the back pay award or other retroactive pay adjustment is paid, deducted from the back pay or other retroactive pay adjustment, and submitted to the TSP record keeper;

(2) Must not cause the participant to exceed the annual contribution limit(s) contained in sections 402(g) and 415(c) of the I.R.C. (26 U.S.C. 402(g) and 415(c)) for the year(s) with respect to which the contributions are being made, taking into consideration the TSP contributions already made in (or with respect to) that year; and

(3) Must be accompanied by attributable agency matching contributions. In any event, regardless of whether a participant elects to make up employee contributions, the employing agency must make all appropriate agency automatic (1%) contributions associated with the back pay award or other retroactive pay adjustment.

(d) *Prior withdrawal of TSP account.* If a participant has withdrawn his or her TSP account, other than by purchasing an annuity, and the separation from Government employment upon which the withdrawal was based is reversed,

resulting in reinstatement of the participant without a break in service, the participant will have the option to restore the amount withdrawn to his or her TSP account. The right to restore the withdrawn funds will expire if notice is not provided by the participant to the Board within 90 days of reinstatement. If the participant returns the funds that were withdrawn, they will be posted to the participant's account based on his or her contribution allocation of record at the time of separation. If no contribution allocation is on file, the contributions will be invested in the G Fund. No lost earnings will be paid on any restored funds.

(e) Participants who are covered by paragraph (d) of this section and who elect to return funds that were withdrawn may also elect to reinstate a loan which was previously declared to be a taxable distribution.

§ 1605.14 Misclassified retirement coverage.

(a) If a CSRS participant is misclassified by an employing agency as a FERS participant, when the misclassification is corrected:

(1) Employee contributions that exceed the applicable contribution percentage for the pay period(s) involved may remain in the participant's account. However, the participant may choose to have such employee contributions or all of the employee contributions made during the period of misclassification removed from his or her account and refunded to the participant. If the participant requests a refund of employee contributions, the employing agency must submit negative adjustment records, under the procedures of § 1605.12, to request removal of these funds;

(2) The employing agency must, under the procedures of § 1605.12, remove all employer contributions made to the participant's account during the period of misclassification. Employer contributions that have been in the account for less than one year will be returned to the employing agency; employer contributions that have been in the participant's account for one year or more will be removed from the account and used to offset TSP administrative expenses; and

(3) If the employing agency fails to submit a negative adjustment record under the procedures of § 1605.12(b) to remove employer contributions, after all such contributions have been in the participant's account for more than one year the TSP recordkeeper will remove them from the account and use such amounts to offset TSP administrative expenses.

(b) If a FERS participant is misclassified by an employing agency as a CSRS participant, when the misclassification is corrected:

(1) The participant may not elect to have the contributions made while classified as CSRS removed from his or her account;

(2) The participant may, under the rules of § 1605.11, elect to make up contributions that he or she would have been eligible to make as a FERS participant during the period of misclassification;

(3) The employing agency must, under the rules of § 1605.11, make agency automatic (1%) contributions and agency matching contributions on employee contributions that were made while the participant was misclassified;

(4) The employing agency must submit lost earnings records for makeup employer contributions pursuant to 5 CFR part 1606; and

(5) If the retirement coverage correction is a FERCCA correction, the participant is entitled to lost earnings on makeup employee contributions and the employing agency must submit lost earnings records pursuant to 5 CFR part 1606. However, if employee contributions were made up before the Office of Personnel Management implements its regulations on FERCCA corrections, the amount of lost earnings will be calculated by the Office of Personnel Management, pursuant to its regulations, and provided to the employing agency for transmission to the TSP record keeper.

(c) If a participant was misclassified as either FERS or CSRS and the retirement coverage is corrected to FICA only, the participant is no longer eligible to participate in the TSP.

(1) Employee contributions in the account are subject to the rules in paragraph (a)(1) of this section.

(2) Employer contributions in the account are subject to the rules in paragraphs (a)(2) and (a)(3) of this section.

(3) The participant will be deemed to be separated from Federal service for all TSP purposes. If the participant has an outstanding loan, it will be subject to the provisions of 5 CFR 1655.13. The participant may make a TSP post-employment withdrawal election pursuant to 5 CFR part 1650, subpart B, and the withdrawal will be subject to the provisions of 5 CFR 1650.60(b).

(d) If a FERS or CSRS participant is misclassified by an employing agency as FICA only, when the misclassification is corrected the participant may, pursuant to § 1605.11 of this part, elect to make up contributions that he or she would have been eligible to make as a FERS or CSRS participant during the period of misclassification. If the participant makes up employee contributions, the rules in paragraph (b)(5) of this section apply. If the participant is corrected to FERS, the rules in paragraphs (b)(3) and (b)(4) of this section also apply.

§ 1605.15 [Reserved]

§ 1605.16 Claims for correction of employing agency errors; time limitations.

(a) *Agency's discovery of error.* (1) Upon discovery of an error made within the past six months involving the correct or timely remittance of payments to the TSP (other than a contribution allocation error as covered in paragraph (a)(2) of this section or a retirement system misclassification error, as covered in paragraph (c) of this section), an employing agency must promptly correct the error on its own initiative. If the error was made more than six months before its discovery, the agency may exercise sound discretion in deciding whether to correct it, but, in any event, the agency must act promptly in doing so.

(2) An employing agency must promptly correct a contribution allocation error that occurred before May 1, 2001, on its own initiative if it is discovered within 30 days of its first occurrence. No contribution allocation error that occurred before May 1, 2001, may be corrected if it is not the subject of a timely discovery.

(b) *Participant's discovery of error.* (1) If an agency fails to discover an error of which a participant has knowledge involving the correct or timely remittance of a payment to the TSP (other than a contribution allocation error as covered by paragraph (b)(2) of this section, or a retirement system misclassification error as covered by paragraph (c) of this section), the participant may file a claim for correction of the error with his or her employing agency without a time limit. The agency must promptly correct any such error for which the participant files a claim within six months of its occurrence; the correction of any such error for which the participant files a claim after that time is in the agency's sound discretion.

(2) A participant may file a claim for correction of a contribution allocation error made before May 1, 2001, with his or her employing agency no later than 30 days after the participant receives a TSP participant statement first reflecting the error. The agency must promptly correct such errors.

(3) If a participant fails to file a claim for correction of an error described in paragraph (b)(2) of this section in a timely manner, the error will not be corrected.

(c) *Retirement system misclassification error.* Errors arising from retirement system misclassification must be corrected no matter when they are discovered, whether by an agency or a participant.

(d) *Agency procedures.* Each employing agency must establish procedures for participants to submit claims for correction under this subpart. Each employing agency's procedures must include the following:

(1) The employing agency must provide the participant with a decision on any claim within 30 days of its receipt, unless the employing agency provides the participant with good cause for requiring a longer period to decide the claim. A decision to deny a claim in whole or in part must be in writing and must include the reasons for the denial, citations to any applicable statutes, regulations, or procedures, a description of any additional material that would enable the participant to perfect the claim, and a statement of the steps necessary to appeal the denial;

(2) The employing agency must permit a participant at least 30 days to appeal the employing agency's denial of all or any part of a claim for correction under this subpart. The appeal must be in writing and addressed to the agency official designated in the initial decision or in procedures promulgated by the agency. The participant may include with his or her appeal any documentation or comments that the participant deems relevant to the claim;

(3) The employing agency must issue a written decision on a timely appeal within 30 days of receipt of the appeal, unless the employing agency provides the participant with good cause for requiring a longer period to decide the appeal. The employing agency decision must include the reasons for the decision, as well as citations to any applicable statutes, regulations, or procedures; and

(4) If the agency decision on the appeal is not issued in a timely manner, or if the appeal is denied in whole or in part, the participant will be deemed to have exhausted his or her administrative remedies and will be eligible to file suit against the employing agency under 5 U.S.C. 8477. There is no administrative appeal to the Board of a final agency decision.

Subpart C—Board or TSP Record Keeper Errors

§ 1605.21 Plan-paid lost earnings and other corrections.

(a) *Plan-paid lost earnings.* (1) Subject to paragraph (a)(3) of this section, if, because of an error committed by the Board or the TSP record keeper, a participant's account is not credited or charged with the earnings or losses that he or she would have received had the error not occurred, the participant's TSP account will be credited (or charged) with the difference between the earnings (or losses) it actually received and the earnings (or losses) it would have received had the error not occurred.

(2) Errors that warrant the crediting of earnings or charging of investment losses under paragraph (a)(1) of this section include, but are not limited to:

(i) Delay in crediting contributions or other monies to a participant's account;

(ii) Improper issuance of a loan or withdrawal payment to a participant or beneficiary which requires the money to be restored to the participant's account; and

(iii) Investment of all or part of a participant's account in the wrong investment fund(s).

(3) A participant will not be entitled to earnings under paragraph (a)(1) of this section if, during the period the participant's account received credit for less earnings than it would have received but for Board or record keeper error, the participant had the use of the money on which the earnings would have accrued.

(4) If the participant continued to have a TSP account, or would have continued to have a TSP account but for the Board or TSP record keeper error, earnings or losses under paragraph (a)(1) of this section will be computed for the relevant period based upon the investment funds in which the affected monies would have been invested had the error not occurred. If the participant did not have, and should not have had, an account in the TSP during this period, then the earnings will be computed using the G Fund rate of return for the relevant period and the monies returned to the participant.

(b) *Other corrections.* The Executive Director may, in his discretion and consistent with the requirements of applicable law, correct any other errors not specifically addressed in this section, including payment of lost earnings, if the Executive Director determines that the correction would serve the interests of justice and fairness and equity among all participants of the TSP.

§ 1605.22 Claims for correction of Board or TSP record keeper errors; time limitations.

(a) *Filing claims.* Claims for correction of Board or TSP record keeper errors under this subpart may be submitted initially either to the TSP record keeper or the Board. The claim must be in writing and may be from the affected participant or beneficiary.

(b) *Board's or TSP record keeper's discovery of error.* (1) Upon discovery of an error made within the past six months involving a receipt or a disbursement, the Board or TSP record keeper must promptly correct the error on its own initiative. If the error was made more than six months before its discovery, the Board or the TSP record keeper may exercise sound discretion in deciding whether to correct the error, but, in any event, must act promptly in doing so.

(2) For errors concerning contribution allocations or interfund transfers, the Board or the TSP record keeper must promptly correct the error if it is discovered before 30 days after the issuance of the earlier of the most recent TSP participant (or loan) statement or transaction confirmation that reflected the error. If it is discovered after that time, the Board or TSP record keeper may use its sound discretion in deciding whether to correct it, but, in any event, must act promptly in doing so.

(c) *Participant's or beneficiary's discovery of error.* (1) If the Board or TSP record keeper fails to discover an error of which a participant or beneficiary has knowledge involving a receipt or a disbursement, the participant or beneficiary may file a claim for correction of the error with the Board or the TSP record keeper without time limit. The Board or the TSP record keeper must promptly correct any such error for which the participant or beneficiary filed a claim within six months of its occurrence; the correction of any such error for which the participant or beneficiary filed a claim after that time is in the sound discretion of the Board or TSP record keeper.

(2) For errors involving contribution allocations or interfund transfers of which a participant or beneficiary has knowledge, he or she may file a claim for correction with the Board or TSP record keeper no later than 30 days after receipt of the earlier of a TSP participant (or loan) statement or transaction confirmation reflecting the error. The Board or TSP record keeper must promptly correct such errors.

(3) If a participant or beneficiary fails to file a claim for correction of contribution allocations or interfund transfers in a timely manner, the Board

or TSP record keeper may nevertheless, in its sound discretion, correct any such error that is brought to its attention.

(d) *Processing claims.* (1) If the initial claim is submitted to the TSP record keeper, the TSP record keeper may either respond directly to the claimant, or may forward the claim to the Board for response. If the TSP record keeper responds to a claim, and all or any part of the claim is denied, the claimant may request review by the Board within 90 days of the date of the record keeper's response.

(2) If the Board denies all or any part of a claim (whether upon review of a TSP record keeper denial or upon an initial review by the Board), the claimant will be deemed to have exhausted his or her administrative remedy and may file suit under 5 U.S.C. 8477. If the claimant does not submit a request to the Board for review of a claim denial by the TSP record keeper within the 90 days permitted under paragraph (d)(1) of this section, the claimant will be deemed to have accepted the TSP record keeper's decision.

Subpart D—Miscellaneous Provisions

§ 1605.31 Contributions missed as a result of military service.

(a) *Applicability.* This section applies to employees who meet the conditions specified at § 1620.40 of this chapter and who are eligible to receive or to make up contributions missed as a result of military service.

(1) *Missed employee contributions.* Eligibility for making up missed employee contributions will be determined in accordance with the rules specified at 5 CFR part 1620, subpart E. Missed employee contributions will be made up in accordance with the rules specified in § 1605.20(c).

(2) *Missed employer contributions.* Missed agency automatic (1%) contributions will be determined in accordance with the rules specified at 5 CFR part 1620, subpart E.

(i) If an employee makes up missed employee contributions, attributable agency matching contributions must be made accordingly.

(ii) The employing agency must submit lost earnings records for missed employer contributions pursuant to 5 CFR part 1606. Lost earnings may be calculated using the rates of return based on the contribution allocation(s) on file for the participant during the period of military service or using the rates of return for the G Fund; the participant must make this election at the same time his or her makeup schedule is established pursuant to § 1605.11(c).

(b) [Reserved]

PART 1606—LOST EARNINGS ATTRIBUTABLE TO EMPLOYING AGENCY ERRORS

2. The authority citation for part 1606 is revised to read as follows:

Authority: 5 U.S.C. 8432a, 8474(b)(3), and (c)(1). Section 1606.5 also issued under Title II, Pub. L. 106–265, 114 Stat. 770.

3. Section 1606.2 is revised to read as follows:

§ 1606.2 Definitions.

As used in this part:

Agency automatic (1%) contributions means any contributions made under 5 U.S.C. 8432(c)(1) and (c)(3).

Agency matching contributions means any contributions made under 5 U.S.C. 8432(c)(2).

''As of'' date means the date on which TSP contributions or other transactions should have been made.

Board error means any act or omission by the Board that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

Employee contributions means any contributions to the Thrift Savings Plan made under 5 U.S.C. 8351(a), 8432(a), or 8440a through 8440e.

Employer contributions means agency automatic (1%) contributions under 5 U.S.C. 8432(c)(1) or 8432(c)(3) and agency matching contributions under 5 U.S.C. 8432(c)(2).

Employing agency means the organization that employs an individual eligible to contribute to the TSP and that has authority to make personnel compensation decisions for the individual.

Employing agency error means any act or omission by an employing agency that is not in accordance with all applicable statutes, regulations, or administrative procedures, including internal procedures promulgated by the employing agency and TSP procedures provided to employing agencies by the Board.

FERCCA correction means the correction of a retirement coverage error pursuant to the Federal Erroneous Retirement Coverage Corrections Act, Public Law 106–265, 114 Stat. 770.

Late contributions means employee contributions that were timely deducted from a participant's basic pay but were not timely reported to the TSP record keeper for investment; employee contributions that were timely reported to the TSP but were not posted to the participant's account by the TSP because the payment record on which they were submitted contained errors; and attributable agency matching contributions and agency automatic (1%) contributions that were not timely reported.

Lost earnings record means a data record containing information enabling the TSP system to compute lost earnings.

Makeup contributions are employee contributions that should have been deducted from a participant's basic pay, or employer contributions that should have been charged to an employing agency, on an earlier date but were not deducted or charged and, consequently, are being deducted or charged currently.

Negative adjustment means the removal of money from a participant's TSP account by an employing agency.

Negative adjustment record means a data record submitted by an employing agency to remove money from a participant's TSP account previously submitted in error.

Pay date means the date established by an employing agency for payment of its employees.

Payment record means a data record submitted by an employing agency to report contributions or loan payments to a participant's TSP account.

Record keeper error means any act or omission by the TSP record keeper that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

TSP record keeper means the entity that is engaged by the Board to perform record keeping services for the Thrift Savings Plan. The TSP record keeper is the National Finance Center, United States Department of Agriculture, located in New Orleans, Louisiana.

4. Section 1606.5 is revised to read as follows:

§ 1606.5 Failure to timely make or deduct TSP contributions when participant received pay.

(a) If a participant receives pay, but as the result of an employing agency error all or any part of the agency automatic (1%) contribution associated with that pay to which the participant is entitled is not timely received by the TSP record keeper, then the makeup or late contributions will be subject to lost earnings. In such cases:

(1) The employing agency must, for each pay period involved, submit to the TSP record keeper a lost earnings record indicating the pay date for which the contributions would have been made had the error not occurred (i.e., the beginning date), the investment fund to

which the contributions would have been deposited had the error not occurred if the beginning date on the record was before May 1, 2001, the amount of the contributions, and the pay date for which the contributions were actually made. If the beginning date on the record was on or after May 1, 2001, the TSP record keeper will use the contribution allocation of record for the beginning date and calculate lost earnings;

(2) The TSP record keeper will compute the amount of lost earnings associated with each lost earnings record submitted by the employing agency pursuant to paragraph (a)(1) of this section. In performing the computation, the TSP record keeper will not take into consideration any interfund transfers;

(3) Where the lost earnings computed in accordance with paragraph (a)(2) of this section are positive, the TSP record keeper will charge that amount to the appropriate employing agency and will credit the participant's TSP account. If the lost earnings are negative, the amount computed will be removed from the participant's account and used to offset TSP administrative expenses; and

(4) The lost earnings will be posted to the participant's account pro rata to all investment funds within the same source of contributions based on the most recent valued account balance.

(b) If a participant receives pay from which employee contributions were properly deducted, but as a result of an employing agency error all or any part of the associated agency matching contributions to which the participant is entitled were not timely received by the TSP record keeper, then the makeup agency contributions will be subject to lost earnings. In such cases, the procedures described in paragraphs (a)(1) through (a)(4) of this section will apply to the makeup agency matching contributions.

(c) If a participant receives pay from which employee contributions were properly deducted, but as the result of an employing agency error all or any part of those employee contributions were not timely received by the TSP record keeper, or if the employee contributions were received in connection with a FERCCA correction, the makeup employee contributions will be subject to the procedures described in paragraphs (a)(1) through (a)(4) of this section.

(d) Except for employee contributions received in connection with a FERCCA correction, if a participant receives pay from which employee contributions should have been deducted but, as the result of employing agency error, all or any part of those deductions were not made, the makeup employee contributions will not be subject to lost earnings even if the participant makes up the employee contributions pursuant to part 1605 of this chapter. However, where the participant makes up the employee contributions pursuant to part 1605 of this chapter, the agency matching contributions associated with the makeup employee contributions (which must be made in accordance with part 1605 of this chapter) will be subject to lost earnings. With respect to such makeup agency matching contributions the procedures described in paragraphs (a)(1) through (a)(4) of this section will apply.

5. Section 1606.7 is revised to read as follows:

§ 1606.7 Contributions to incorrect investment fund made before May 1, 2001.

Where, as the result of an employing agency error, money was deposited to a participant's TSP account in an incorrect investment fund(s), the erroneous contribution will be subject to lost earnings if a claim is submitted within the time limits set forth in § 1605.16(a)(2) of this chapter. In such cases:

(a) The employing agency must submit a lost earnings record indicating the amount of the contributions submitted to the incorrect investment fund(s), the pay date for which it was submitted, the investment fund(s) to which it would have been deposited had the employing agency error not occurred, and the investment fund(s) to which it was actually deposited;

(b) The TSP record keeper will compute the amount of lost earnings associated with each lost earnings record submitted by the employing agency pursuant to paragraph (a)(1) of this section. The TSP record keeper will not take into consideration any interfund transfers;

(c) Where the lost earnings computed in accordance with paragraph (a)(2) of this section are positive, the TSP record keeper will charge the amount of lost earnings computed to the appropriate employing agency and will credit that amount to the account of the participant involved. If the earnings computed are negative, the amount computed will be removed from the participant's account and used to offset TSP administrative expenses; and

(d) The lost earnings will be posted to the participant's account pro rata to all investment funds within the same source of contributions based on the most recent valued account balance.

6. Section 1606.8 is revised to read as follows:

§ 1606.8 Late payroll submissions.

All contributions on payment records contained in a payroll submission received from an employing agency and processed by the TSP record keeper more than 30 days after the pay date associated with the payroll submission (as reported on Form TSP–2, Certification of Transfer of Funds and Journal Voucher) will be subject to lost earnings, as follows:

(a) The TSP record keeper will generate a lost earnings record for each payment record contained in the late payroll submission. The lost earnings records generated by the TSP record keeper will reflect that the contributions on the payment records should have been made on the pay date associated with the payroll submission, that the contributions should have been deposited to the investment fund(s) indicated on the payment records if the pay date was before May 1, 2001, or based on the participant's contribution allocation on file as of the pay date if the pay date was on or after May 1, 2001, and that the contributions were actually made on the date the late payroll submission was processed.

(b) The procedures applicable to lost earnings records submitted by employing agencies which are set forth in § 1606.5(a)(2) through (a)(4) will be applied to lost earnings records generated by the TSP record keeper pursuant to paragraph (a)(1) of this section.

7. Section 1606.9 is amended by revising paragraph (a)(3) to read as follows:

§ 1606.9 Loan allotments.

(a) * * *

(3) The lost earnings will be posted to the participant's account pro rata to all investment funds within the same source of contributions based on the most recent month-end valued account balance.

* * * * *

8. Section 1606.11 is amended by revising paragraphs (c), (d), and (e) and by adding a new paragraph (f) to read as follows:

§ 1606.11 Agency submission of lost earnings records.

* * * * *

(c) Where this part requires the employing agency to indicate on a lost earnings record the investment fund to which a contribution would have been deposited had an employing agency error not occurred, that determination must be made solely on the basis of a properly completed allocation election that was accepted by the employing

agency before the date the contribution should have been made, and that was still in effect as of that date. Where no such allocation election was in effect as of the date the contribution would have been made had the error not occurred, the lost earnings record submitted by the employing agency must indicate that the contributions should have been made to the G Fund.

(d) With respect to employing agency errors that cause money not to be invested in the Thrift Savings Fund, lost earnings records may not be submitted until the money to which the lost earnings relate has been invested in the Thrift Savings Fund. Where the employing agency error involved delayed TSP contributions, no lost earnings will be payable unless the associated payment records are submitted in accordance with the provisions of 5 CFR part 1605. Lost earnings records and the delayed payment records to which they relate should be submitted simultaneously.

(e) Where an employing agency erroneously submits a lost earnings record that is processed by the TSP record keeper, the employing agency must consult with the Board or TSP record keeper to determine the method to be used in removing the erroneous lost earnings.

(f) Lost earnings records that contain contributions for which lost earnings must be determined at the G Fund rate of return pursuant to §§ 1605.22(a)(4) or 1605.41(a)(3) of this chapter must be accompanied by the special Journal Voucher, Form TSP–2–EG.

9. Section 1606.13 is amended by removing paragraph (g), by removing the semicolon at the end of paragraphs (d) and (e) and adding a period in its place, and by revising paragraphs (a), (b), and (c) to read as follows:

§ 1606.13 Calculation and crediting of lost earnings.

(a) Lost earnings records submitted or generated pursuant to this part will be processed by the TSP record keeper monthly.

(b) Lost earnings records received, edited, and accepted by the TSP record keeper by the next-to-last business day of a month will be processed in the processing cycle for the month following acceptance. Lost earnings records received, edited, and accepted by the TSP record keeper on the last business day of a month will be processed in the processing cycle for the second month following acceptance.

(c) In calculating lost earnings attributable to a lost earnings record, earnings and losses for different sources of contributions or investment funds within a source will not be offset against each other.

* * * * *

10. Section 1606.15 is amended by revising paragraph (a) to read as follows:

§ 1606.15 Time limits on participant claims.

(a) Participant claims for lost earnings pursuant to § 1606.14 must be filed within six months of the participant's receipt of the earliest of a TSP participant statement, TSP loan statement, employing agency earnings and leave statement, or any other document that indicates that an employing agency error has affected the participant's TSP account.

* * * * *

[FR Doc. 01–21075 Filed 8–21–01; 8:45 am]

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Federal Register

Wednesday,
August 22, 2001

Part VII

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 52

Federal Acquisition Regulation; Revisions to Provisions/Clauses to Accommodate Sealed Bidding and Simplified Procedures in Commercial Item Acquisitions; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAR Case 2000–011]

RIN: 9000–AJ11

Federal Acquisition Regulation; Revisions to Provisions/Clauses to Accommodate Sealed Bidding and Simplified Procedures in Commercial Item Acquisitions

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to update FAR provisions relating to Instructions to Offerors—Commercial Items and Offeror Representations and Certifications—Commercial Items, to accommodate sealed bidding and simplified acquisitions.

DATES: Interested parties should submit comments in writing on or before October 22, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2000–011@gsa.gov

Please submit comments only and cite FAR case 2000–011 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAR case 2000–011.

SUPPLEMENTARY INFORMATION:

A. Background

Federal Acquisition Regulation, Part 12, Acquisition of Commercial Items, was developed to implement Title VIII of the Federal Acquisition Streamlining Act of 1994 (FASA) (Pub. L. 103–355). The regulations became effective on October 1, 1995. Several areas have been identified that need updating and clarification. This rule revises the provisions at 52.212–1 and 52.212–3 to accommodate the use of sealed bidding or requests for quotations for commercial items.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely revises the provision to add language that currently must be added by the contracting officer. It does not change existing policy. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Part 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2000–011), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: August 17, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR part 52 be amended as set forth below:

PART 52—SOLICITATIONS PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 52.212–1 as follows:

(a) Revise the date of the provision;

(b) Redesignate paragraphs (a) through (j) as (b) through (k), respectfully;

(c) Add a new paragraph (a);

(d) Revise the newly designated paragraph (c);

(e) In the newly designated paragraph (d), revise the heading; and

(f) Revise the newly designated paragraph (h). The revised and added text reads as follows:

52.212–1 Instructions to Offerors—Commercial Items.

* * * * *

Instructions to Offerors—Commercial Items (Date)

(a) *Definition.* As used in this provision, the terms ''offer'' and ''offeror'' include ''quote'' and ''quoter'' respectively, except as used in paragraph (h) of this provision.

* * * * *

(c) *Submission of offers and modifications to offers.* (1) Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers shall include—

(i) The solicitation number;

(ii) The time specified in the solicitation for receipt of offers;

(iii) The name, address, and telephone number of the offeror;

(iv) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;

(v) Terms of any express warranty;

(vi) Price and any discount terms;

(vii) ''Remit to'' address, if different from mailing address;

(viii) A completed copy of the representations and certifications at Federal Acquisition Regulation (FAR) 52.212–3;

(ix) Acknowledgement of solicitation amendments;

(x) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and

(xi) If the offer is not submitted on the SF 1449, a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Proposals or quotes that fail to furnish required representations or information, or reject the terms and conditions of the solicitation, may be excluded from consideration. Bids that do not conform to the essential requirements of the invitation for bids will be rejected.

(2) Address offers and modifications to offers, regardless of the media under which submitted, to the office specified in the solicitation. Offerors shall ensure that the outermost wrapper (or the transmittal documentation for electronic submissions) of the offer or modification is marked to show the time and date specified for receipt, the solicitation number, and the name and address of the offeror.

(d) *Offer expiration date.* * * *

* * * * *

(h) *Contract award.* Depending on the method of solicitation selected in Block 14 of the SF 1449, only one of the following three paragraphs applies:

(1) *Request for quotations.* The Government will evaluate quotations on the basis specified in the solicitation. For the purposes of this paragraph, a quotation is not an offer and cannot be accepted by the Government to form a binding contract. Instead, the Government may include the quotation in an order to the supplier to buy certain supplies or services upon specified terms and conditions. The order is an offer by the Government. A contract is formed when the supplier accepts the offer. The Contracting Officer may require the supplier to indicate acceptance of an order by notification to the Government, preferably in writing, as defined at FAR 2.101. In other circumstances, the supplier may indicate acceptance by furnishing the supplies or services ordered or by proceeding with the work to the point where substantial performance has occurred.

(2) *Invitation for bids.* The Government will evaluate bids in response to this solicitation and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government considering only price and the price-related factors specified elsewhere in the solicitation.

(3) *Request for proposals.* The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

* * * * *

3. In section 52.212–3, revise the date of the provision and the introductory text of paragraph (a) to read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items

* * * * *

Offeror Representations and Certifications—Commercial Items (Date)

(a) *Definitions.* As used in this provision, the term ''offeror'' includes ''quoter''.

* * * * *

[FR Doc. 01–21191 Filed 8–21–01; 8:45 am]

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- Boat manufacturing facilities; published 8-22-01

Hazardous waste:
- Project XL program; site-specific projects—
  - Buncombe County Landfill, Alexander, NC; published 8-22-01

Superfund program:
- National oil and hazardous substances contingency plan—
  - National priorities list update; published 8-22-01

FARM CREDIT SYSTEM INSURANCE CORPORATION

Practice and procedure:
- Civil money penalties; inflation adjustments; published 8-22-01

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Thrift Savings Plan:
- Administrative errors correction; lost earnings attributable to employing agency errors; published 8-22-01

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Federal Aviation Administration

Air carrier certification and operations:
- Emergency medical equipment; automated external defibrillators on aircraft; requirements
  - Correction; published 8-22-01

Airworthiness directives:
- Fokker; published 8-7-01

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National Highway Traffic Safety Administration

Motor vehicle safety standards:
- Defective or non-compliant tires; sale or lease; reporting requirement; published 7-23-01

VETERANS AFFAIRS DEPARTMENT

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- Nomenclature changes; published 8-22-01

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- Michigan et al.; comments due by 8-30-01; published 7-31-01

Hass Avocado Promotion, Research, and Consumer Information Order; industry-funded research, promotion and information program; comments due by 8-27-01; published 7-13-01

Hass Avocado Promotion, Research, and Information Order; referendum procedures; comments due by 8-27-01; published 7-13-01

Nectarines grown in—
- California; comments due by 8-31-01; published 8-1-01

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Natural Resources Conservation Service

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National Oceanic and Atmospheric Administration

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- Atlantic Ocean and Gulf of Mexico; sea turtle interactions with fishing activities; environmental impact statement; comments due by 8-30-01; published 7-31-01

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  - Horseshoe crabs; comments due by 8-30-01; published 8-15-01
- West Coast States and Western Pacific fisheries—
  - Salmon; comments due by 8-28-01; published 8-13-01
  - Western Pacific Community Development Program and western Pacific demonstration projects; eligibility criteria and definitions; comments due by 8-27-01; published 7-27-01

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- State operating permits programs—
  - Alaska; comments due by 8-27-01; published 7-26-01
  - Alaska; comments due by 8-27-01; published 7-26-01
  - Florida; comments due by 8-31-01; published 7-2-01
  - Indiana; comments due by 8-29-01; published 7-30-01

Air pollution control; new motor vehicles and engines:
- Light-duty vehicles and trucks and heavy duty vehicles and engines; on-board diagnostic systems and emission-related repairs; comments due by 8-27-01; published 8-6-01

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- Maryland; comments due by 8-30-01; published 7-31-01
- New Hampshire; comments due by 8-27-01; published 7-27-01

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  - Exclusions; comments due by 8-27-01; published 7-13-01

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- Bifenazate; comments due by 8-28-01; published 6-29-01

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  - National priorities list update; comments due by 8-29-01; published 7-30-01
  - National priorities list update; comments due by 8-29-01; published 7-30-01
  - National priorities list update; comments due by 8-29-01; published 7-30-01
  - National priorities list update; comments due by 8-29-01; published 7-30-01

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  - Florida Keys National Marine Sanctuary, FL; no discharge zone; comments due by 8-27-01; published 7-26-01

Water pollution; effluent guidelines for point source categories:
- Coal mining; comments due by 8-29-01; published 7-30-01

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  - Correction; comments due by 8-30-01; published 8-3-01

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- Texas; comments due by 8-27-01; published 7-19-01

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 2213/P.L. 107–25

To respond to the continuing economic crisis adversely affecting American agricultural producers. (Aug. 13, 2001; 115 Stat. 201)

H.R. 2131/P.L. 107–26

To reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004, and for other purposes. (Aug. 17, 2001; 115 Stat. 206)

Last List August 7, 2001

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